

Hall of the House of Representatives
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of House Bill No. 2450

"GENERAL INSURANCE OMNIBUS ACT."

Amendment No. 1 to House Bill No. 2450.

Amend House Bill No. 2450 as originally introduced:

Page 1, delete Section 1 and substitute the following:

"SECTION 1. Arkansas Code 23-60-101 is amended to read as follows:
23-60-101. Title

~~This code constitutes~~ The provisions of Subtitle 3 of Title 23 of the Arkansas Code shall constitute the Arkansas Insurance Code and shall be referred to herein as this code.

SECTION 2. Arkansas Code 23-60-103 is amended to read as follows:
23-60-103. Application of code.

~~No~~ Unless otherwise expressly provided for in this code, no provision of this code shall apply with respect to the following entities:

(1) Domestic stipulated premium insurers, as identified in §23-70-101 et seq., concerning stipulated premium insurers except as stated in those sections;

(2) Assessment life, health, and accident insurers, as identified in §23-72-102 et seq., concerning assessment life and disability insurers except as stated in those sections;

(3) Farmers' mutual aid associations, or companies, as identified in §23-73-102 et seq., concerning farmers' mutual aid associations or companies except as stated in those sections, but excepting the requirements for fraudulent insurance acts prevention, codified in §§ 23-66-501 - 512, and including the payment of assessments due from insurers and other licensees under The Insurance Fraud Investigation Division Trust Fund Act, codified at §§ 23-100-101 - 107, which shall apply to farmers' mutual aid associations or companies;

(4) Fraternal benefit societies, as identified in §23-74-101 et seq., concerning fraternal benefit societies except as stated in those sections;

(5) Nonprofit vision service plan corporations composed of at least fifty (50) participating optometrists or ophthalmologists licensed by the State of Arkansas to provide vision care services on a prepaid basis when each licensed optometrist or ophthalmologist is subject to the rules and regulations of the professional's respective state board and when each participating licensed optometrist or ophthalmologist agrees to assume

responsibility for completion of the provisions of the vision care services contracted for so that no element of risk is incurred by any subscriber group or person.

SECTION 3. Arkansas Code 23-60-111(a), concerning immunity from civil liability for persons reporting to the Insurance Department, is amended to read as follows:

(a) In the absence of fraud or bad faith, no ~~person shall be subject to civil liability. No~~ civil cause of action of any nature shall arise against the person for supplying any information:

(1) Relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials or their agents and employees;

(2) Relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of the insurance laws of this state; or

(3) Furnished in reports to the State Insurance Department, National Association of Insurance Commissioners, or any organization established to detect and prevent fraudulent insurance acts or their agents, employees, or designees.

SECTION 4. Arkansas Code 23-61-104 is amended to read as follows:
23-61-104. Deputies, assistants, and other employees – Appointment – Duties.

~~(a)(1) The commissioner may appoint an assistant commissioner, who shall perform such duties as the commissioner may designate.~~

~~(2) The commissioner may appoint as one (1) deputy commissioner a lawyer of recognized ability admitted to practice in all state courts. This deputy shall be attorney for the department and shall perform such other duties as the commissioner may designate.~~

~~(3)(a)~~ (a) The commissioner may appoint such ~~other~~ assistants and deputies and such examiners, attorneys, clerks, stenographers, and other personnel as may be necessary to assist him in the discharge of the duties imposed upon him under this code and as may be authorized by law. All such personnel

~~(b) All personnel referred to in subdivisions (a) (1) – (3) of this section shall devote their entire business time to their duties in the department.~~

~~(c)(b)~~ (b) The commissioner ~~shall~~ may employ an actuary on a consulting or full-time basis. ~~In addition to such other duties as the commissioner may designate, it shall be the duty of the actuary to make the required valuation of life insurance policies under chapter 84 of this title which is the standard valuation law.~~

~~(d) The commissioner to perform such duties as the commissioner may designate.~~

(c) The commissioner may at any time terminate the appointment, designation, or employment of any assistant, deputy, examiner, attorney, actuary, clerk, or other employee.

~~(e)~~ (d) The compensation for all such personnel so appointed or employed shall be as fixed by law.

~~(f)~~ (e) The commissioner ~~shall~~ may contract for and procure on a basis of fee, such independently contracting examination, actuarial, technical, and other professional services as he may from time to time require for the

discharge of his duties. ~~Expenditures for all employees shall not exceed the amount of current funds appropriated therefore by the General Assembly to the department or otherwise available for the purpose.~~

SECTION 5. Arkansas Code 23-61-106 is amended to read as follows:

23-61-106. Commissioner, deputies, assistants, and other employees – Financial interest prohibited – Exception.

(a)~~(1)~~ The Insurance Commissioner or any deputy, examiner, assistant, or employee of the commissioner shall not be financially interested, directly or indirectly, in any insurer, insurance agency, or insurance transaction, except as:

~~(A)(1)~~ A policyholder or claimant under a policy;

~~(B)(2)~~ A grantor of a mortgage or similar instrument on such person's residence to ~~a~~ an entity regulated entity under this code if done under customary terms and in the ordinary course of business; or

~~(C)(3)~~ A settlor or beneficiary of a blind trust into which any otherwise impermissible holdings have been placed;

~~(D)~~ By making provided that the commissioner may make reasonable exceptions upon full and complete written disclosure to the commissioner of the exact nature and extent of the otherwise impermissible financial interest and adhering to any and all reasonable restrictions as the commissioner may impose upon the terms and conditions of employment.

~~(2)(b)~~ Notwithstanding the requirements of ~~subdivision (a) (1)~~ subsection (a) of this section, the commissioner may employ or retain, from time to time, insurance actuaries, technicians, or other professional personnel who are independently practicing their professions even though similarly employed or retained by insurers or others.

~~(b)~~ ~~The commissioner or any assistant, deputy, examiner, or other employee of the commissioner shall not be given nor receive any fee, compensation, loan, gift, or other thing of value in addition to the compensation and expense allowance provided pursuant to law for any service rendered or to be rendered as commissioner, deputy, examiner, or employee, or in connection therewith.~~

SECTION 6. Arkansas Code 23-61-107(a)(4), concerning records of the Insurance Commissioner, is amended to read as follows:

(4) The commissioner shall maintain as confidential, and not subject to subpoena, financial information regarding material transactions of insurers, as defined in ~~statute or regulations § 23-63-1403~~ or other applicable laws, or regulations promulgated by the commissioner.

SECTION 7. Arkansas Code 23-61-107(d), concerning the Insurance Commissioner's electronic filings, is amended to read as follows:

(d) In lieu of original signatures of records and filings, as required by pertinent provisions of ~~the Arkansas Insurance Code, §23-60-101 et seq.,~~ this code, which are permitted to be reproduced in electronic, diskette, or computer-readable form acceptable to the commissioner, the commissioner in his discretion may accept electronic, electronic facsimile-transmitted, or computer-readable signatures subject to such conditions and terms as he may determine.

SECTION 8. Arkansas Code 23-61-108 is amended to add additional

subsections to read as follows:

(c)(1) The commissioner is authorized to employ the standards and requirements set forth in publications currently recited in the Insurance Code and adopted and published by the National Association of Insurance Commissioners or by other authors in the regulation of insurance, including but not limited to those listed in this subsection.

(2) The Valuation of Securities Manual, the Examiners Handbook, the Market Conduct Examiners Handbook, the Accounting Practices and Procedures Manual, and the Annual Statement Instructions are published by the National Association of Insurance Commissioners. These publications and others currently recited in and throughout § 23-60-101, et seq., are hereby adopted in their present form as of the effective date of this act.

(3) The commissioner shall be authorized and empowered to promulgate regulations for the purposes of adopting all or part of other publications of the National Association of Insurance Commissioners or publications by other authors if the commissioner determines that such action is in the best interest of the public.

(4) Upon the promulgation and publication by the National Association of Insurance Commissioners or other authors of amendments, revisions or modifications to any publication adopted by the commissioner in this subsection, such published amendments, revisions or modifications shall become effective on the date later to occur of:

(A) The date designated as the effective date by the National Association of Insurance Commissioners in any such published amendments, modifications or revisions; or

(B) Ninety (90) calendar days after the publication by the National Association of Insurance Commissioners of a revised manual, handbooks, forms, instructions or other editions containing such amendments, modifications or revisions, unless the commissioner shall reject them by regulation if he or she determines that such action is not in the best interest of the public.

(d) The commissioner is authorized and empowered to adopt regulations for the purpose of modifying, amending or revising any publication promulgated by the National Association of Insurance Commissioners or other authors, or any published amendments, modifications or revisions to any such publications if the commissioner determines that such action is in the best interest of the public.

SECTION 9. Arkansas Code 23-61-111(a), concerning the enforcement of foreign decrees against insurers, is amended to read as follows:

(a) As used in this section and §23-61-110, unless the context otherwise requires:

(1) "Reciprocal state" means any state or territory of the United States the laws of which contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders in equity issued by the courts located in other states or territories of the United States against any insurer incorporated or authorized to do business in said state or territory;

(2) "Foreign decree" means any decree or order in equity of a court located in a reciprocal state, including a court of the United States located therein, against any insurer incorporated or authorized to do business in this state;_

~~(3) "Qualified party" means a state regulatory agency acting in the capacity to enforce the insurance laws of its state.~~

SECTION 10. Arkansas Code 23-62-103 is amended to read as follows:

23-62-103. ~~Disability~~ Accident and Health insurance.

(a) As used in this code, unless the context otherwise requires, "~~disability~~ accident and health insurance" is insurance of human beings against bodily injury, disablement, or death by accident or accidental means, or the expense thereof, or against loss of income due to disablement, or expense resulting from sickness, and every insurance appertaining thereto.

(b) Transaction of ~~disability~~ accident and health insurance does not include workers' compensation, as defined in § 23-62-105(a)(3).

SECTION 11. Arkansas Code 23-62-109(c)(1), as to funding agreements issued by licensed insurers, is amended to read as follows:

(c)(1) Funding agreements may be issued to:

(A) Individuals; or

(B) Entities authorized by this state to engage in an insurance business; or

(C) Entities other than individuals and other than persons or entities authorized to engage in an insurance business, but only for the purpose of funding benefits under any employee benefit plan as defined in the Employee Retirement Income Security Act of 1974, as now or hereafter amended, maintained in the United States or in a foreign country; or

(D) Fund any employee benefit plan or any other program sponsored by the Government of the United States, the government of any state or foreign country, or political subdivision thereof, or any agency thereof, and only if such agreement is issued in an amount of no less than five hundred thousand dollars (\$500,000); or

(E) Fund a program of an institution which has assets in excess of twenty-five million dollars (\$25,000,000).

SECTION 12. Arkansas Code 23-62-205(a), concerning regulatory approval of assumption reinsurance contracts, is amended to read as follows:

(a) Every insurer authorized to do business in the State of Arkansas, whether foreign, domestic, or alien, including but not limited to farmers' mutual aid associations or companies, reciprocal insurers, stipulated premium insurers, mutual assessment life and disability companies, and foreign fraternal benefit societies, shall petition the commissioner for prior approval of any agreement of ~~bulk reinsurance or assumptive~~ assumption reinsurance which provides for the ceding of Arkansas risks to an insurer not authorized to do business in this state.

SECTION 13. Arkansas Code 23-62-205(d), concerning assumption reinsurance of insurance policies among insurers, is amended to read as follows:

(d) Every insurer authorized to do business in the State of Arkansas, whether foreign, domestic, or alien, including but not limited to farmers' mutual aid associations, or companies, reciprocal insurers, stipulated premium insurers, mutual assessment life and disability companies, and foreign fraternal benefit societies, shall file with the commissioner any agreement of ~~bulk insurance or assumptive~~ assumption reinsurance which

provides for the ceding of Arkansas risks to any insurer authorized to do business in this state. The agreement shall be deemed approved within thirty (30) days after the date filed. This subsection shall not apply to any agreement for assumption reinsurance which cedes Arkansas risks if the assuming insurer is authorized to do business in this state and the transaction is approved by the state insurance regulator of the domiciliary state of the ceding insurer.

SECTION 14. Arkansas Code 23-62-205(e), concerning assumption reinsurance of policies among insurers, is amended to read as follows:

(e) Any assumption certificates issued to Arkansas policyholders pursuant to ~~bulk assumptive~~ assumption reinsurance agreements shall be filed with and approved by the commissioner prior to delivery to policyholders.

SECTION 15. Arkansas Code 23-63-101 is repealed.

~~23-63-101. Applicability of §§23-63-102 — 23-63-104.~~

~~Sections 23-63-102 — 23-63-104 shall not be applied with respect to any foreign insurer if more than fifteen percent (15%) of its capital stock is owned by a corporation organized under the laws of, and domiciled in, this state.~~

SECTION 16. Arkansas Code 23-63-106 is repealed.

~~23-63-106. Method of payment of claims.~~

~~All claims paid by an insurer authorized to do business in this state to any person having a claim under any insurance contract for any type of insurance authorized by the laws of this state issued by an insurer shall be paid by check or draft of the insurer to the order of, or by electronic funds transfer to an account of, the claimant to whom payment of the claim is due pursuant to the policy provisions.~~

SECTION 17. Arkansas Code 23-63-108 is repealed.

