

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

ACT 523 OF 1993
HOUSE BILL 1257

4 **By: Representative John E. Miller**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 23-64-203 (b) TO RESTATE,
9 CLARIFY AND REINFORCE THE SEPARATION BETWEEN LENDING
10 INSTITUTIONS AND THE INSURANCE BUSINESS; AND FOR OTHER
11 PURPOSES."

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Subtitle

14 "AN ACT TO RESTATE, CLARIFY AND REINFORCE THE SEPARATION
15 BETWEEN LENDING INSTITUTIONS AND THE INSURANCE BUSINESS."

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

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19 SECTION 1. Arkansas Code 23-64-203 (b) is hereby amended to read as
20 follows:

21 "*(b) (1) The Commissioner shall not issue, permit to continue, or renew*
22 *any agent's, broker's, or solicitor's license to any lending institution, or*
23 *to any subsidiary or affiliate of any lending institution, or any officer or*
24 *any employee of any of the foregoing, with the following exceptions:*

25 *(A) Such licenses may be issued, continued and renewed to lending*
26 *institutions, their affiliates and subsidiaries, and officers and employees of*
27 *either, if such persons or entities are located or reside in municipalities*
28 *which have a population which does not exceed five thousand (5,000) according*
29 *to the latest federal decennial census, and provided that all insurance*
30 *activities engaged in pursuant to such license, including, but not limited to*
31 *policy sales, order taking, price quoting, solicitation, marketing,*
32 *processing, servicing, administering, and advertising are based in or conducted*
33 *solely out of the offices, locations, branches or places of business of the*
34 *licensee within the geographical limits of such municipality. The conduct of*
35 *insurance activities pursuant to such license out of or through locations,*
36 *branches, offices or places of business of the licensee or by any person or*

1 entity associated or affiliated with the licensee in municipalities which
2 exceed the five thousand (5,000) population limitation, shall result in the
3 suspension of such license for so long as insurance activities are conducted
4 or attempted to be conducted, as determined by the Commissioner, at or through
5 such non-qualifying locations; or

6 (B) If an application or licensee is permitted to be licensed or
7 continued by any other provision of (b) or (c) hereof.

8 (C) Notwithstanding any other provision of this Subsection (b) (1)
9 and with the exception of the effect of population growth upon the licenses of
10 lending institutions, their affiliates, subsidiaries, offices and employees,
11 the Commissioner shall permit to continue and shall renew the licenses of
12 licensees who may operate in part at or through non-qualifying locations and
13 who do not meet the foregoing requirements, if such licensee is actively
14 conducting insurance activities under its license at such locations on the
15 effective date of this act and for so long as such licensee continues to
16 function in the manner it was constituted on such date; provided however, that
17 if any ownership interest in or any right to participate in the profits of a
18 licensee operating through what might otherwise be non-qualifying locations is
19 transferred to a new or different lending institution or to an affiliate or
20 subsidiary of such new or different lending institution, the Commissioner
21 shall not be allowed to continue or renew the license of such licensee.

22 (2) However, a lending institution, an officer or employee of a
23 lending institution, a subsidiary or affiliate of a lending institution, or an
24 officer or employee of a subsidiary or affiliate of a lending institution,
25 otherwise qualified therefor, may be issued a license to sell mortgagor_s
26 decreasing term life insurance, mortgagor_s accident and health and sickness
27 insurance, credit life insurance, credit accident, credit property and credit
28 health and accident insurance.

29 (3) The commissioner may renew or continue a license issued to a
30 lending institution, an officer or employee of a lending institution, a
31 subsidiary or affiliate of a lending institution, or an officer or employee of
32 a subsidiary or affiliate of a lending institution, where such license was
33 lawfully outstanding on March 25, 1975; and where such licensee was on that
34 date, and continues to be at the time of renewal or continuance of such
35 license, actively engaged in conducting insurance activities authorized under

1 such license.

2 (A) The commissioner may issue to and renew or continue
3 agent_s, broker_s and solicitor_s license of successor agents, brokers and
4 solicitors, who are otherwise qualified therefor, who are associated with or
5 employed by licensees whose licenses are renewed or continued pursuant to
6 subdivision (b)(3) of this subsection for so long as the licensee renewed or
7 continued pursuant to subdivision (b)(3) of this subsection continues to
8 function as it was constituted on March 25, 1975. Such successor agents,
9 brokers or solicitors may be employed or controlled directly or indirectly
10 only by the licensee whose license is renewed or continued pursuant to
11 subdivision (b)(3) of this subsection. The term _successor_ as used herein
12 means individuals who replace in an identical capacity other individuals who
13 have left or ceased to be employed by or associated with a lending institution
14 agency or its subsidiary or affiliate.

15 (B) The subsequent transfer of ownership or control of a
16 licensee whose license is renewed or continued pursuant to subdivision (b)(3)
17 of this subsection to other subsidiaries or affiliates of such licensee with
18 which such licensee was associated on March 25, 1975 shall not prohibit the
19 commissioner from granting renewals of or license to successor agents, brokers
20 and solicitors. However, the restrictions of this subsection shall attach and
21 the commissioner shall not issue, renew or continue any license of a lending
22 institution or of any subsidiary or affiliate of a lending institution or to
23 any officer or employee of either of the above if any ownership interest in or
24 any right to participate directly or indirectly in the profits of the licensee
25 whose license has been continued pursuant to subdivision (b)(3) of this
26 subsection is transferred to a new or different lending institution or to an
27 affiliate or subsidiary of such new or different lending institution.

28 (C) Nothing in this subsection shall restrict the
29 expansion of a licensee other than a lending institution agency by the
30 acquisition through purchases of or through merger or consolidation with an
31 existing lending institution agency so long as, following the purchase, merger
32 or consolidation, no part of the profits of the surviving entity inure
33 directly or indirectly to the benefit of a lending institution and so long as
34 no part of its capital stock is owned or controlled directly or indirectly by
35 a lending institution or an affiliate or subsidiary of a lending institution.

1 No provision of Arkansas Code 23-64-203 shall in any way affect any business
2 activities of a broker dealer licensed by the state of Arkansas or its
3 affiliates or subsidiaries nor affect any contracts or agreements such broker
4 dealer or its affiliates or subsidiaries may have with any entity.

5 (4) For purposes of this subsection:

6 (A) Lending institution means any entity:

7 (i) Which has a place of business at which it
8 accepts deposits of money from the public and lends money, including banks and
9 savings and loan associations;

10 (B) Subsidiary means any person or entity which is
11 controlled by a lending institution or its affiliate;

12 (C) Affiliate means any person or entity which controls,
13 or is under common control with, a lending institution;

14 (D) Control means the power to exercise a deciding
15 influence over the management of a lending institution, unless power is
16 solely the result of an official position with the lending institution.

17 (5) The commissioner is authorized to promulgate regulations in
18 order to effectuate the purposes of this subsection, which are to help
19 maintain the separation between lending institutions and the insurance
20 business and to minimize the possibilities of unfair competitive and deceptive
21 practices by lending institutions or their subsidiaries or affiliates
22 affecting agents, brokers, or the public.

23 (6) The provisions of this subsection (b) shall apply only to
24 transfers of any ownership interest in, or control of, or any right to
25 participate or share directly or indirectly in the profits of any licensee
26 that occur on or after January 1, 1993. Such transfers effected prior to
27 January 1, 1993, shall be governed by the law in effect when the transfer was
28 made."

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

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34 SECTION 3. If any provision of this act or the application thereof to
35 any person or circumstance is held invalid, such invalidity shall not affect

As Engrossed: 2/2/93 3/11/93

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