

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/14/01 H3/27/01

A Bill

HOUSE BILL 2450

5 By: Representative Hausam
6
7

For An Act To Be Entitled

9 AN OMNI BUS ACT TO ADOPT TECHNICAL CORRECTIONS OF
10 THE INSURANCE CODE OF THE GENERAL SUBCOMMITTEE OF
11 THE INSURANCE COMMISSIONER'S CODE TASK FORCE; TO
12 CORRECT CHAPTERS 60, 61, 62, 63, 69, & 79 AND
13 OTHERS IN THE ARKANSAS INSURANCE CODE AND RELATED
14 LAWS; TO MODERNIZE THE STATE INSURANCE CODE TO
15 MEET THE REQUIREMENTS OF FEDERAL LAWS UNDER THE
16 GRAMM-LEACH-BLILEY ACT; TO AMEND THE CODE TO MEET
17 CONTINUING NAIC ACCREDITATION REQUIREMENTS FOR
18 THE ARKANSAS INSURANCE DEPARTMENT; AND FOR OTHER
19 PURPOSES.
20

Subtitle

21 GENERAL INSURANCE OMNI BUS ACT.
22
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 *SECTION 1. Arkansas Code 23-60-103 is amended to read as follows:*

28 *23-60-103. Application of code.*

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

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

34 *(2) Assessment life, health, and accident insurers, as identified in*
35 *§23-72-102 et seq., concerning assessment life and disability insurers except*
36 *as stated in those sections;*

1 (3) *Farmers' mutual aid associations, or companies, as identified in*
 2 *§23-73-102 et seq., concerning farmers' mutual aid associations or companies*
 3 *except as stated in those sections, but excepting the requirements for*
 4 *fraudulent insurance acts prevention, codified in §§ 23-66-501 - 512, and*
 5 *including the payment of assessments due from insurers and other licensees*
 6 *under The Insurance Fraud Investigation Division Trust Fund Act, codified at*
 7 *§§ 23-100-101 - 107, which shall apply to farmers' mutual aid associations or*
 8 *companies;*

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

11 (5) *Nonprofit vision service plan corporations composed of at least*
 12 *fifty (50) participating optometrists or ophthalmologists licensed by the*
 13 *State of Arkansas to provide vision care services on a prepaid basis when*
 14 *each licensed optometrist or ophthalmologist is subject to the rules and*
 15 *regulations of the professional's respective state board and when each*
 16 *participating licensed optometrist or ophthalmologist agrees to assume*
 17 *responsibility for completion of the provisions of the vision care services*
 18 *contracted for so that no element of risk is incurred by any subscriber group*
 19 *or person.*

20
 21 SECTION 2. *Arkansas Code 23-60-111(a), concerning immunity from civil*
 22 *liability for persons reporting to the Insurance Department, is amended to*
 23 *read as follows:*

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

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

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

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

36

1 SECTION 3. Arkansas Code 23-61-104 is amended to read as follows:
2 23-61-104. Deputies, assistants, and other employees - Appointment -
3 Duties.

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

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

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

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

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

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

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

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

30 ~~(f)~~ (e) The commissioner ~~shall~~ may contract for and procure on a basis
31 of fee, such independently contracting examination, actuarial, technical, and
32 other professional services as he may from time to time require for the
33 discharge of his duties. ~~Expenditures for all employees shall not exceed the~~
34 ~~amount of current funds appropriated therefore by the General Assembly to the~~
35 ~~department or otherwise available for the purpose.~~

36

1 SECTION 4. Arkansas Code 23-61-106 is amended to read as follows:
 2 23-61-106. Commissioner, deputies, assistants, and other employees –
 3 Financial interest prohibited – Exception.