~~23-63-108. Consumer information system.~~

~~(a) The commissioner may utilize, develop, or cause to be developed a consumer information system which will provide and disseminate price and other relevant information on a readily available basis to purchasers of insurance in this state. This activity may be conducted within the State Insurance Department, in cooperation with other state insurance departments, through outside contracts, or in any other appropriate manner. To the extent deemed necessary and appropriate by the commissioner, licensed insurers, advisory organizations, fraternal benefit societies, health maintenance organizations, hospital and medical service corporations, farmer's mutual aid associations, and other persons or organizations involved in conducting the business of insurance in this state shall cooperate in the development and utilization of a consumer information system.~~

~~(b) The cost of complying with this section may be assessed against the entities listed in subsection (a) of this section and authorized to write the lines of insurance which the commissioner in his discretion deems appropriate and necessary to be addressed in a consumer information system. The assessment to any one (1) entity listed in subsection (a) of this section shall not exceed one hundred dollars (\$100) for any calendar year. Assessment moneys received by the State Insurance Department shall be deposited by the commissioner in an account in a recognized financial~~

~~institution to be used for the maintenance, operation, and support of the State Insurance Department necessary for the operation of the consumer information system.~~

SECTION 18. Arkansas Code 23-63-205(a), concerning capital funds of insurers at admission, is amended to read as follows:

(a)(1) ~~To~~ On and after January 1, 2002, to qualify for and maintain authority to transact any one (1) kind of insurance, as defined in §§23-62-101 – 23-62-108, or combination of kinds of insurance as shown in this subsection, an insurer applying for its original certificate of authority in Arkansas ~~after March 30, 1987,~~ shall possess and maintain in cash and marketable securities unimpaired paid-in capital if the insurer is a domestic, foreign or alien stock insurer or surplus if the insurer is a domestic, foreign or alien mutual, or domestic mutual legal reserve life insurer, or foreign or alien reciprocal insurer, in an amount not less than is applicable under the schedule below, and shall possess when first so authorized such additional funds as surplus as are required under §23-63-207:

Kinds of Insurance	Minimum Capital or Surplus Required	
Life	\$500,000	\$750,000
Disability Accident and Health	500,000	750,000
Life and Disability Accident and Health	500,000	750,000
Property	250,000	500,000
Casualty	500,000	750,000
Surety	500,000	750,000
Marine	250,000	500,000
Title	100,000	250,000
Title and Abstractor's Professional Liability		125,000
Property, Casualty, <u>Surety</u> and Marine		750,000
<u>Combination of other lines</u>		750,000

(2) As to any combination of kinds of insurance, other than combinations of kinds of insurance specifically listed in this subsection, the insurer shall possess the sum of the minimum capital or surplus required by this subsection for the kinds of insurance it proposes to transact.

(3) The commissioner may required reinsurance on terms and in amounts as are reasonable under the circumstances for abstractor's professional liability insurance when written by title insurers.

(4) In his discretion, the commissioner may require the insurer to possess and maintain additional capital, if a stock insurer, and surplus, if a mutual or reciprocal insurer, in addition to that required by this section, based on the financial condition of the insurer, or based on the types, volume, or nature of the business transacted by the insurer.

SECTION 19. Arkansas Code 23-63-205(b), concerning additional capital funds of insurers at admission, is amended to read as follows:

(b) An insurer holding a valid certificate of authority to transact insurance in this state immediately prior to ~~July 20, 1979~~ January 1, 2002, may continue to be authorized to transact the same kinds of insurance as permitted by the certificate of authority by maintaining thereafter the same amount of paid-in capital stock, if the insurer is a stock insurer, or the amount of surplus, if the insurer is a mutual or reciprocal insurer, as

required by the laws of this state for such ~~authority insurer~~ immediately prior to ~~July 20, 1979~~ January 1, 2002. However, the insurer shall not be granted authority to transact any other or additional kind of insurance unless it then fully complies with the requirement as to capital and surplus, as applied to ~~all~~ the kinds of insurance it then proposes to transact, as provided by this section with respect to insurers applying for original certificates of authority.

SECTION 20. Arkansas Code 23-63-206 is amended to read as follows:

23-63-206. Certificate of authority – Deposit of securities required.

(a) All insurers authorized to transact insurance in this state shall make and maintain a deposit of securities as follows:

(1)(A) All insurers authorized to transact only life or ~~disability~~ accident and health insurance, or both, shall deposit through the Insurance Commissioner and subject to the conditions specified in §23-63-909 securities eligible for deposit under §23-63-903 and having at all times a market value of not less than one hundred thousand dollars (\$100,000), conditioned for the payment of policyholders and creditors of the insurer in this state and the prompt payment of all claims arising and accruing to any person in this state. On and after January 1, 2002, the provisions of this subdivision shall apply only to domestic insurers licensed or hereafter licensed; foreign and alien insurers licensed or hereafter licensed shall be exempt;

(B) ~~Provided, insurers holding a valid certificate of authority to transact life or disability insurance, or both, in this state on July 20, 1987, shall not be required to make and maintain such deposit until January 1, 1990;~~ On and after January 1, 2002, licensed foreign and alien insurers may apply for release of an Arkansas deposit upon filing of evidence of a satisfactory deposit in the state or country of domicile; further, the department shall specify a release of these foreign and alien company assets to be disbursed during the three-year period from January 1, 2002 through December 31, 2004;

~~(2)(A) In addition to the deposit required under the provisions of subdivision (a)(1) of this section, all insurers now or hereafter licensed to write disability insurance shall deposit through the commissioner and subject to the conditions specified in §23-63-909 securities eligible for deposit under §23-63-903 and having at all times a market value of not less than an amount equal to four percent (4%) of its disability insurance premiums written in Arkansas as stated in Schedule T of its annual financial report filed with the commissioner, conditioned for the payment of policyholders and creditors of the insurer in this state and the prompt payment of any person in this state.~~

~~(B) Provided, no such deposit shall be required if such premium is less than five hundred thousand dollars (\$500,000);~~

~~(3)(A)~~ (2)(A) Insurers applying for an original certificate of authority in Arkansas for kinds of insurance other than life, ~~disability,~~ accident and health, surety, or any combination thereof, and insurers holding a valid certificate of authority who thereafter apply to transact any other or additional kinds of insurance excluding life, ~~disability,~~ accident and health, surety, or any combination thereof, shall deposit, through the commissioner and subject to the conditions specified in §23-63-909, securities eligible for deposit under §23-63-903 and having at all times a

market value of not less than one hundred thousand dollars (\$100,000), conditioned for the payment of policyholders and creditors of the insurer in this state and the prompt payment of all claims arising and accruing to any person in this state. On and after January 1, 2002, the provisions of this subdivision shall apply only to domestic insurers licensed or hereafter licensed; foreign and alien insurers licensed or hereafter licensed shall be exempt.

~~(B) Insurers authorized to transact any combination of the lines or classes of insurance described under this subdivision (a)(3) may also be authorized to transact disability insurance by depositing securities in accordance with this subdivision (a)(3). If the annual Arkansas premium volume equals or exceeds five hundred thousand dollars (\$500,000), the insurers shall be subject to the additional annual deposit for disability insurance required under subdivision (a)(2) of this section; On and after January 1, 2002, licensed foreign and alien insurers may apply for release of an Arkansas deposit upon filing of evidence of a satisfactory deposit in the state or country of domicile; further the department shall specify a release of these foreign and alien company assets to be disbursed during the three-year period from January 1, 2002, through December 31, 2004;~~

~~(4)(3)(A) An insurer authorized to transact solely surety insurance in this state shall deposit through the commissioner and subject to the conditions provided in §23-63-909 securities eligible for deposit under §23-63-903 and having at all times a market value of not less than one hundred thousand dollars (\$100,000), conditioned for the payment of policyholders and creditors of the insurer in this state and prompt payment of policyholders and creditors of the insurer in this state and prompt payment of all claims arising and accruing to any obligee in this state.~~

~~(B) All insurers authorized to transact the lines or classes of insurance under subdivision ~~(a)(3)~~ (a)(2) of this section or any combination thereof may also be authorized to transact surety insurance by depositing in accordance with this subsection (a) additional securities with a market value of fifty thousand dollars (\$50,000).~~

~~(C) Any authorized surety insurer also licensed as a professional bail bond company shall make and maintain an additional deposit, as required in 17-19-101 et seq. applicable to bail bond transactions.~~

~~(D) On and after January 1, 2002, the provisions of this subdivision shall apply only to domestic insurers licensed or hereafter licensed; foreign and alien insurers licensed or hereafter licensed shall be exempt. On and after January 1, 2002, licensed foreign and alien insurers may apply for release of an Arkansas deposit upon filing of evidence of a satisfactory deposit in the state or country of domicile; further, the department shall specify a release of these foreign and alien company assets to be disbursed during the three-year period from January 1, 2002, through December 31, 2004.~~

~~(b) All deposits made through the commissioner and held in this state shall be subject to the applicable provision of §§23-63-901 – 23-63-912, which refer to administration of deposits.~~

~~(c) The deposit required in subdivision (a)(2) of this section shall be deposited or adjusted by the July 1 following the filing of the annual statement.~~

SECTION 21. Arkansas Code 23-63-207(b), concerning the addition of new

insurance "lines" of authority to an insurer's license, is amended to read as follows:

(b) As to all insurers referred to in subdivisions (a)(1) and (a)(2) of this section, and as to currently authorized insurers seeking additional authority in this state, if, after issuance of its original certificate of authority to transact insurance in this state, the insurer requests authority to transact additional kinds of insurance, the request shall not be authorized unless the insurer then possesses special surplus or additional surplus in such an amount as would be required under this section as for an original certificate of authority covering ~~all~~ the kinds of insurance the insurer then proposes to transact.

SECTION 22. Arkansas Code 23-63-207, concerning special surplus required of insurers, is amended to add an additional subsection to read as follows:

(d) In his or her discretion, the commissioner may require an insurer to possess and maintain additional special surplus, in addition to that required by this subchapter, based on the financial condition of the insurer or the types, volume, or nature of the business transacted by the insurer.

SECTION 23. Arkansas Code 23-63-209(6), concerning insurer applications for licensure, is amended to read as follows:

~~(6) Appointment of the commissioner~~ On and after January 1, 2003, registration of registered agents for service of process to be made pursuant to §§ 23-63-301 - 23-63-304, as amended by this act; as its attorney to receive service of legal process;

SECTION 24. Arkansas Code 23-63-211(a)(3), concerning annual continuation of certificate of authority of insurers, is amended to read as follows:

(3) Payment by the insurer of applicable taxes, fees and assessments, as well as timely filing of supporting annual and quarterly statements and other required filings with respect to the preceding calendar year, as required under this code.

SECTION 25. Arkansas Code 23-63-213(a)(1), concerning grounds for suspension or revocation of an insurer's certificate of authority, is amended to read as follows:

(a)(1) Is in unsound condition, or is in such condition or is using such methods and practices in the conduct of its business, as to render its further transaction of insurance in Arkansas hazardous or injurious to its policyholders or to the public. For the purposes of this section, the commissioner may consider, among other factors, the present, past, and future ~~trend trends in the size of the insurer's surplus if a life insurer, disability insurer, or a life and disability insurer, or unassigned funds surplus if a property insurer, casualty insurer, or a property and casualty insurer~~ that could affect the solvency of the insurer;

SECTION 26. Arkansas Code 23-63-214(c), concerning actions of an insurer during the period of its suspension, is amended to read as follows:

(c) The insurer shall not solicit or write any new ~~coverages~~ business in this state during the period of any suspension or revocation; provided

however, the insurer shall be allowed to renew and service existing policies and contracts during the period of any suspension unless limited by the commissioner by his or her order or by court order.

SECTION 27. Arkansas Code 23-63-216(a)(1), as to reporting blanks of insurers, is amended to read as follows:

(1) The statement shall be the appropriate and most recent National Association of Insurance Commissioners':

(A) "Annual Statement Blank For Life And Accident And Health";

(B) "Property And Casualty Annual Statement Blank";

(C) "Title Insurance Annual Statement Blank";

(D) ~~"Hospital, Medical And Dental Service Or Indemnity Corporations Annual Statement Blank";~~ "Annual Statement Blank for Health", for use by hospital, medical and dental service or indemnity corporations;

(E) "Fraternal Annual Statement Blank"; ~~or~~

(F) "Annual Statement Blank for Health" for health insurers or health maintenance organizations and others; or

~~(F)(G)~~ Other National Association of Insurance Commissioners' convention blank as appropriate, which shall be prepared in accordance with the most recent and appropriate, companion National Association of Insurance Commissioners' "Annual Statement Instructions" and follow those accounting practices and procedures prescribed by the most recent and appropriate companion National Association of Insurance Commissioners' Accounting Practices and Procedures Manual. The commissioner is authorized to allow a life insurer or property and casualty insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of its total premium considerations or total statutory required reserves, respectively, to file the "Annual Statement Blank for Health" as its annual statement with the companion quarterly statement forms.

SECTION 28. Arkansas Code 23-63-216(g), concerning reports of insurers filed with the Insurance Commissioner, is amended to read as follows:

(g) In addition to information called for and furnished in connection with its annual statement, an insurer shall furnish to the commissioner as soon as reasonably possible such information with respect to any of its transactions or affairs as the commissioner may from time to time request in writing. In accordance with the specifications applicable to annual financial statements, each authorized domestic insurer and health maintenance organization and hospital or medical service corporation, or other domestic licensee so directed by the department in writing, shall also file with the commissioner a quarterly financial statement, on a form prescribed by the commissioner, not later than forty-five (45) days following the end of each of the first three (3) calendar quarters of each year, excepting the fourth (4th) quarter of each calendar year which shall be reconciled in the annual financial statement. The filing specifications of this section for annual financial reports shall apply to quarterly financial reports.

SECTION 29. Arkansas Code 23-63-216(j), concerning filing of insurer reports with the NAIC, is amended to read as follows:

(j)(1) The National Association of Insurance Commissioners Annual

Statement Diskette Filing Specifications are hereby adopted and incorporated by reference.

(2) Each authorized insurer shall submit its annual and quarterly statement information in manual and computer-readable form using the diskette medium; ~~however, Arkansas domiciled insurers that only do business in Arkansas are required to submit only a manual filing.~~

SECTION 30. Arkansas Code 23-63-217 is repealed.

