

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H2/18/99

A Bill

Act 458 of 1999
HOUSE BILL 1441

5 By: Representative P. Malone
6
7

For An Act To Be Entitled

9 "AN ACT TO AMEND VARIOUS PROVISIONS OF THE ARKANSAS
10 INSURANCE CODE TO PROVIDE FOR THE DEREGULATION OF
11 COMMERCIAL LINES INSURANCE; AND FOR OTHER PURPOSES."
12

Subtitle

13 "COMMERCIAL LINES INSURANCE DEREGULATION
14 ACT."
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 Section 1. Ark. Code Ann. 23-67-206 is hereby amended to read as
21 follows:

22 "23-67-206. Exemptions.

23 (a) In a competitive market, property and casualty insurance for
24 commercial risks, excluding workers' compensation, employers' liability and
25 professional liability insurance (including but not limited to medical
26 malpractice insurance) are exempted from the rate filing and review provisions
27 set forth in this chapter.

28 (b) Risks or portions thereof which are not rated according to manuals,
29 rating plans, or schedules including 'a' rates (risks rated under the
30 'referral to company' or 'individual risk situations' rules) are exempted from
31 the rate filing and review provisions set forth in this chapter. Insurers
32 must maintain complete files on how it determined the rate for such risks and
33 make these files available to the commissioner upon request.

34 (c) The commissioner, upon his own initiative or upon request of any
35 person, by order, may exempt any market, segment or line from any or all of
36 the provisions of this chapter, if and to the extent that he finds the

1 exemption necessary to achieve the purposes of this chapter.”

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3 SECTION 2. Ark. Code Ann. 23-67-213(c) is hereby amended to read as
4 follows:

5 “(c) Consent to Excessive Rate. Upon written consent of the insured
6 stating his reasons therefor, a rate in excess of that provided by an
7 otherwise applicable filing may be used on a specific risk. The ‘consent-to
8 -rate’ filing shall be on a form, signed by the insured, that includes a
9 statement that the insured consents to a rate in excess of the filed rate. ~~The~~
10 ~~form must be filed with the commissioner within thirty (30) days following the~~
11 ~~end of the month in which the insurance was procured.~~ This form shall remain
12 on file with the producing agent or broker.”

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14 SECTION 3. Ark. Code Ann. 23-79-109(a)(1) is hereby amended to read as
15 follows:

16 “(1) This subsection shall not apply to policy or coverage forms for
17 large commercial risks, as defined in subsection 23-79-109(g), commercial
18 umbrella policy or coverage forms, excess umbrella policy or coverage forms,
19 excess of loss policy or coverage forms, public officials’ liability policy or
20 coverage forms, fiduciary liability policy or coverage forms, directors’ and
21 officers’ liability policy or coverage forms, kidnap and ransom policy or
22 coverage forms, political risk policy or coverage forms, expropriation
23 coverage policy or coverage forms, mortgage pool insurance policy or coverage
24 forms, railroad protective liability policy or coverage forms, equity loan
25 programs (second mortgage coverage) policy or coverage forms, highly protected
26 risk forms, or surety bonds, nor to policies, orders, endorsements, or forms
27 of unique character designed for, and used with relation to, insurance upon a
28 particular subject, or which relate to the manner of distribution of benefits
29 or to the reservation of rights and benefits under life and disability
30 insurance policies and are used at the request of the individual policyholder,
31 contract holder, or certificate holder. The exemption of a particular type of
32 insurance policy form from the requirement that it be filed with the
33 commissioner and expressly approved thereby is not to be taken by an insurer
34 as meaning that any insurance effected by the use of such form may in any
35 fashion be inconsistent with the statutory and common law of this state which
36 is properly applicable thereto.”

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SECTION 4. Ark. Code Ann. 23-79-109 is hereby amended by adding new subsection (g) as follows:

"(g)(1) For purposes of this section, 'large commercial risk' means an insured that has:

(A) A total premium of two hundred fifty thousand (\$250,000) dollars or more for property and casual insurance; and

(B) At least twenty-five (25) full-time employees; and

(C) A full-time certified risk manager to procure property/casualty insurance. For purposes of this act 'certified risk manager' shall mean a risk manager with one (1) or more of the following credentials: Associate in Risk Management (ARM), Chartered Property Casualty Underwriter (CPCU), or Certified Risk Manager (CRM).

(2) The exemption for 'large commercial risk' policy or coverage forms set forth in subsection 23-79-109(a)(1) shall not apply to workers' compensation, employers' liability or professional liability insurance (including but not limited to medical malpractice insurance).

(3) In procuring coverage, a large commercial risk shall certify that: it meets the eligible criteria for an exempt commercial policyholder set out in this subsection; it is aware that the policy is unregulated for rates and forms; and it has the necessary expertise to negotiate its own policy language. This certification shall be completed annually and remain on file with the producing agent or broker."

SECTION 5. Ark. Code Ann. 23-79-111 is hereby amended by adding new subsection (d) as follows:

"(d) The provisions of this section shall not apply to policies issued for large commercial risks."

SECTION 6. Ark. Code Ann. 23-79-112 is hereby amended by adding new subsection (i) as follows:

"(i) The provisions of this section shall not apply to policies issued for large commercial risks."

SECTION 7. Ark. Code Ann. 23-79-123 is hereby amended by adding new subsection (c) as follows:

1 "(c) The provisions of this section shall not apply to policies issued
2 for large commercial risks."

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4 SECTION 8. Ark. Code Ann. 23-79-303 is hereby amended to read as
5 follows:

6 "23-79-303. Applicability – Exceptions.

7 This subchapter shall apply to property and casualty insurance on
8 commercial risks in this state, except:

9 (1) Reinsurance;

10 (2) Insurance against loss of or damage to aircraft, their hulls,
11 accessories, and equipment or against liability arising out of the ownership,
12 maintenance, or use of aircraft;

13 (3) Ocean marine or foreign trade insurance;

14 (4) Medical malpractice insurance;

15 (5) Title insurance;

16 (6) Surety or fidelity insurance;

17 (7) Credit insurance; ~~or~~

18 (8) Workers' compensation or employers' liability insurance; or

19 (9) Large commercial risks."

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21 SECTION 9. Ark. Code Ann. 23-79-307(6) is hereby amended to read as
22 follows:

23 "(6) When an insurer has filed a revision of rates or rules which
24 results in a premium increase equal to or greater than twenty-five percent
25 (25%) on any renewal policy issued for a term of twelve (12) months or less,
26 the insurer shall mail or deliver to the insured's agent not less than thirty
27 (30) days prior to the effective date of renewal, and to the insured not less
28 than ten (10) days prior to the effective date of renewal, notice specifically
29 stating of the insurer's intention to increase the premium by an amount equal
30 to or greater than twenty-five percent (25%). ~~Such notice must specify the~~
31 percentage of increase. If the notice is not given as stated in this
32 subdivision, the insurer is required to extend the existing policy thirty (30)
33 days from the date such notice is mailed or delivered. The premium for the
34 policy as extended in such circumstances shall be no more than the pro rata
35 premium of the existing policy."

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1 SECTION 10. All provisions of this Act of a general and permanent
2 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
3 Code Revision Commission shall incorporate the same in the Code.

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5 SECTION 11. If any provision of this Act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the Act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 Act are declared to be severable.

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11 SECTION 12. All laws and parts of laws in conflict with this Act are
12 hereby repealed.

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/s/ P. Malon

APPROVED: 3/8/1999e