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

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

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

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

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

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

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

30
 31 SECTION 5. Arkansas Code 23-61-107(a)(4), concerning records of the
 32 Insurance Commissioner, is amended to read as follows:

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

1
2 SECTION 6. Arkansas Code 23-61-107(d), concerning the Insurance
3 Commissioner's electronic filings, is amended to read as follows:

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

11
12 SECTION 7. Arkansas Code 23-61-108 is amended to add additional
13 subsections to read as follows:

14 (c)(1) The commissioner is authorized to employ the standards and
15 requirements set forth in publications recited in the Insurance Code, as
16 those publications existed on January 1, 2001, and adopted and published by
17 the National Association of Insurance Commissioners or by other authors in
18 the regulation of insurance, including but not limited to the Valuation of
19 Securities Manual, the Examiners Handbook, the Accounting Practices and
20 Procedures Manual, the Annual Statement Instructions as published by the
21 National Association of Insurance Commissioners.

22 (2) The publications identified in subdivision (c)(1) and others
23 recited in and throughout Subtitle 3 of Title 23, are hereby adopted as they
24 existed on January 1, 2001.

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

30 (4) Upon the mailing of written notice by the commissioner to
31 all domestic reporting entities of promulgation and publication by the
32 National Association of Insurance Commissioners or other authors of
33 amendments, revisions or modifications to any publication previously adopted
34 by the commissioner in this code, such published amendments, revisions or
35 modifications shall become effective on the date designated by the
36 commissioner in the written notice which date shall not be earlier than eight

1 (8) months after the date of mailing of the notice.

2 (d) The commissioner is authorized and empowered to adopt regulations
 3 for the purpose of modifying, amending or revising any publication
 4 promulgated by the National Association of Insurance Commissioners or other
 5 authors, or any published amendments, modifications or revisions to any such
 6 publications if the commissioner determines that such action is in the best
 7 interest of the public. In such event the effective date of any
 8 modification, amendment or revision shall be the effective date of the
 9 regulation.

10
 11 SECTION 8. Arkansas Code 23-61-111(a), concerning the enforcement of
 12 foreign decrees against insurers, is amended to read as follows:

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

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

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

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

27
 28 SECTION 9. Arkansas Code 23-62-103 is amended to read as follows:

29 23-62-103. ~~Disability~~ Accident and Health insurance.

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

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

1
2 SECTION 10. Arkansas Code 23-62-109(c)(1), as to funding agreements
3 issued by licensed insurers, is amended to read as follows:

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

5 (A) Individuals; or

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

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

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

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

20
21 SECTION 11. Arkansas Code 23-62-205(a), concerning regulatory approval
22 of assumption reinsurance contracts, is amended to read as follows:

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

31
32 SECTION 12. Arkansas Code 23-62-205(d), concerning assumption
33 reinsurance of insurance policies among insurers, is amended to read as
34 follows:

35 (d) Every insurer authorized to do business in the State of Arkansas,
36 whether foreign, domestic, or alien, including but not limited to farmers'

1 mutual aid associations, or companies, reciprocal insurers, stipulated
 2 premium insurers, mutual assessment life and disability companies, and
 3 foreign fraternal benefit societies, shall file with the commissioner any
 4 agreement of ~~bulk insurance or assumptive~~ assumption reinsurance which
 5 provides for the ceding of Arkansas risks to any insurer authorized to do
 6 business in this state. The agreement shall be deemed approved within thirty
 7 (30) days after the date filed. This subsection shall not apply to any
 8 agreement for assumption reinsurance which cedes Arkansas risks if the
 9 assuming insurer is authorized to do business in this state and the
 10 transaction is approved by the state insurance regulator of the domiciliary
 11 state of the ceding insurer.

12
 13 SECTION 13. Arkansas Code 23-62-205(e), concerning assumption
 14 reinsurance of policies among insurers, is amended to read as follows:

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

18
 19 SECTION 14. Arkansas Code 23-63-101 is repealed.

20 ~~23-63-101. Applicability of §§23-63-102—23-63-104.~~

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

25
 26 SECTION 15. Arkansas Code 23-63-106 is repealed.