~~23-63-217. Settlement with terminated agents required.~~

~~(a) All life, health, accident, and hospitalization insurance companies doing business in the State of Arkansas shall, as a condition of doing business in this state, make settlement with their authorized agents whose services are terminated by any insurance company, for all commissions then due and owing, and thereafter make settlement, from time to time, according to the terms of the contract of employment.~~

~~(b) Whenever any life, health, accident, or hospitalization insurance company in this state shall merge with, or be absorbed by, another health and accident insurance company or another insurance company, the successor company shall succeed to all of the obligations of the merged or absorbed company in regard to any unpaid settlements due agents of the merged or absorbed company under the provisions of this section.~~

~~(c) Nothing in this section shall prevent either party to the contract from resorting to any legal recourse now or hereafter available to the party.~~

SECTION 31. Arkansas Code 23-63-301 is amended to read as follows:

~~23-63-301. Commissioner as process agent—Appointment—Service upon insurer. Registered office and registered agent for foreign or alien insurer and domestic reciprocal insurers.~~

~~(a) Each foreign insurer applying for a certificate of authority to transact business in Arkansas and every domestic reciprocal insurer shall file with the commissioner an appointment of the commissioner and his successors in office, on a form as furnished by the commissioner, as its attorney to receive service of legal process issued against it in this state. The appointment shall be irrevocable, shall bind the insurer and any shall remain in effect as long as there is outstanding in Arkansas any obligation or liability of the insurer resulting from its transactions in this state.~~

~~(b) At the time of the appointment of the commissioner as its process agent, the insurer shall file with the commissioner designation of the name and address of the person to whom process against it served upon the commissioner is to be forwarded. The insurer may change the designation by a new filing.~~

~~(c) For the purposes of this section, "process" includes any writ, summons, subpoena, or order whereby any action, suit, or proceedings are commenced or which is issued in or upon any action, suit, or proceedings.~~

~~(d) Process may also be served upon an insurer in the manner provided in §23-79-205. must designate and continuously maintain in the state:~~

~~(1) A registered office that may be the same as any of its places of business; and~~

~~(2) A registered agent, who may be:~~

~~(A) An individual who resides in this state and whose business office is identical with the registered office;~~

~~(B) A state bank, domestic corporation or not-for-profit~~

corporation whose business office is identical with the registered office; or

(C) A foreign corporation or foreign not-for-profit corporation authorized to transact business in this state whose business office is identical with the registered office.

(3) On and after January 1, 2002, all foreign and alien insurers and all domestic reciprocal insurers holding a subsisting certificate of authority upon the effective date of this act shall be subject to the provisions of §§ 23-63-301 - 23-63-304, as amended by this act; and no later than January 1, 2003 shall file with the commissioner the information required in this subchapter to designate an Arkansas registered agent. In the event no registered agent has yet been selected and appointed on the commissioner's list for any foreign or alien insurer or domestic reciprocal insurer licensed by the commissioner, service may be processed through the commissioner as agent or by other methods of service provided under Arkansas law to be effective until a new registered agent has been appointed on the records of the commissioner.

(4) In this subchapter licensed "foreign" insurers shall be deemed to include licensed "alien" insurers.

SECTION 32. Arkansas Code 23-63-302 is amended to read as follows:

~~23-63-302. Insurance Commissioner as process agent—Procedures.~~
Change of registered office or registered agent.

~~(a)(1) service of process upon the Insurance Commissioner as process agent of an insurer, under §23-63-301, shall be made by serving copies in duplicate of the process upon the commissioner or upon his assistant, deputy, or other person in charge of his office.~~

~~(2) Upon being served with such process, the commissioner shall promptly forward a copy thereof by certified or registered mail to the person last designated by the insurer to receive it, as provided by §23-63-301, and send a copy of his letter of transmittal of the process to the clerk of the issuing court and the same shall be entered in the file of the cause.~~

(a) A licensed foreign or alien insurer or a licensed domestic reciprocal insurer may change its registered office or registered agent by delivering to the commissioner for filing a statement of change that sets forth:

(1) Its name;

(2) The street address of its current registered office;

(3) If the current registered office is to be changed, the street address of its new registered office;

(4) The name of its current registered agent;

(5) If the current registered agent is to be changed, the name of its new registered agent with the new agent's written consent, either on the statement or attached to it, to the appointment; and

(6) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

~~(b) Where process is served upon the commissioner as an insurer's process agent, the insurer must answer or plead within thirty (30) days after the date upon which service is perfected. Service is perfected under this section at the earliest of:~~

~~(1) The date the insurer received the mail;~~

~~(2) The date shown on the return receipt, if signed on behalf of~~

~~the insurer, or~~

~~(3) Five (5) days after it is deposited in the United States mail, as evidenced by the postmark, if mail postpaid and correctly addressed.~~

(b) If a registered agent changes the street address of his or her business office, he or she may change the street address of the registered office of any foreign insurer holding a certificate of authority to transact business in Arkansas or any domestic reciprocal insurer for which he or she is the registered agent by notifying the insurer in writing of the change and signing, either manually or in facsimile, and delivering to the commissioner for filing a statement of change that complies with the requirements of subsection (a) of this section and recites that the insurer has been notified of the change.

SECTION 33. Arkansas Code Title 23, Chapter 63, Subchapter 3 is amended to add additional sections to read as follows:

23-63-303. Resignation of registered agent.

(a) The registered agent of a licensed foreign insurer or a domestic reciprocal insurer may resign his or her agency appointment by signing and delivering to the commissioner for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(b) After filing the statement, the commissioner shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The commissioner shall mail the other copy to the insurer at its principal office address shown in its most recent annual report.

(c) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first (31st) day after the date on which the statement was filed.

23-63-304. Service of process of foreign or alien insurers or domestic reciprocal insurers.

(a) The registered agent of a licensed foreign insurer or a licensed domestic reciprocal insurer is the insurer's agent for service of process, notice, or demand required or permitted by law to be served on the insurer.

(b) A licensed foreign insurer or a licensed domestic reciprocal insurer may be served by registered or certified mail, return receipt requested, addressed to the president or the secretary at its principal office shown in its application for a certificate of authority or in its most recent annual statement if the insurer:

(1) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(2) Has withdrawn from transacting business in this state under this subchapter; or

(3) Has had its certificate of authority revoked under this subchapter.

(c) Service is perfected under subsection (b) of this section at the earliest of:

(1) The date the insurer receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the insurer; or

(3) Five (5) calendar days after its deposit in the United

States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a licensed foreign insurer or a licensed domestic reciprocal insurer.

SECTION 34. Arkansas Code 23-63-506(b), concerning filings for acquisitions of or mergers with a domestic insurer, is amended to read as follows:

(b) For purposes of §§ 23-63-506 - 23-63-513, a domestic insurer shall include any person controlling a domestic insurer unless ~~such the~~ the person, as determined by the commissioner, is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, ~~such the~~ the person shall file a ~~preacquisition~~ pre-acquisition notification with the commissioner containing the information set forth in § 23-63-527(b), ~~thirty (30) sixty (60)~~ sixty (60) days prior to the proposed effective date of the acquisition. Failure to file ~~is subjects~~ subject to ~~such person to the penalty specified in § 23-63-529(c).~~ For the purposes of this section, "person" shall not include any securities broker holding, in the usual and customary brokers' function, less than twenty percent (20%) of the voting securities of an insurance company or of any person which controls an insurance company.

SECTION 35. Arkansas Code 23-63-510(b)(3), concerning the commissioner's findings on the proposed acquisition or merger of a domestic insurer under the insurer holding company act, is amended to read as follows:

(b)(3)(A) ~~The commissioner shall make a determination within thirty (30) days after the conclusion of the hearing~~ the sixty-day period preceding the effective date of the proposed transaction.

(B) In connection with the change in control of the insurer, any determination by the commissioner that the person acquiring control of a domestic insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made not later than sixty (60) calendar days after the date of notification of the change in control submitted pursuant to § 23-63-506(b).

SECTION 36. Arkansas Code 23-63-804 is amended to read as follows:

23-63-804. Authorization of ~~investment~~ investments by the board of directors.

~~(a) An insurer shall not make any investment or loan, other than policy loans or annuity contract loans of a life insurer, unless the insurer is authorized or approved by the insurer's board of directors or by a committee authorized by the board and charged with the supervision or making of the investment or loan.~~

~~(b) The minutes of the committee shall be recorded and regular reports of the committee shall be submitted to the board of directors.~~

(a) An insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity and diversification of investments and other specifications, including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs

and its capital and surplus. The board shall review and assess the insurer's technical investment and administrative capabilities and expertise before adopting a written plan concerning an investment strategy or investment practice.

(b) Investments acquired and held under this subchapter shall be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution, at least annually, that it has determined whether all investments have been made in accordance with delegations, standards, limitations and investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct its investments.

(c) On no less than an annual basis, and more often if deemed appropriate, an insurer's board of directors or committee of the board of directors shall:

(1) Receive and review a summary report on the insurer's investment portfolio, its investment activities and investment practices engaged in under delegated authority, in order to determine whether the investment activity of the insurer is consistent with its written plan; and

(2) Review and revise, as appropriate, the written plan.

(d) In discharging its duties under this section, the board of directors shall require that records of any authorizations or approvals, other documentation as the board may require and reports of any action taken under authority delegated under the plan referred to in subsection (a) of this section shall be made available on a regular basis to the board of directors.

(e) In discharging their duties under this section, the directors of an insurer shall perform their duties in good faith and with that degree of care that ordinarily prudent individuals in like positions would use under similar circumstances.

(f) If an insurer does not have a board of directors, all references to the board of directors in this section shall be deemed to be references to the governing body of the insurer having authority equivalent to that of a board of directors.

SECTION 37. Arkansas Code 23-63-805(1), concerning domestic insurer investments in any one person, is amended to read as follows:

(1) One Person. An insurer shall not, except with the consent of the commissioner, have at any one time any combination of investments in or loans upon the security of the obligations, property, or securities of any one (1) person or issuer aggregating an amount exceeding ten percent (10%) of the insurer's assets, except that investments in certificates of deposit and savings and loan association deposits in any one (1) person may be the greater of ten percent (10%) of the insurer's assets or the maximum amount of federal insurance applicable to the deposit. This restriction shall not apply as to general obligations of the United States or of any state, or include policy loans made under § 23-63-821; Except as otherwise specified in this subchapter, an insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment under this subchapter if, as a result of and after giving effect to the investment, the insurer would hold more than five percent (5%) of its admitted assets in investments of all kinds issued, assumed, accepted, insured or guaranteed by a single person, or five percent (5%) of its admitted assets in investments in the voting securities of a

depository institution or any company that controls the institution. The five percent (5%) limitation shall not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization; and investments in certificates of deposit and savings and loan association deposits in any one (1) person may be the greater of ten percent (10%) of the insurer's assets or the maximum amount of federal insurance applicable to the deposit. If upon enactment, the immediate application of this subsection would have the effect of reducing the admitted assets held by a particular insurer, the insurer may continue to reflect as admitted those assets that would be admissible but for the enactment of this provision, until December 31, 2004. The restrictions of this subsection shall not apply as to general obligations of the United States or of any state, or include policy loans made under § 23-63-821. Insurers may invest up to ten percent (10%) of admitted assets in a rated credit instrument of a government sponsored enterprise of the United States, if the instruments of the government sponsored enterprise are assumed, guaranteed or insured by the United States or otherwise backed or supported by the full faith and credit of the United States. As used in this subsection, a "government sponsored enterprise" means a governmental agency, or a corporation, limited liability company, association, partnership, joint stock company, joint venture, trust or other entity or instrumentality organized under the laws of any domestic jurisdiction to accomplish a public policy or other governmental purpose;

SECTION 38. Arkansas Code 23-63-825 is amended to read as follows:

~~23-63-825. Miscellaneous investments.~~ Additional Investment Authority.

~~(a) An insurer may make loans or investments not otherwise expressly permitted under this subchapter, in aggregate amount not over ten percent (10%) of the insurer's assets and not over three percent (3%) of the assets as to any one (1) such loan or investment, if that loan or investment fulfills the requirements of § 23-63-803 and otherwise qualifies as a sound investment. No such loan or investment shall be represented by:~~

~~(1) Any item described in § 23-63-603 concerning assets not allowed, or any loan or investment otherwise expressly prohibited;~~

~~(2) Any category of loans or investments eligible under any other provisions of this subchapter;~~

~~(3) Any asset theretofore acquired or held by the insurer under any other category of loans or investments eligible under this subchapter.~~

~~(b) The insurer shall keep a separate record of all loans and investments made under this section.~~

~~(c) If, subsequent to its acquisition under this section, an investment becomes eligible as an investment under any other section of this subchapter, then the insurer may consider the investment as held under that other section, and if so considered, the investment shall thereafter not be subject to this section.~~

(a)(1) An insurer may acquire under this section investments, or engage in investment practices, of any kind that are not specifically prohibited by this subsection or elsewhere in the code, or engage in investment practices, without regard to any aggregate limitation in this subchapter; but an insurer shall not admit an investment or engage in an investment practice under this section if, as a result of and after giving effect to the transaction, the aggregate amount of the investments then held

by the insurer under this section would exceed the lesser of:

- (A) Ten percent (10%) of its admitted assets; or
- (B) Seventy-five percent (75%) of its total capital and

surplus.

(2) This additional authority shall not apply to the following investments:

- (A) Medium grade or lower grade rated credit instruments;
- (B) Mortgages or mortgage loans;
- (C) Total of real estate, both home office and real estate held for investment income, except with the commissioner's advance approval;
- (D) Foreign investments and foreign currency exposures;

and

- (E) Derivatives.

(3) As used in subsection (a) of this section, "insurer" means licensed domestic life and/or accident and health insurers or other licensed domestic reporting entities which transact life and/or accident or health contracts or plans in this state.

(b)(1) An insurer may acquire under this section investments, or engage in investment practices, of any kind that are not specifically prohibited by this subchapter, or engage in investment practices, without regard to any aggregate limitation in this subchapter, but an insurer shall not admit an investment or engage in an investment practice under this section if, as a result of and after giving effect to the transaction, the aggregate amount of the investments then held by the insurer under this section would exceed the lesser of:

- (A) Ten percent (10%) of its admitted assets; or
- (B) Fifty percent (50%) of its total capital and surplus.

(2) This additional authority shall not apply to the following investments:

- (A) Medium grade or lower grade rated credit instruments;
- (B) Equity interests;
- (C) Mortgages or mortgage loans;
- (D) Total of real estate, both home office and real estate held for investment income, except with the commissioner's advance approval;
- (E) Foreign investments and foreign currency exposures;

and

- (F) Derivatives.

(4) As used in subsection (b) of this section, "insurer" means domestic property, casualty, surety and/or marine, financial guaranty, and mortgage guaranty insurers, and domestic insurers transacting title insurance.

(c) If upon enactment, the immediate application of these provisions would have the effect of reducing the admitted asset value of assets held by a particular insurer, the insurer may continue to reflect as admitted those assets that would be admissible but for the enactment of this provisions, until December 31, 2004.

SECTION 39. Arkansas Code 23-63-838(b)(4), concerning domestic insurer investments into "put" and "call" options, is amended to read as follows:

(4) An insurer may purchase or sell put or call options only through an exchange which is registered with the Securities and Exchange Commission as a national securities exchange pursuant to the provisions of the

Securities Exchange Act of 1934, as amended or for good cause shown through an over-the-counter transaction with a counterparty on the list of approved counterparties published in the "Purposes and Procedures Manual" of the Securities Valuation Office of the National Association of Insurance Commissioners, or with a counterparty otherwise approved in advance by the commissioner when a petition is filed with his or her office, or other such transactions approved in advance by the commissioner within his or her discretion.

SECTION 40. The provisions of this act which amend Subchapter 8 of Chapter 63 of Title 23 of the Arkansas Code shall become effective on October 1, 2001.

SECTION 41. Arkansas Code 23-63-909(b)(1), concerning payment of claims from an insurer's security deposit, is amended to read as follows:

(b)(1) The commissioner, under procedures he or she shall prescribe, may release any part of the special additional four percent (4%) accident and health deposit required in § 23-63-206(a)(2) to the insurer for the payment of outstanding claims.

SECTION 42. Arkansas Code 23-63-910(a)(1), concerning insurance company statutory deposits, is amended to read as follows:

(a)(1) If for any reason the market value of assets and securities of an insurer held on deposit in this state under § 23-63-206 or under the retaliatory provision, §§ ~~23-61-101~~ ~~23-61-104~~ 23-63-102 - 23-63-104, falls below the amount so required, then the insurer shall promptly deposit other or additional assets or securities eligible for deposit sufficient to cure the deficiency.

SECTION 43. Arkansas Code Title 23, Chapter 64, Subchapter 2 is amended by adding an additional section to read as follows:

23-64-231. Settlement with terminated producers required.

(a) All life and accident and health insurance companies doing business in the State of Arkansas shall, as a condition of doing business in this state, make settlement with their authorized producers whose services are terminated by any insurance company, for all commissions then due and owing, and thereafter make settlement, from time to time, according to the terms of the contract of employment.

(b) Whenever any life and accident and health insurance company in this state shall merge with, or be absorbed by, another life and accident and health insurance company or another insurance company, the successor company shall succeed to all of the obligations of the merged or absorbed company with regard to any unpaid settlements due producers of the merged or absorbed company under the provisions of this section.

(c) Nothing in this section shall prevent either party to the contract from resorting to any legal recourse now or hereafter available to the party.

SECTION 44. Arkansas Code 23-64-403, as to licenses for managing general agents, is amended to add an additional subsection to read as follows:

(e) The commissioner shall not require a license under this subchapter for insurers acting in the capacity of a managing general agent or agency in

this state for risks located in this state, nor for acting for a domestic insurer with respect to risks located outside this state, so long as those insurers hold a subsisting certificate of authority listing the same lines of insurance as it will transact as a managing general agent or agency in this state.

SECTION 45. Arkansas Code Title 23, Chapter 66, Subchapter 3 is amended by adding an additional section to read as follows:

23-66-319. Method of payment of claims.

All claims paid by an insurer authorized to do business in this state to any person having a claim under any insurance contract for any type of insurance authorized by the laws of this state issued by an insurer shall be paid by check or draft of the insurer to the order of, or by electronic funds transfer to an account of, the claimant to whom payment of the claim is due pursuant to the policy provisions.

SECTION 46. Arkansas Code 23-66-501(4)(C), as to insurance fraud, is amended to read as follows:

(C) Removal, concealment, alteration, or destruction of the assets ~~of~~ or records of an insurer, reinsurer, or other person engaged in the business of insurance;

SECTION 47. Arkansas Code 23-66-507(a), concerning confidentiality of fraud investigations, is amended to read as follows:

(a) Notwithstanding any other provision of law, the documents and evidence provided pursuant to § 23-66-505 and § 23-66-508 or obtained by the Insurance Commissioner in an investigation of suspected or actual fraudulent insurance acts shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action until the matter under investigation is closed by the Insurance Fraud Investigation Division with the consent of the commissioner.

SECTION 48. Arkansas Code 23-69-105(b), describing incorporators of new domestic stock or mutual insurers, is amended to read as follows:

~~(b)(1) Five (5) or more individuals, none of whom are less than twenty one (21) years of age, may incorporate a stock insurer. Ten (10) or more individuals, none of whom are less than twenty one (21) years of age, may incorporate a mutual insurer.~~

~~(2) At least a majority of the incorporators shall be citizens of the United States. At least a majority of the incorporators shall be residents of this state. One (1) or more persons may act as the incorporator or incorporators of a stock or mutual insurer by delivering articles of incorporation to the commissioner for filing.~~

SECTION 49. Arkansas Code 23-69-105(c), concerning the articles of incorporation of a domestic stock or mutual insurer, is amended to read as follows:

(c) The ~~incorporators~~ incorporator(s) shall execute articles of incorporation in ~~triplicate~~ duplicate and acknowledge their execution thereof in the same manner as provided by law for the acknowledgment of deeds. The articles of incorporation shall state and show:

(1) The name of the corporation. If a mutual, the word "mutual"

~~must~~ may be a part of the name. An alternative name may be specified for use in jurisdictions wherein conflict of name with that of another insurer or organization might otherwise prevent the corporation from being authorized to transact insurance therein;

(2) The duration of its existence, which may be perpetual;

(3) The kinds of insurance, as defined in this code, which the corporation is formed to transact;

(4) If a stock corporation, its authorized capital stock, the number of shares of stock into which divided, the par value of each share, which par value shall be at least one dollar (\$1.00). Shares without par value shall not be authorized;

(5) If a stock corporation, the extent, if any, to which shares of its stock shall be subject to assessment;

(6) If a mutual corporation, other than a life insurer, the maximum contingent liability of its members, other than as to nonassessable policies, for payment of losses and expenses incurred; the liability shall be as stated in the articles of incorporation but shall not be less than one (1) nor more than six (6) times the premium for the member's policy at the annual premium rate for a term of one (1) year;

(7) The number of directors, not less than three (3), who shall constitute the board of directors and conduct the affairs of the corporation and the names, addresses, and terms of the members of the initial board of directors. The term of office of initial directors shall be for not more than one (1) year after the date of incorporation;

(8) The name of the city or town and county in this state in which is to be located its home office and principal place of business;

(9) Such other provisions, not inconsistent with law, deemed appropriate by the ~~incorporators~~ incorporator(s); and

(10) The name and residence address of each incorporator ~~and the citizenship of each incorporator who is not a citizen of the United States.~~

SECTION 50. Arkansas Code 23-69-106 is amended to read as follows:

23-69-106. Articles of incorporation - Filing and approval.

(a) The ~~incorporators~~ incorporator(s) of a proposed domestic insurer incorporated under Subchapter 1 of Chapter 69, particularly §§ 23-69-101 - 23-69-103, 23-69-105 - 23-69-141, 23-69-143, and 23-69-149 - 23-69-156, shall deliver the ~~triplicate~~ duplicate originals of the articles of incorporation thereof to the commissioner together with the filing fees therefor specified in § 23-61-401 or any companion rule and regulation of the commissioner.

(1) If the commissioner finds that the articles comply with law, he shall endorse his approval upon each set of the articles and issue his certificate of incorporation.

(2) He shall thereupon place one (1) set of the articles on file in his office, and return the other ~~two (2) sets~~ set of the articles, for the records of the corporation, together with his certificate of incorporation, to the ~~incorporators~~ incorporator(s) or their representatives to the representative(s) of the incorporator(s).

~~(3) The incorporators or their representative shall immediately file one (1) set for record with the county clerk of the county wherein is located the corporation's principal offices, as specified in the articles, and the remaining set of articles shall be made a part of the records of the corporation.~~

(b) If the commissioner finds that the proposed articles of incorporation do not comply with law or that the corporation, if organized, could not meet the requirements for a certificate of authority under § 23-63-202 or other provisions of this code, he shall refuse to approve the articles of incorporation and shall return the ~~triplicate~~ duplicate sets thereof to the ~~incorporators~~ incorporator(s), together with a written statement of his reasons for the nonapproval. The filing fee paid pursuant to subsection (a) of this section shall not be returnable.

(c) The corporation shall have legal existence as such upon the issuance of the certificate of incorporation by the commissioner, but it shall not transact business as an insurer until it has applied for and received from the commissioner a certificate of authority as provided by this code.

(d) A copy of the certificate of incorporation, certified by the commissioner, shall be admissible in all the courts of this state as prima facie evidence of due incorporation.

SECTION 51. Arkansas Code 23-69-107(c), concerning amended articles of domestic stock and mutual insurers, is amended to read as follows:

(c) Upon adoption of an amendment the insurer shall make in ~~triplicate~~ duplicate under its corporate seal a certificate, sometimes referred to as "articles of amendment", setting forth the amendment and the date and manner of the adoption thereof. The certificate shall be executed by the insurer's president or vice president and secretary or assistant secretary and acknowledged by them before an officer authorized by law to take acknowledgments of deeds.

(1) The insurer shall deliver to the commissioner the ~~triplicate~~ duplicate originals of the certificate, together with the filing fee specified therefor in § 23-61-401 or by rule and regulation.

(2) If he finds that the certificate and amendments comply with law, the commissioner shall endorse his approval upon each of the ~~triplicate~~ duplicate originals, place one (1) set on file in his office, and return the remaining ~~two (2) sets~~ set to the insurer for its corporate records.

~~(3) The insurer shall immediately file one (1) set of the endorsed articles of amendment for record with the county clerk of the county in which is located the insurer's principal place of business, and retain the remaining set in the corporate records.~~

~~(4)~~(3) The amendment shall be effective when the commissioner has endorsed his approval on the certificate of amendment and placed it on file in his office.

SECTION 52. Arkansas Code 23-69-107(d), concerning amendments to articles of domestic stock and mutual insurers, is amended to read as follows:

(d) If the commissioner finds that the proposed amendment or certificate does not comply with law, he shall not approve it and shall return the ~~triplicate~~ duplicate certificate of amendment to the insurer together with his written statement of reasons for nonapproval. The filing fee shall not be returnable.

SECTION 53. Arkansas Code 23-69-112 is amended to read as follows:
23-69-112. Initial qualifications - Domestic mutuals.

(a) When newly organized, a domestic mutual insurer may be authorized to transact any one (1) of the kinds of insurance listed in ~~the schedule contained in subsection (b) of this section §§ 23-62-101 - 23-62-108.~~

(b) When applying for an original certificate of authority, the insurer must be otherwise qualified therefor under this code and must have received and accepted bona fide applications as to substantial insurable subjects for insurance coverage of a substantial character of the kind of insurance proposed to be transacted, must have collected in cash the full premium therefor at an adequate rate approved by the commissioner, and must have surplus funds on hand as of the date the insurance coverages are to become effective, or in lieu of the applications, premiums, and surplus, may deposit surplus, all in accordance with that part of the following schedule which applies to the one (1) kind of insurance the insurer proposes to transact: in amounts equal to or exceeding those surplus funds required of a foreign mutual insurer in §§ 23-63-205 and 23-63-207.

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Life (c)(1)	500	500	quar	\$10	\$25	\$50,000	\$100,000	
Disability (c)(2)			terly	(weekly	(weekly			
Property (c)(3)	100	250	annual	\$1,000	\$3,000	\$50,000	\$100,000	
Casualty (c)(4)	250	500	annual	\$1,000	\$10,000	\$100,000	\$200,000	
With work-er's compensation	250	1,500	quar	\$1,000	\$10,000	\$150,000	\$200,000	
			terly					

(c) ~~The following provisos are respectively applicable to the schedule provided in subsection (b) of this section and provisions are indicated by like subdivision designations appearing in the schedule:~~

- ~~(1) Surplus required of domestic mutual legal reserve life insurers is as provided in §§23-63-205 and 23-63-207;~~
- ~~(2) No group, blanket, or family plans of insurance shall be included. In lieu of weekly indemnity a like premium value in medical, surgical, and hospital benefits may be provided. Any accidental death or dismemberment benefit provided shall not exceed two thousand five hundred dollars (\$2,500);~~
- ~~(3) Only insurance of the owner's interest in real property may be included;~~
- ~~(4) Must include insurance of legal liability for bodily injury and property damage, to which the maximum and minimum insured amounts apply;~~
- ~~(5) The maximum provided for in column (6) of the schedule in subsection (b) of this section are net of applicable reinsurance;~~
- ~~(6) The deposit of surplus in the amount specified in column (7) or (8) of the schedule in subsection (b) of this section must thereafter be maintained unimpaired. The deposit is subject to the provisions of §§23-63-901 - 23-63-912, referring to administration of deposit.~~

SECTION 54. Arkansas Code 23-69-113 is amended to read as follows:
23-69-113. Formation of nonlife mutual insurer - Bond required.