27 ~~23-63-106. Method of payment of claims.~~

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

34
 35 SECTION 16. Arkansas Code 23-63-108 is repealed.

36 ~~23-63-108. Consumer information system.~~

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

13 ~~(b) The cost of complying with this section may be assessed against~~
 14 ~~the entities listed in subsection (a) of this section and authorized to write~~
 15 ~~the lines of insurance which the commissioner in his discretion deems~~
 16 ~~appropriate and necessary to be addressed in a consumer information system.~~
 17 ~~The assessment to any one (1) entity listed in subsection (a) of this section~~
 18 ~~shall not exceed one hundred dollars (\$100) for any calendar year.~~
 19 ~~Assessment moneys received by the State Insurance Department shall be~~
 20 ~~deposited by the commissioner in an account in a recognized financial~~
 21 ~~institution to be used for the maintenance, operation, and support of the~~
 22 ~~State Insurance Department necessary for the operation of the consumer~~
 23 ~~information system.~~

24
 25 SECTION 17. Arkansas Code 23-63-205(a), concerning capital funds of
 26 insurers at admission, is amended to read as follows:

27 (a) (1) ~~To~~ On and after January 1, 2002, to qualify for and maintain
 28 authority to transact any one (1) kind of insurance, as defined in §§23-62-
 29 101 - 23-62-108, or combination of kinds of insurance as shown in this
 30 subsection, an insurer applying for its original certificate of authority in
 31 Arkansas ~~after March 30, 1987,~~ shall possess and maintain in cash and
 32 marketable securities unimpaired paid-in capital if the insurer is a
 33 domestic, foreign or alien stock insurer or surplus if the insurer is a
 34 domestic, foreign or alien mutual, or domestic mutual legal reserve life
 35 insurer, or foreign or alien reciprocal insurer, in an amount not less than
 36 is applicable under the schedule below, and shall possess when first so

1 authorized such additional funds as surplus as are required under §23-63-207:

2

3 Kinds of Insurance	4 Minimum Capital or Surplus Required	
5 Life	\$500,000	<u>\$750,000</u>
6 Disability Accident and Health	500,000	<u>750,000</u>
7 Life and Disability Accident and Health	500,000	<u>750,000</u>
8 Property	250,000	<u>500,000</u>
9 Casualty	500,000	<u>750,000</u>
10 Surety	500,000	<u>750,000</u>
11 Marine	250,000	<u>500,000</u>
12 Title	100,000	<u>250,000</u>
13 Title and Abstractor's Professional Liability		<u>125,000</u>
14 Property, Casualty, <u>Surety</u> and Marine		750,000
15 <u>Combination of other lines</u>		<u>750,000</u>

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

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

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

28

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

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

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

8
 9 SECTION 19. Arkansas Code 23-63-206 is amended to read as follows:

10 23-63-206. Certificate of authority – Deposit of securities required.

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

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

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

33 ~~(2)(A) In addition to the deposit required under the provisions~~
 34 ~~of subdivision (a)(1) of this section, all insurers now or hereafter licensed~~
 35 ~~to write disability insurance shall deposit through the commissioner and~~
 36 ~~subject to the conditions specified in §23-63-909 securities eligible for~~

1 ~~deposit under §23-63-903 and having at all times a market value of not less~~
2 ~~than an amount equal to four percent (4%) of its disability insurance~~
3 ~~premiums written in Arkansas as stated in Schedule T of its annual financial~~
4 ~~report filed with the commissioner, conditioned for the payment of~~
5 ~~policyholders and creditors of the insurer in this state and the prompt~~
6 ~~payment of any person in this state.~~