(a) Before soliciting any applications for insurance required under §

23-69-112 as qualification for the certificate of authority, the ~~incorporators~~ incorporator(s) of the proposed insurer shall file with the commissioner a corporate surety bond or other acceptable securities in the penal sum of ~~fifteen thousand dollars (\$15,000)~~, one hundred thousand dollars (\$100,000), in favor of the state and for the use and benefit of the state and of applicant members and creditors of the corporation. The bond shall be conditioned as follows:

(1) For the prompt return to applicant members of all premiums collected in advance;

(2) For payment of all indebtedness of the corporation; and

(3) For payment of costs incurred by the state in event of any legal proceedings for liquidation or dissolution of the corporation, all in the event the corporation fails to complete its organization and secure a certificate of authority within one (1) year from and after the date of its certificate of incorporation.

(b) In lieu of a bond, the ~~incorporators~~ incorporator(s) may deposit with the commissioner ~~fifteen thousand dollars (\$15,000)~~ one hundred thousand dollars (\$100,000) in ~~cash or~~ acceptable securities or United States Government bonds, negotiable and payable to the bearer, with a market value at all times of not less than ~~fifteen thousand dollars (\$15,000)~~, one hundred thousand dollars (\$100,000) to be held in trust upon the same conditions as required for the bond or other securities.

(c) Any bond filed or deposit or remaining portion thereof held under this section shall be released and discharged upon settlement and termination of all liabilities against it.

(d) This section shall not apply to mutual insurers licensed on or before the effective date of this section.

SECTION 55. Arkansas Code 23-69-129, concerning payment of dividends to stockholders, is amended to add additional subsections to read as follows:

(d) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty (30) calendar days after the commissioner has received notice of the declaration thereof and has not within that period disapproved the payment.

(e) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the greater of:

(1) Ten percent (10%) of the insurer's surplus as regards policyholders as of the thirty-first (31st) day of December next preceding; or

(2) The net income of the insurer, if the insurer is a life insurer, or the net income, not including realized capital gains, if the insurer is not a life insurer, for the twelve-month period ending the thirty-first (31st) day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

(f) In determining whether a dividend or distribution is extraordinary, an insurer may carry forward net income from the previous two (2) calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second (2nd) and third (3rd) preceding calendar years, not including realized capital gains in the case of an insurer which is not a life insurer, less dividends paid in

the second and immediate preceding calendar years. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval, and the declaration shall confer no rights upon shareholders until:

(1) The commissioner has approved the payment of the dividend or distribution; or

(2) The commissioner has not disapproved payment within the thirty-day period referred to above.

(g) If an insurer is governed by the provisions of The Insurance Holding Company Regulatory Act, the provisions of that act relating to extraordinary dividends shall apply to such insurer rather than this provision.

SECTION 56. The catchline to Arkansas Code 23-69-131 is amended to read as follows:

23-69-131. Unauthorized dividends prohibited-- Extraordinary dividends.

SECTION 57. Arkansas Code 23-69-132 is amended to read as follows:

23-69-132. Borrowed surplus.

(a) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that the money is required to be repaid only out of the insurer's surplus in excess of that stipulated in the agreement. The agreement may provide for interest ~~not exceeding ten percent (10%) per annum~~, which interest shall or shall not constitute a liability of the insurer as to its funds other than the excess or surplus, as stipulated in the agreement. No commission or promotion expense shall be paid in connection with the loan.

(b) Money so borrowed, together with the interest thereon, if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any setoff; but, until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(c) Any loan to ~~a mutual~~ an insurer shall be subject to the commissioner's approval.

(1) The insurer shall, in advance of the loan, file with the commissioner a statement of the purpose of the loan and a copy of the proposed loan agreement.

(2) The loan and agreement shall be deemed approved unless, within fifteen (15) days after the date of filing, the insurer is notified of the commissioner's disapproval and the reasons therefor.

(3) The commissioner shall disapprove any proposed loan or agreement if he finds the loan is unnecessary or excessive for the purpose intended, or that the terms of the loan agreement are not fair and equitable to the parties, and to other similar lenders, if any, to the insurer, or that the information so filed by the insurer is inadequate.

(d) Any loan to ~~a mutual~~ an insurer or substantial portion thereof shall be repaid by the insurer when no longer necessary for the purpose originally intended. No repayment of the loan shall be made by ~~a mutual~~ an

insurer unless it is, in advance, approved by the commissioner.

(e) This section shall not apply to loans obtained by the insurer in the ordinary course of business from banks and other financial institutions nor to loans secured by pledge or mortgage of assets.

SECTION 58. Arkansas Code 23-69-134(b) concerning the home office of specified domestic insurers, is amended by adding an additional subdivision to read as follows:

(5) Government money market mutual fund or class one money market mutual fund shares held or managed by a securities broker-dealer firm which meets the standards prescribed in subdivision (b)(4)(A) of this section, subject to any limitations on domestic insurer investments of this nature which may be otherwise contained in this code. Provided further that no such money market mutual fund shares owned by the insurer shall be required to be issued in certificated form, nor held by the insurer in a custodian account. For purposes of this subsection:

(A) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one reserve factor under the "Purposes and Procedures Manual of the NAIC Securities Valuation Office" or any successor publication;

(B) "Government money market mutual fund" means a money market mutual fund that at all times:

(i) Invests only in obligations issued, guaranteed or insured by the federal government of the United States or collateralized repurchase agreements composed of these obligations; and

(ii) Qualifies for investment without a reserve under the Purposes and Procedures of the Securities Valuation Office or any successor publication;

(C) "Money market mutual fund" means a mutual fund that meets the conditions of 17 Code of Federal Regulations Par. 270.2a-7, under the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), as amended or renumbered; and

(D) "Mutual fund" means an investment company or, in the case of an investment company that is organized as a series company, an investment company series, that, in either case, is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), as amended.

SECTION 59. Arkansas Code 23-69-134(c)(3), concerning permission for removal of records or assets of a domestic insurer from this state, is amended to read as follows:

(3) Upon any removal or attempted removal of the records or assets, or upon retention of the records or assets or material part thereof outside this state beyond the period specified in the commissioner's consent under which the records were so removed, or upon concealment of or attempt to conceal records or assets in violation of this section, the commissioner may institute delinquency proceedings against the insurer pursuant to the provisions of ~~§§ 23-68-101 — 23-68-113 and 23-68-115 — 23-68-132~~ Chapter 68 of Title 23.

SECTION 60. Arkansas Code 23-69-135(a) is amended to read as follows:

(a) No insurer shall make any disbursement of ~~twenty-five dollars~~

~~(\$25.00)~~ one thousand dollars (\$1,000) or more unless evidenced by a voucher, bill or other document correctly describing the consideration for the payment or evidenced by a check, draft or receipt endorsed or signed by or on behalf of the person receiving the money.

SECTION 61. Arkansas Code 23-69-138, concerning notice to domestic stock or mutual insurers to cure impairments or insolvencies, is amended to read as follows:

23-69-138. Impairment of capital or assets.

(a) ~~If a stock insurer's capital, as represented by the aggregate par value of its outstanding capital stock, becomes impaired or the assets of a mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by it under §23-69-112 or §23-69-117 for authority to transact the kinds of insurance being transacted, or mutual insurer becomes impaired or insolvent,~~ the commissioner shall at once determine the amount of deficiency and serve notice upon the insurer to make good the deficiency within thirty (30) days after service of the notice. The commissioner may, after a hearing, suspend the insurer from soliciting or writing any new coverages in this state until the deficiency is made good. For purposes of this section, "insolvent" or "impairment" shall be defined as those terms are used in Chapter 68 of Title 23.

(b) ~~The deficiency may be made good in cash or in assets eligible under §§ 23-63-801 — 23-63-835~~ provisions of Subchapter 8 of Chapter 63 of Title 23, which refers to investments, for the investment of the insurer's funds or if a stock insurer, by reduction of the insurer's capital to an amount not below the minimum required for the kinds of insurance thereafter to be transacted or by amendment of its certificate of authority to cover only such kinds of insurance thereafter for which the insurer has sufficient capital, if a stock insurer, or surplus, if a mutual insurer, under this code.

(c) ~~If the deficiency is not made good and proof thereof filed with the commissioner within the thirty-day period, the insurer shall be deemed insolvent, and the commissioner shall institute delinquency proceedings against it under §§ 23-68-101 — 23-68-113 and 23-68-115 — 23-68-132~~ Chapter 68 of Title 23. However, if the deficiency exists because of increased loss reserves required by the commissioner, or because of disallowance by the commissioner of certain assets or reduction of the value at which carried in the insurer's accounts, the commissioner may, in his discretion and upon application and good cause shown, extend for not more than an additional thirty (30) days the period within which the deficiency may be so made good and the proof thereof so filed. However, acquisitions or changes of control of an impaired or insolvent domestic insurer which is or which has applied to become an affiliate or subsidiary of a depository institution pursuant to federal law shall comply with the time periods set forth therein to restore capital or surplus.

SECTION 62. Arkansas Code 23-69-140(c), concerning mutualization of domestic stock insurers other than title insurers, is amended to read as follows:

(c) ~~This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under §§ 23-68-101 — 23-68-113, and 23-68-115 — 23-68-132~~ Chapter 68 of Title 23,

or to formations of or conversions to domestic mutual holding companies under other provisions of this act. Further, with regard to proposed transactions of a domestic insurer which is a subsidiary or affiliate of a depository institution, the hearing shall be concluded and the order issued within the sixty-day period preceding the effective date of the transaction; and the order shall be final upon entry, pursuant to federal law. Further, any restoration of capital or surplus or special surplus required for approval of the transaction affecting the depository institution's affiliate or subsidiary shall also be accomplished within the same sixty-day period.

SECTION 63. Arkansas Code 23-69-141 is amended by adding additional subsections to read as follows:

(c) With regard to proposed transactions of a domestic insurer which is a subsidiary or affiliate of a depository institution, the hearing shall be concluded and the order issued within the sixty-day period preceding the effective date of the transaction; and the order shall be final upon entry, pursuant to federal law. Further, any restoration of capital or surplus or special surplus required for approval of the transaction affecting the depository institution's affiliate or subsidiary shall also be accomplished within the same sixty-day period.

(d) This section shall not apply to formations of, or insurer conversions to, domestic mutual holding companies under other provisions of this code.

SECTION 64. Arkansas Code 23-69-142(b) concerning mergers, consolidations and acquisitions of domestic stock insurers, is amended to read as follows:

(b) "Acquiring person", as used in §§ 23-69-101 - 23-69-103, 23-69-105 - 23-69-141, 23-69-143, and 23-69-149 means any individual, any stock insurance corporation incorporated under this code or under prior laws of this state relating to the incorporation of domestic insurance corporations, any stock corporation incorporated under the Arkansas Business Corporation Act, § 4-26-101 et seq., or under prior laws of this state authorizing the establishment of business corporations and any foreign or alien stock corporation qualified to do business in Arkansas, and any foreign or alien stock insurance company authorized to do business in Arkansas. "Acquiring person" shall also be deemed to include a depository institution or any affiliate thereof as appropriate under applicable federal law.

SECTION 65. Arkansas Code 23-69-142(c), concerning mergers, consolidations and acquisitions of domestic stock insurers, is amended to read as follows:

(c) No merger or consolidation or exchange of stock shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with the Insurance Commissioner and approved in writing by him after a hearing thereon. With regard to proposed affiliations between a depository institution, or any affiliate thereof, and an insurer, the hearing shall be concluded and the order issued within the sixty-day period preceding the effective date of the transaction; and these orders shall be final upon entry, pursuant to federal law. Further, any restoration of capital or surplus or special surplus required for approval of the transaction affecting the depository institution's affiliate or subsidiary shall also be

accomplished within the same sixty-day period. The commissioner shall give such approval within a reasonable time after the filing unless he finds such plan or agreement:

- (1) Is contrary to law; or
- (2) Is inequitable to the stockholders of any domestic insurer involved; or
- (3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

SECTION 66. Arkansas Code 23-69-143, concerning mergers and consolidations of domestic mutual insurers, is amended to add additional subsections to read as follows:

(g) With regard to proposed transactions affecting an affiliate or subsidiary of a depository institution, the hearing shall be concluded and the order issued within the sixty-day period preceding the effective date of the transaction; and these orders shall be final upon entry, pursuant to federal law. Further, any restoration of capital, surplus or special surplus required for approval of the transaction affecting the depository institution's affiliate or subsidiary shall also be accomplished within the same sixty-day period.

(h) This section shall not apply to formations of, or insurer conversions to, domestic mutual holding companies under other provisions of this code.

SECTION 67. Arkansas Code 23-69-144(d), concerning abandonment of any plan to merge or consolidate or acquire domestic insurers, is amended to read as follows:

(d) Any agreement of merger or consolidation or plan of exchange may be abandoned in conformity with the terms thereof as approved by the commissioner. However, in such event, due notice of the abandonment shall be immediately transmitted to the stockholders or members of all domestic insurance corporations which are parties thereto within ten (10) days of the abandonment in a manner and form as prescribed or approved by the commissioner. With regard to proposed affiliations between a depository institution, or any affiliate thereof, and an insurer, the hearing may be cancelled and the matter concluded and the notice of abandonment issued within the period required by federal law.

SECTION 68. Arkansas Code 23-69-148, concerning nonconsenting stockholders and domestic company transactions, is amended to add an additional subsection to read as follows:

(g) With regard to proposed affiliations between a depository institution, or any affiliate thereof, and a domestic stock insurer, the procedures for nonconsenting stockholders described in this section shall be concluded within the period required by federal law.

SECTION 69. The catchline and subsection (a) of Arkansas Code 23-69-149, concerning bulk policy sales of domestic stock insurers, are amended to read as follows:

23-69-149. ~~Bulk~~ Assumption reinsurance - Stock insurers.

(a) A domestic stock insurer may reinsure all or substantially all of its insurance in force or a major class thereof with another insurer by an

agreement of ~~bulk~~ assumption reinsurance. However, no agreement shall become effective unless filed with the commissioner and approved by him in writing after a hearing thereon. With regard to proposed transactions between a domestic stock insurer which is a subsidiary or affiliate of a depository institution, and another insurer, the hearing shall be concluded and the order issued within the period required by federal law, and the order shall be final upon entry.

SECTION 70. The catchline and subsection (a) of Arkansas Code 23-69-150, concerning sales of domestic mutual company policies, are amended to read as follows:

23-69-150. ~~Bulk~~ Assumption reinsurance - Mutual insurers.

(a) A domestic mutual insurer may reinsure all or substantially all of its insurance in force, or a major class thereof, with another insurer, stock or mutual, by an agreement of ~~bulk~~ assumption reinsurance after compliance with this section. The agreement shall not become effective unless filed with the commissioner and approved by him in writing after a hearing thereon. With regard to proposed transactions between a domestic mutual insurer which is a subsidiary or affiliate of a depository institution, and another insurer, the hearing shall be concluded and the order issued within the period required by federal law, and the order shall be final upon entry.

SECTION 71. Arkansas Code 23-69-156(e), concerning the impact of reinsurance sales of insurance policies, is amended to read as follows:

(e) In the event a domestic insurer ~~reinsures in bulk in closes an assumption reinsurance contract with another insurer that results in~~ assumption reinsures all of the ceding domestic insurer's business in force, or all except a token amount of the ceding domestic insurer's business, the commissioner shall, after notice and a hearing, make a determination and order that the ceding domestic insurer's corporate charter is extinguished or is continued in full force and effect. In making such determination and order, the commissioner shall fully consider the equities to the stockholders, or members if the ceding domestic insurer is a mutual, and the policyholders of the ceding domestic insurer. With regard to proposed transactions of a domestic insurer which is a subsidiary or affiliate of a depository institution, the hearing shall be concluded and the order issued within the period required by federal law, and the order shall be final upon entry.

SECTION 72. Arkansas Code 23-70-111(a), concerning reciprocal insurers, is amended to read as follows:

(a) Legal process shall be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices. ~~or by serving the commissioner as the insurer's process agent under §§ 23-63-301 and 23-63-302~~ Alternatively service may be made by use of an Arkansas resident agent for service of process appointed on behalf of the insurer in accordance with §§ 23-63-301 - 23-63-304, on and after January 1, 2003.

SECTION 73. Arkansas Code 23-71-103(3), concerning laws applicable to stipulated premium plan insurers, is amended to read as follows:

(3) Sections ~~23-63-101~~ 23-63-102 - 23-63-104, 23-63-201 - 23-63-216, 23-63-301, 23-63-302, and ~~23-63-401 - 23-63-404~~ 23-63-303 and 23-63-304,

authorization of insurers and general requirements, with the exception of the following sections:

- (A) Section 23-63-205, capital funds required;
- (B) Section 23-63-207, special surplus requirement; and
- (C) Section 23-63-206, bond or deposit requirement;

SECTION 74. Arkansas Code 23-71-103(13), concerning laws to rehabilitate or liquidate a stipulated premium plan insurer, is amended to read as follows:

(13) ~~Sections 23-68-101 - 23-68-113 and 23-68-115 - 23-68-132~~ Chapter 68 of Title 23, rehabilitation and liquidation;

SECTION 75. Arkansas Code 23-72-120(e), concerning process served against mutual assessment life and disability insurers, is amended to read as follows:

(e) In the action against a foreign corporation, service of summons or process may be made upon the corporation by service of summons or process upon the ~~commissioner thirty (30) days before the trial of the action, and any service is sufficient service upon the foreign corporation~~ registered agent pursuant to §§ 23-63-301 - 23-63-304, as amended by this act or pursuant to methods specified in other laws or rules on and after January 1, 2003.

SECTION 76. Arkansas Code 23-74-605(a)(1)(C), concerning process against a fraternal benefit society, is amended to read as follows:

(C) A power of attorney ~~to the commissioner~~ as prescribed in § 23-74-701;

SECTION 77. Arkansas Code 23-74-701 is amended to read as follows:

23-74-701. Service of process - Registered agent.

(a) Every society authorized to do business in this state shall appoint an Arkansas resident as its registered agent, in writing with the Insurance Commissioner ~~and each successor in office~~ to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such ~~appointment~~ registration, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

(b) ~~Service~~ On or after January 1, 2003, service shall ~~only~~ be made upon the registered agent listed with the commissioner, ~~or if absent, upon the person in charge of the commissioner's office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, the commissioner shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading, or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided~~ in the manner provided in §§ 23-63-301 -

23-63-304, as amended by this act; except that no service of legal process shall require a society to file its answer, pleading or defense in less than thirty (30) calendar days after the date of service upon its registered agent in this state.

SECTION 78. Arkansas Code 23-75-102 is amended to read as follows:

23-75-102. Applicability of other provisions.

The corporations shall also be subject to the following chapters and provisions of this code, to the extent applicable and not in conflict with the express provisions of this chapter:

- (1) Sections 23-60-101 - 23-60-108, 23-60-110, referring to scope of code;
- (2) Subchapters 1 - 3 of chapter 61 of this title, referring to the Insurance Commissioner;
- (3) Sections ~~23-63-101~~ 23-63-102 - 23-63-104, 23-63-201 - 23-63-216, ~~23-63-301~~, referring to service of process; commissioner as process agent; ~~23-63-302~~, referring to serving process; time to 23-63-301 - 23-63-304, as amended by this act, referring to registration of registered agents for service of process;
- (4) Sections 23-63-901 - 23-63-912, referring to administration of deposits;
- (5) Sections ~~23-64-204~~ ~~23-64-229~~ Chapter 64 of Title 23, referring to agents, brokers, ~~solicitors~~, producers and adjusters;
- (6) Sections 23-66-201 - 23-66-214, 23-66-301 - 23-66-306, 23-66-308 - 23-66-311, 23-66-313, and 23-66-314, referring to trade practices and frauds;
- (7) Sections ~~23-63-601~~ ~~23-63-613~~ Subchapter 6 of Chapter 63 of Title 23 and 23-84-101 - 23-84-111, referring to assets and liabilities;
- (8) Sections ~~23-68-101~~ ~~23-68-113~~ and ~~23-68-115~~ ~~23-68-132~~, Chapter 68 of Title 23, referring to rehabilitation and liquidation;
- (9) Sections 23-85-101 - 23-85-131, referring to disability accident and health insurance policies;
- (10) Sections 23-86-101 - 23-86-106, 23-86-108, and 23-86-109, referring to group and blanket disability accident and health insurance;
- (11) Sections 23-79-101 - 23-79-107, 23-79-109 - 23-79-128, 23-79-131 - 23-79-134, and 23-79-202 - 23-79-210, referring to insurance contracts;
- (12) Section 23-69-134, referring to home office and records; penalty for unlawful removal of records;
- (13) Section 23-69-156, referring to extinguishment of unused corporate charters.

SECTION 79. Arkansas Code 23-75-114(a), in connection with annual reports of licensed hospital or medical service corporations, is amended to read as follows:

(a) Not later than March 1 of each year, every corporation shall file with the commissioner a statement sworn to by at least two (2) of its principal officers, showing its condition on the last day of the next preceding calendar year. In accordance with the specifications applicable to annual financial reports, each licensed hospital or medical service corporation shall prepare and file with the commissioner a quarterly financial report on forms and at such times as the commissioner shall prescribe. The quarterly statement shall be verified by the officers of the corporation.

SECTION 80. Arkansas Code 23-77-106(d)(1)(B), concerning the agent for service of automobile clubs or associations, is amended to read as follows:

(B) ~~Appointment~~ On or after January 1, 2003, appointment of an agent for service of process who shall be a resident of the State of Arkansas or, in lieu thereof, and who shall be registered with the commissioner, pursuant to the provisions of §§ 23-63-301 - 23-63-304, as amended by this act. In the event no registered agent has been listed, the commissioner may be served until the appointment of an Arkansas registered agent for service of process has been entered upon the records of the commissioner.

SECTION 81. Arkansas Code 23-79-101(2), concerning definitions of insurance terms, is amended to read as follows:

(2) "Premium" is the consideration for insurance, by whatever name called. Any assessment, or any membership, policy, survey, inspection, service, or similar fee or charge in consideration for ~~an insurance contract~~ a policy is deemed part of the premium.

SECTION 82. Arkansas Code 23-79-102(2), concerning proper application of the subchapter, is amended to read as follows:

(2) Policies or contracts not issued for delivery in this state nor delivered in this state, except upon subjects of insurance, other than life or ~~disability~~ accident and health insurance, located or to be performed in this state and except as provided in § 23-79-109(e), approval of forms for delivery in jurisdictions where local approval not provided for;

SECTION 83. Arkansas Code 23-79-105 is amended to read as follows:

23-79-105. Application required - Life and ~~disability~~ accident and health insurance.

No life or ~~disability~~ accident and health insurance contract upon an individual, except a contract of group life insurance or of group or blanket ~~disability~~ accident and health insurance, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing, except in the following cases:

- (1) A spouse may effectuate the insurance upon the other spouse;
- (2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of, or pertaining to, the minor;
- (3) The application for accident insurance procured through a vending machine licensed under § 23-64-223 must be signed by the individual to be so insured or, if the individual to be so insured does not have legal capacity to contract, the application must be signed by the individual's parent, guardian, or other legally constituted representative; and
- (4) Family policies may be issued insuring any two (2) or more members of a family on an application signed by either parent, a stepparent, or by a husband or wife.

SECTION 84. Arkansas Code 23-79-106 is amended to read as follows:

23-79-106. Application - Use as evidence - Alteration.

(a) No application for the issuance of any life or ~~disability~~ accident and health insurance policy or annuity contract shall be admissible in evidence in any action relative to the policy or contract, unless a true copy of those portions of the application signed by the applicant was attached to, or otherwise made a part of, the policy or contract when issued. ~~This provision shall not apply to industrial life insurance policies.~~

(b) If any policy of life or ~~disability~~ accident and health insurance delivered in this state is reinstated or renewed, and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for reinstatement or renewal, the insurer, within thirty (30) days after receipt of the request at its home office or at any of its branch offices, shall deliver or mail to the person making the request a copy of the application.

(1) If the copy is not delivered or mailed after having been requested, the insurer shall be precluded from introducing the application in evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal.

(2) In the case of a request from a beneficiary, the time within which the insurer is required to furnish a copy of the application shall not begin to run until after receipt of evidence satisfactory to the insurer of the beneficiary's vested interest in the policy or contract.

(c) No alteration of any written application for any life or ~~disability~~ accident and health insurance policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that the insertions are not to be ascribed to the applicant.

SECTION 85. Arkansas Code 23-79-107(a), concerning written applications for insurance, is amended to read as follows:

(a) All statements in any application for a life or ~~disability~~ accident and health insurance policy or annuity contract, or in negotiations therefor, by or in behalf of the insured or annuitant, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts, and incorrect statements shall not prevent a recovery under the policy or contract unless either:

(1) Fraudulent; or

(2) Material either to the acceptance of the risk or to the hazard assumed by the insurer; or

(3) The insurer in good faith would not have issued the policy or contract or would not have issued a policy or contract in as large an amount or at the same premium or rate or would not have provided coverage with respect to the hazard resulting in the loss if the facts had been made known to the insurer as required by the application for the policy or contract or otherwise.

SECTION 86. Arkansas Code 23-79-108 is amended to read as follows:

23-79-108. Return of premium to rejected applicant.

After an insurer rejects or declines to issue a life or ~~disability~~ accident and health insurance policy, the insurer shall return the premium to the applicant within a reasonable period of time.

SECTION 87. Arkansas Code 23-79-109(a)(1)(A), concerning insurance policy form and rate filings, is amended to read as follows:

(a)(1)(A) No basic insurance policy, or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, shall be issued, delivered, or used as to a subject of insurance resident, located, or to be performed in this state unless the form has been filed with and approved by the commissioner and, in the case of individual ~~disability~~ accident and health contracts, the rates have been filed with and approved by the commissioner.

SECTION 88. Arkansas Code 23-79-109 (a)(1)(B), concerning approval of insurance policy form filings, is amended to read as follows:

(B) This subsection shall not apply to policy or coverage forms for large commercial risks, as defined in subsection (g) of this section, commercial umbrella policy or coverage forms, excess umbrella policy or coverage forms, excess of loss policy or coverage forms, public officials' liability policy or coverage forms, fiduciary liability policy or coverage forms, directors' and officers' liability policy or coverage forms, kidnap and ransom policy or coverage forms, political risk policy or coverage forms, expropriation coverage policy or coverage forms, mortgage pool insurance policy or coverage forms, railroad protective liability policy or coverage forms, equity loan programs (second mortgage coverage) policy or coverage forms, highly protected risk forms, or surety bonds, nor to policies, orders, endorsements, or forms of unique character designed for, and used with relation to, insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life and ~~disability~~ accident and health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder.

SECTION 89. Arkansas Code 23-79-109(a)(3), concerning group policy form filings, is amended to read as follows:

(3) No group ~~disability~~ accident and health certificate of insurance may be extended to residents of this state under a group ~~disability~~ accident and health policy issued outside this state which does not include the provisions required for group policies issued in this state, unless the commissioner determines that the provisions are not appropriate for the coverage provided. Upon request of the commissioner, copies of such group ~~disability~~ accident and health policies issued outside this state shall be made available on an informational basis.

SECTION 90. Arkansas Code 23-79-109 is amended to add an additional subsection to read as follows:

(h) If the commissioner deems that the review as to either rates, forms, or both, required by this section as to any particular line or lines of insurance, can be performed in some other manner that provides sufficient protection to the consumers of this state and results in greater efficiency in bringing new or modified products within the line to market, the approval required by this section may be waived for such period as is deemed appropriate, or until revoked.

SECTION 91. The preface of subdivision (a)(5)(A) of Arkansas Code 23-79-110 before the subdivisions begin, concerning individual health policy rate and form filings, is amended to read as follows:

(5)(A) Is an individual ~~disability~~ accident and health contract in which the benefits are unreasonable in relation to the premium charge. Rates on a particular policy form will be deemed approved upon filing with the commissioner if the insurer has filed a loss ratio guarantee with the commissioner and complied with the terms of the loss ratio guarantee. Benefits will continue to be deemed reasonable in relation to the premium so long as the insurer complies with the terms of the loss ratio guarantee. This loss ratio guarantee must be in writing, signed by an officer of the insurer, and must contain at least the following:

SECTION 92. Arkansas Code 23-79-110(b) is repealed.

~~(b) However, upon the petition of an insured under a general liability insurance policy, if a substantial restriction of coverage previously provided in the policy is deemed by the insurance commissioner to be detrimental to the best interest of the public, the policy form may be disapproved.~~

SECTION 93. Arkansas Code 23-79-112 (e), concerning standard contents of insurance policy forms, is amended to read as follows:

(e) All life and ~~disability~~ accident and health policies and annuity contracts issued by domestic insurers, and the forms thereof filed with the commissioner, shall have printed thereon an appropriate designating letter or figure, or combination of letters or figures, or terms identifying the respective forms of policies or contracts, together with the year of adoption of the form. Whenever any change is made in the form, the designating letters, figures, or terms and year of adoption thereon shall be correspondingly changed.

SECTION 94. Arkansas Code 23-79-112(f)(1), concerning standard contents of individual accident and health policy forms, is amended to read as follows:

(f)(1) All individual life, annuity and ~~disability~~ accident and health policy or contract filings, excluding medicare supplement policies and variable life policies and variable annuities, shall have a notice prominently printed on the first page of the policy or contract stating in substance that the policyholder shall have the right to return the policy or contract within ten (10) days of its delivery, unless the policy or contract provides for a greater period, and to have the premium refunded if after examination of the policy or contract the policyholder is not satisfied for any reason.

SECTION 95. Arkansas Code 23-79-114(e)(i), concerning rates of insurance policy reimbursements for services, is amended to read as follows:

(e)(i) Notwithstanding any provision of any ~~health or accident and health~~ health insurance contract or any group ~~disability~~ accident and health insurance contract or blanket ~~disability~~ accident and health insurance contract as provided for in §§ 23-79-101 - 23-79-107, 23-79-109 - 23-79-128, 23-79-131 - 23-79-134, and 23-79-202 - 23-79-210, benefits shall not be denied thereunder for any health service performed by any person licensed

pursuant to the provisions of the Arkansas Dental Practice Act, § 17-82-101 et seq., if the service performed was within the lawful scope of the person's license and the contract would have provided benefits if the service had been performed by a holder of a license issued pursuant to the provisions of the Arkansas Medical Practices Act, § 17-95-201 et seq.

SECTION 96. Arkansas Code 23-79-115(a)(1), concerning rates of insurance policy reimbursement for services, is amended to read as follows:

(a)(1) Notwithstanding any provisions of any individual or group ~~disability~~ accident and health insurance policy, or any provision of a policy, contract, plan, or agreement covering hospital or medical services, in cases where the policy, contract, plan, or agreement provides for payment or reimbursement for any health care service provided by hospitals or related facilities as defined in § 20-9-201 or § 20-10-213, the person entitled to payment or reimbursement for services under the policy, contract, plan, or agreement is entitled to payment or reimbursement on an equal basis for the service when the service is provided by facilities licensed as outpatient surgery centers under §§ 20-9-214 and 20-9-215.

SECTION 97. Arkansas Code 23-79-115(b)(1), concerning rates of insurance policy reimbursement for services, is amended to read as follows:

(b)(1) Notwithstanding any provisions of any individual or group ~~disability~~ accident and health insurance policy, or any provision of a policy, contract, plan, or agreement covering hospital or medical services, in cases where the policy, contract, plan, or agreement provides for payment or reimbursement for any health care service provided by hospitals or related facilities as defined in § 20-9-201 or § 20-10-213, the person entitled to payment or reimbursement or services under the policy, contract, plan, or agreement is entitled to payment or reimbursement on an equal basis for the service when the service is provided by facilities licensed as outpatient psychiatric centers under §§ 20-9-214 and 20-9-215.

SECTION 98. Arkansas Code 23-79-120(d), concerning insurance binders, is amended to read as follows:

(d) This section shall not apply to life or ~~disability~~ accident and health insurances.

SECTION 99. Arkansas Code 23-79-124(b), concerning assignment of life or accident and health policies, is amended to read as follows:

(b) Subject to its terms relating to assignability, any life or ~~disability~~ accident and health policy, under the terms of which the beneficiary may be changed upon the sole request of the insured, may be assigned, either by pledge or transfer of title, by an assignment executed by the insured alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer.

SECTION 100. Arkansas Code 23-79-125(a), concerning payment of policy proceeds under an assignment, is amended to read as follows:

(a) Whenever the proceeds of or payments under a life or ~~disability~~ accident and health insurance policy or annuity contract become payable in accordance with the terms of the policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment of the amount in

accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by the assignment as being entitled to the benefits shall be entitled to receive the proceeds or payments and to give full acquittance therefor.

SECTION 101. Arkansas Code 23-79-128 is amended to read as follows:
23-79-128. Right to insure ~~husband's~~ spouse's life.

(a) It shall be lawful for any married woman, by herself and in her name, or in the name of any third person, with his assent as her trustee, to cause to be insured, for her sole use, the life of her ~~husband~~ spouse for any definite period or for the term of his natural life.

(1) In case of her surviving her ~~husband~~ spouse, the sums or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to her and for her use.

(2) In case of death of the wife before the decease of her ~~husband~~ spouse, the amount of the insurance may be made payable to his or her children for their use, and to their guardian for them, if they are under age, as is provided in the policy of insurance.

(3) All proceeds and avails of the insurance shall be free from the claims of the representatives of the ~~husband~~ spouse or of any of his creditors, whether or not the right to change the beneficiary is reserved or permitted. However, subject to the statute of limitations, the amount of any premiums for the insurance paid out of the funds or property of the ~~husband~~ spouse with intent to defraud creditors, including interest thereon, shall enure to their benefit from the proceeds of the policy, but the company issuing the policy shall be discharged of all liability on the policy by payment of its proceeds in accordance with its terms, unless, before such payment, the company shall have written notice by or in behalf of a creditor of a claim to recover for premiums paid with intent to defraud creditors with specifications of the amount claimed.

(b) This section shall not be deemed to give the wife any present or vested interest in any policy of life insurance insuring the life of her ~~husband~~ spouse unless the wife is the owner in fact of the policy, either directly or through her expressly designated trustee, or unless otherwise provided in the policy.

(c) The provisions of this section shall also govern insurance procured on the life of a wife by her spouse.

SECTION 102. Arkansas Code 23-79-129(a), concerning insurance for newborn infants, is amended to read as follows:

(a) Every ~~disability~~ accident and health insurance policy, contract, certificate, or health care plan sold, delivered, issued, or offered for sale, issue, or delivery in this state, other than coverage limited to expenses from accidents or specified diseases, whether an individual or group policy, contract, certificate, or plan, which covers the insured and members of the insured's family, shall include coverage for newborn infant children by the insured from the moment of birth. The coverage of newborn children shall be the same as is provided for other members of the insured's family and shall include coverage for illness, injury, congenital defects, premature birth, and tests for hypothyroidism, phenylketonuria, and galactosemia, and, in the case of non-Caucasian newborn infants, tests for sickle-cell anemia,

as well as any testing of newborn infants hereafter mandated by law, and subject to minimum benefits required by § 23-99-404, shall also include coverage to pay for routine nursery care and pediatric charges for a well newborn child for up to five (5) full days in a hospital nursery or until the mother is discharged from the hospital following the birth of the child, whichever is the lesser period of time.

SECTION 103. Arkansas Code 23-79-133 is amended to read as follows:

23-79-133. Exemption of proceeds - ~~Disability~~ Accident and health insurance.

The proceeds or avails of all contracts of ~~disability~~ accident and health insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts shall be exempt from all liability for any debt of the insured and from any debt of the beneficiary existing at the time the proceeds are made available for his use.

SECTION 104. Arkansas Code 23-79-135 is amended to read as follows:

23-79-135. Prompt payment of certain claims required.

~~On and after January 1, 2002, in~~ any case where an insured under any hospital, medical, or surgical policy or plan, or any accident policy, becomes entitled to benefits ~~thereunder~~ in an amount of ~~three hundred dollars (\$300)~~ two thousand five hundred dollars (\$2,500) or less and the company, association, or organization, except governmental or nonprofit organizations, issuing the policy or plan denies liability or fails to pay benefits within a reasonable time after demand is made ~~therefore~~ by the insured or member, then the company, association, or organization shall be liable to the insured for the benefits, and, in addition ~~thereto~~, a penalty in an amount equal to benefits to which the insured is found to be entitled.

SECTION 105. Arkansas Code 23-79-137(a), concerning health insurance for adopted minor children, is amended to read as follows:

(a) Every ~~disability~~ accident and health insurance policy, self-insured health plan, hospital and medical service contract, contract, certificate, or health care plan sold, delivered, issued, or offered for sale, issue, or delivery in this state, whether an individual or group policy, contract, or plan, which covers the insured and members of the insured's family, shall include coverage for any minor under the charge, care, and control of the insured whom the insured has filed a petition to adopt. The coverage of the minor shall be the same as provided for other members of the insured's family.

SECTION 106. The preface to Arkansas Code 23-79-138(a) before the subdivisions begin, concerning information to accompany insurance policies upon delivery, is amended to read as follows:

(a) Every policy of life insurance, ~~disability~~ accident and health insurance, ~~including accident and health~~, property insurance, or casualty insurance issued after January 1, 1988, and covering risks located, resident, or to be performed in the State of Arkansas shall be accompanied by the following information:

SECTION 107. Arkansas Code 23-79-139(a)(1), concerning insurance

benefits for alcohol or drug dependency treatment, is amended to read as follows:

(a)(1) Every insurer, hospital and medical service corporation, and health maintenance organization transacting ~~health, accident, or disability~~ accident and health insurance in this state shall offer and make available under all group policies, contracts, and plans providing hospital and medical coverage on an expense incurred, service, or prepaid basis benefits for the necessary care and treatment of alcohol and other drug dependency that are not less favorable than for physical illness generally, subject to the same durational limits, dollar limits, deductibles, and coinsurance factors, except as provided in this section.

SECTION 108. Arkansas Code 23-79-140(b) before the subdivisions begin, concerning insurance benefits for mammogram screenings, is amended to read as follows:

(b) Every accident and health insurance company, hospital service corporation, health maintenance organization, or other accident and health insurance provider in the State of Arkansas shall, after January 1, 1990, offer, to each master group contract holder as an optional benefit, coverage for at least the following mammogram screening of occult breast cancer:

SECTION 109. Arkansas Code 23-79-141(d)(1), concerning children's preventive health care insurance, is amended to read as follows:

(d)(1) Every ~~disability~~ accident and health insurer, hospital or medical service corporation, health maintenance organization, fraternal benefit society, and self-insured plan transacting ~~disability~~ accident and health insurance or providing ~~disability~~ accident and health coverage in this state which delivers, issues for delivery in this state, or renews, extends, or modifies ~~disability~~ accident and health policies, contracts, certificates, and plans providing hospital and medical coverage on an expense-incurred, service, or prepaid basis, which contracts provide coverage for a family member of the insured person, shall provide to the contract holder coverage for periodic preventive care visits for covered persons from the moment of birth through the age of eighteen (18).

SECTION 110. Arkansas Code 23-79-141(e), concerning children's preventive health care insurance, is amended to read as follows:

(e) Coverage. (1) Each ~~disability~~ accident and health insurance policy, contract, certificate, or plan providing benefits for children's preventive health care services on a periodic basis shall include twenty (20) visits at approximately the following age intervals: birth, two (2) weeks, two (2) months, four (4) months, six (6) months, nine (9) months, twelve (12) months, fifteen (15) months, eighteen (18) months, two (2) years, three (3) years, four (4) years, five (5) years, six (6) years, eight (8) years, ten (10) years, twelve (12) years, fourteen (14) years, sixteen (16) years, and eighteen (18) years.

(2) ~~A disability~~ An accident and health insurance policy, contract, certificate, or plan may provide that children's preventive health care services which are rendered during a periodic review shall only be covered to the extent that those services are provided by or under the supervision of a single physician during the course of one (1) visit.

SECTION 111. Arkansas Code 23-79-141(f)(2), concerning children's preventive health care insurance, is amended to read as follows:

(2)(A) Benefits for recommended immunization services shall be exempt from any copayment, coinsurance, deductible, or dollar limit provisions in the accident and health insurance policy. This exemption shall be explicitly stated in the policy.

(B) All other children's preventive health care services will be subject to copayment, coinsurance, deductible, or dollar limit provisions in the accident and health insurance policy.

SECTION 112. Arkansas Code 23-79-142 is amended to read as follows:
23-79-142. Payment for services of psychological examiners.

Every insurer or hospital and medical service corporation which issues a group ~~disability~~ accident and health insurance policy, contract or agreement in this state which provides for mental health coverage shall offer coverage for the payment of services rendered by psychological examiners. Such offer shall be made either at the time of application for, or upon the first renewal of such policy, contract, or agreement after July 15, 1991. If such offer is accepted, the amount paid for services provided by psychological examiners shall be subject to the same limitations as set forth in the policy for mental health coverage.

SECTION 113. Arkansas Code 23-79-146 is amended to read as follows:
23-79-146. Subrogation recovery.

(a)(1) Any casualty insurer, accident and health insurer, health maintenance organization, self-funded group, multiple-employer welfare arrangement, or hospital or medical services corporation that issues, delivers, or renews a contract of accident and health or ~~disability~~ insurance or individual or group accident and health care coverage containing a provision for subrogation for any benefits or services of any kind furnished to an insured, or for payments made or credit extended to or on behalf of any covered person for a physical condition or injury caused by a third party or for which a third party may be liable, shall be entitled to receive subrogation benefits from such third party.

(2) In the event that an insured or covered person recovers from a third party, reasonable cost of collection and attorney's fees thereof shall be assessed against the insurer and the insured in the proportion each benefits from the recovery.

(b) In the event more than one (1) casualty insurer, accident and health insurer, health maintenance organization, self-funded group, multiple-employer welfare arrangement, or hospital or medical services corporation having contractual subrogation rights is entitled to the subrogation benefits specified in subsection (a) of this section, reasonable cost of collection and attorney's fees thereof shall be assessed against the insurers and the insured in the proportion each benefits from the recovery.

SECTION 114. Arkansas Code 23-79-148(d), concerning insurance reimbursement for medical transportation services, is amended to read as follows:

(d) This section shall not apply to any accident and health care policy, whether the policy is in the form of a health maintenance organization evidence of coverage or health care plan as defined in 23-76-

102(4) and (5), or a ~~disability~~ an accident and health policy governed by §§ 23-85-101 - 23-85-134, 23-85-136, and 23-85-137, or a group and blanket ~~disability~~ accident and health insurance policy governed by §§ 23-86-101 - 23-86-118, or a medicare supplement policy, or any other form.

SECTION 115. Arkansas Code 23-79-205(a)(2), concerning service of process on foreign or alien insurers, is amended to read as follows:

(2) As to licensed foreign or alien insurers, service on and after January 1, 2003 may be ~~had upon the commissioner~~ made as provided in §§ 23-63-301 and 23-63-302, 23-63-303 and 23-63-304;

SECTION 116. Arkansas Code 23-79-208(a)(1), concerning damages on loss claims, is amended to read as follows:

(a)(1) In all cases where loss occurs and the cargo, ~~fire~~, property, marine, casualty, fidelity, surety, cyclone, tornado, life, accident and health, ~~accident~~, medical, hospital, or surgical benefit insurance company and fraternal benefit society or farmers' mutual aid association or company liable therefor shall fail to pay the losses within the time specified in the policy after demand is ~~made therefor~~, the person, firm, corporation, or association shall be liable to pay the holder of the policy or his assigns, in addition to the amount of the loss, twelve percent (12%) damages upon the amount of the loss, together with all reasonable attorney's fees for the prosecution and collection of the loss.

SECTION 117. Arkansas Code 23-79-208(e)(2), concerning damages on loss claims, is amended to read as follows:

(2) Nothing in this section is intended to supersede, supplant or in any way affect the rights and remedies under applicable law currently available to the insurance company, fraternal benefit society, or farmers' mutual aid ~~society~~ association or company against policyholders who file fraudulent claims.

SECTION 118. Arkansas Code 23-79-209(a), concerning monetary awards in lawsuits against insurers, is amended to read as follows:

(a) In all suits in which the judgment or decree of a court is against a life, ~~fire~~ property, accident and health, ~~accident~~, or liability insurance company, either in a suit by it to cancel or lapse a policy or to change or alter the terms or conditions thereof in any way that may have the effect of depriving the holder of the policy of any of his rights thereunder, or in a suit for a declaratory judgment under the policy, or in a suit by the holder of the policy to require the company to reinstate the policy, the company shall also be liable to pay the holder of the policy all reasonable attorneys' fees for the defense or prosecution of the suit, as the case may be.

SECTION 119. Arkansas Code 23-81-503(G), concerning process against viatical settlement providers, is amended to read as follows:

G. The commissioner shall not issue any license to any nonresident applicant, unless:

(1) A written designation of an Arkansas resident as agent for service of process is filed and maintained with the commissioner; ~~or~~ and

(2) The applicant has filed with the commissioner the

applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the ~~commissioner~~ registered agent and that the applicant submits to the jurisdiction of this state.

(3) On and before January 1, 2003, all registered viatical settlement providers shall replace the commissioner as agent on department records, and shall file with the commissioner a designation of an Arkansas resident as an agent for service of legal process, and the commissioner shall maintain a listing in conformity with §§ 23-63-301 - 23-63-304.

SECTION 120. Arkansas Code 23-91-208(c), concerning process against authorized prepaid legal insurers, is amended to read as follows:

(c) Any application shall be in a form prescribed by the commissioner. If the applicant is not domiciled in this state, the application must be accompanied by a power of attorney executed by the applicant appointing an Arkansas resident as its registered agent for service of process, to be filed in writing with the commissioner and his successors in office, and authorized deputies, as the true and lawful attorneys of the applicant, in and for this state, upon whom all lawful process in any legal action or proceeding against the applicant, on a cause of action arising in this state, may be served. On and after January 1, 2003, all foreign and alien insurers licensed under this chapter shall file with the commissioner a designation of an Arkansas resident as an agent for service of legal process; and the commissioner shall maintain a listing in conformity with §§ 23-63-301 - 23-63-304.

SECTION 121. Arkansas Code 23-91-209(a)(3)(D), concerning statutory deposits of pre-paid legal insurance companies, is amended to read as follows:

(D) Any deposit of ~~cash or~~ securities, in kind and an amount determined to be appropriate by the commissioner, as a guarantee that the obligations to provide the promised benefits will be performed; and

SECTION 122. Arkansas Code 23-93-207(I), concerning process against life care providers, is amended to read as follows:

(1) ~~An irrevocable~~ appointment of an Arkansas resident to serve as the registered agent for the provider shall be filed with the department; thereafter the registered agent shall be authorized to receive service of any lawful process in any proceeding arising under this subchapter against the provider or his agents; on and after January 1, 2003, all licensed life care providers shall file with the commissioner a designation of an Arkansas resident as an agent for service of legal process; and the commissioner shall maintain a listing in conformity with §§ 23-63-301 - 23-63-304;

SECTION 123. Arkansas Code 23-96-104(L), defining licensees who participate in the Life and Disability Guaranty Fund, is amended to read as follows:

L. "Member insurer" means any insurer licensed or which holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under § 23-96-107, and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include—;

(1) A hospital or medical service organization, whether profit

or nonprofit;

- (2) A health maintenance organization;
- (3) A fraternal benefit society;
- (4) A mandatory state pooling plan;
- (5) A burial association;
- (6) An insurance exchange;
- (7) Prepaid funeral trusts; ~~or~~
- (8) An organization which has a certificate or license limited to the issuance of charitable gift annuities; or
- ~~(8)~~(9) Any entity similar to any of the above.

SECTION 124. Arkansas Code 23-96-106(A)(2) and (3), concerning policies which are not covered by the Life and Disability Guaranty Fund Act, are amended to read as follows:

(2) A portion of a policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract;

(3) ~~A portion of a policy or contract to the extent that the rate of interest on which it is based, or the interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value:~~

(a) ~~Averaged over the period of four (4) years prior to the date on which the association becomes obligated with respect to such policy or contract, member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier, exceeds a rate of interest determined by subtracting two (2) percentage points from Moody's Corporate Bond Yield Average averaged for that same four-year period or for such lesser period if the policy or contract was issued less than four (4) years before the association became obligated; and member insurer becomes an impaired or insolvent insurer under this chapter, whichever is earlier; and~~

(b) On and after the date on which the association becomes obligated with respect to such policy or contract, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's Corporate Bond Yield Average as most recently available;

SECTION 125. Arkansas Code 23-96-110(C)(1), concerning duties of the Life and Disability Guaranty Association, is amended to read as follows:

C. (1) The association shall have standing to appear or intervene before any court or agency in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this chapter or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise. Provided, at its option, the association may appear solely for the purpose of receiving copies of all pleadings and notices and attending hearings without otherwise becoming a party to the proceeding. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations.

SECTION 126. Arkansas Code 23-96-113, concerning Guaranty Fund action to process insurance policies of an impaired or insolvent insurer, is amended to add an additional subsection to read as follows:

D. In carrying out its duties in connection with guaranteeing, assuming or reinsuring policies or contracts under §§ 23-96-111 or 23-96-112A, the association may, subject to approval of the receivership court, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value by issuing an alternative policy or contract in accordance with the following provisions:

(1) In lieu of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for (i) a fixed rate or (ii) payments of dividends with minimum guarantees or (iii) a different method for calculating interest or changes in value;

(2) There is no requirement for evidence of insurability, waiting period or other exclusion that would not have applied under the replaced policy or contract; and

(3) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

SECTION 127. Arkansas Code 23-96-114(A)(2), concerning Life and Disability Guaranty Fund claim limitations for policy benefits of impaired or insolvent insurers, is amended to read as follows:

(2)(a) With respect to any one life, regardless of the number of policies or contracts:

(i) ~~One Three~~ Three hundred thousand dollars ~~(\$100,000)~~ (\$300,000) in life insurance death benefits or net cash surrender and net cash withdrawal values for life insurance;

(ii) ~~One Three~~ Three hundred thousand dollars ~~(\$100,000)~~ (\$300,000) in disability insurance benefits, including any net cash surrender and net cash withdrawal values;

(iii) ~~One Three~~ Three hundred thousand dollars ~~(\$100,000)~~ (\$300,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values;

(b) With respect to each individual participating in a governmental retirement benefit plan established under sections 401(k), 403(b), or 457, of the United States Internal Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such individual if deceased, in the aggregate, ~~one three~~ three hundred thousand dollars ~~(\$100,000)~~ (\$300,000) in present value annuity benefits, including net cash surrender and net cash withdrawal values;

(c) With respect to any one (1) contract holder, one million dollars (\$1,000,000) in unallocated annuity contract benefits, irrespective of the number of ~~such~~ contracts held by that contract holder.

SECTION 128. Arkansas Code 26-57-604 is amended to read as follows:
26-57-604. Remittance of tax.

(a) Coincident with the filing of the tax report, each authorized life or ~~disability~~ accident and health insurer, including licensed health maintenance organizations, may apply for a credit for the noncommissioned

salaries and wages of the insurer's Arkansas employees which are paid in connection with its insurance operations. The credit may be applied as an offset against the premium tax imposed on life and ~~disability~~ accident and health insurance.

(1) In no event shall the offset reduce the ~~disability~~ accident and health premium tax due by more than eighty percent (80%). In no event shall the offset reduce the life premium tax due by more than seventy percent (70%). The taxes shall be reported and paid on a quarterly estimated basis as prescribed by the Insurance Commissioner and shall be reconciled annually at the time of filing the annual report required in § 26-57-603(a)-(c).

(2) Further, an employee must be employed for six (6) months in the facilities for the salary or wages to be eligible to qualify for the life or disability premium tax credit.

(3)(A) Except as provided in subdivision (a)(3)(B) of this section, on or before March 1 of each year, any such authorized life or ~~disability~~ accident and health insurer, including health maintenance organizations, desiring to qualify under this provision shall furnish the appropriate data and request on forms prescribed by the commissioner. For purposes of calculating the taxes under §§ ~~23-63-101~~ 23-63-102 - 23-63-104, an insurer qualifying for a credit under this section shall compute the tax due under §§ ~~23-63-101~~ 23-63-102 - 23-63-104, if any, by using an Arkansas premium tax rate of two and one-half percent (2 1/2%).

(B) Subdivision (a)(3)(A) of this section shall only apply for tax years beginning prior to January 1, 2000. On or before March 1 of 2000 and each year thereafter, any such authorized life or disability insurer, including health maintenance organizations, desiring to qualify ~~under~~ this provision shall furnish the appropriate data and request on forms prescribed by the commissioner. However, for purposes of calculating the taxes under §§ ~~23-63-101~~ 23-63-102 - 23-63-104, an insurer qualifying for a credit under this section shall compute the tax due under §§ ~~23-63-101~~ 23-63-102 - 23-63-104, if any, by using an Arkansas premium tax rate of two and one-half percent (2 1/2%) without regard to the credit specified in this section.

(b) Each insurer other than those in § 26-57-603(d) and subsection (a) of this section shall pay to the Treasurer of State through the commissioner, as a tax imposed for the privilege of transacting business in this state, a tax at the rate of two and one-half percent (2 1/2%) upon the net premiums and net considerations on all kinds of insurance, except as provided in § 26-57-605. The taxes shall be paid on a quarterly estimate basis as prescribed by the commissioner and shall be reconciled annually at the time of filing the annual report required in § 26-57-603(a)-(c).

SECTION 129. EMERGENCY CLAUSE.

It is hereby found and determined by the Eighty-Third General Assembly, that the insurance laws for foreign, alien and domestic insurers & other licensees are not modernized as they should be for proper commerce, and not in compliance with federal laws on financial services or with those law regulating insurers operating in Arkansas and other states; and that such lack of uniformity affects how domestic insurers and other reporting entities participate in interstate commerce, as well as electronic commerce. The provisions of this act are essential to bring certain specified chapters of the Insurance Code into compliance with the new provisions of the Gramm-

Leach-Bliley Act, which requires conformity with bank and financial holding companies, and insurers which are affiliates or subsidiaries of such depository corporations. Another continuing goal is to keep the insurance regulatory scheme updated with industry standards promulgated by the NAIC, for the department's on-going national accreditation. It is vital that the provisions of this act become effective immediately, to allow sufficient time for reporting entities to comply with the changes to be enacted by this act. The provisions of this act should be effective as to the year 2001 for these reporting entities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective upon the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

The Amendment was read _____
By: Representative Hausam
LH/MHF
MHF910 _____ **Chief Clerk**