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

9 ~~(3)(A)(2)(A)~~ Insurers applying for an original certificate of
10 authority in Arkansas for kinds of insurance other than life, ~~disability,~~
11 accident and health, surety, or any combination thereof, and insurers holding
12 a valid certificate of authority who thereafter apply to transact any other
13 or additional kinds of insurance excluding life, ~~disability,~~ accident and
14 health, surety, or any combination thereof, shall deposit, through the
15 commissioner and subject to the conditions specified in §23-63-909,
16 securities eligible for deposit under §23-63-903 and having at all times a
17 market value of not less than one hundred thousand dollars (\$100,000),
18 conditioned for the payment of policyholders and creditors of the insurer in
19 this state and the prompt payment of all claims arising and accruing to any
20 person in this state. On and after January 1, 2002, the provisions of this
21 subdivision shall apply only to domestic insurers licensed or hereafter
22 licensed; foreign and alien insurers licensed or hereafter licensed shall be
23 exempt.

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

36 ~~(4)(3)(A)~~ An insurer authorized to transact solely surety

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

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

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

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

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

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

31
 32 SECTION 20. Arkansas Code 23-63-207(b), concerning the addition of new
 33 insurance "lines" of authority to an insurer's license, is amended to read as
 34 follows:

35 (b) As to all insurers referred to in subdivisions (a)(1) and (a)(2)
 36 of this section, and as to currently authorized insurers seeking additional

1 authority in this state, if, after issuance of its original certificate of
 2 authority to transact insurance in this state, the insurer requests authority
 3 to transact additional kinds of insurance, the request shall not be
 4 authorized unless the insurer then possesses special surplus or additional
 5 surplus in such an amount as would be required under this section as for an
 6 original certificate of authority covering ~~all~~ the kinds of insurance the
 7 insurer then proposes to transact.

8
 9 SECTION 21. Arkansas Code 23-63-207, concerning special surplus
 10 required of insurers, is amended to add an additional subsection to read as
 11 follows:

12 (d) In his or her discretion, the commissioner may require an insurer
 13 applying for its original certificate of authority to possess and maintain
 14 additional special surplus, in addition to that required by this subchapter,
 15 based on the financial condition of the insurer or the types, volume, or
 16 nature of the business transacted by the insurer.

17
 18 SECTION 22. Arkansas Code 23-63-209(6), concerning insurer
 19 applications for licensure, is amended to read as follows:

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

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

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

32
 33 SECTION 24. Arkansas Code 23-63-213(a)(1), concerning grounds for
 34 suspension or revocation of an insurer's certificate of authority, is amended
 35 to read as follows:

36 (a)(1) Is in unsound condition, or is in such condition or is using

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

10
 11 SECTION 25. Arkansas Code 23-63-214(c), concerning actions of an
 12 insurer during the period of its suspension, is amended to read as follows:

13 (c) The insurer shall not solicit or write any new ~~coverages~~ business
 14 in this state during the period of any suspension or revocation; provided
 15 however, the insurer shall be allowed to renew and service existing policies
 16 and contracts during the period of any suspension unless limited by the
 17 commissioner by his or her order or by court order.

18
 19 SECTION 26. Arkansas Code 23-63-216(a)(1), as to reporting blanks of
 20 insurers, is amended to read as follows:

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

23 (A) "Annual Statement Blank For Life And Accident And
 24 Heal th";

25 (B) "Property And Casual ty Annual Statement Blank";

26 (C) "Title Insurance Annual Statement Blank";

27 (D) ~~"Hospital, Medical And Dental Service Or Indemni ty~~
 28 ~~Corporations Annual Statement Blank";~~ "Annual Statement Blank for Heal th",
 29 for use by hospital, medical and dental service or indemni ty corporations;

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

31 (F) "Annual Statement Blank for Heal th" for heal th
 32 insurers or heal th maintenance organi zations and others; or

33 ~~(F)(G)~~ (G) Other National Association of Insurance
 34 Commissioners' convention blank as appropriate, which shall be prepared in
 35 accordance with the most recent and appropriate, compani on National
 36 Association of Insurance Commi ssioners' "Annual Statement Instructions" and

1 follow those accounting practices and procedures prescribed by the most
 2 recent and appropriate companion National Association of Insurance
 3 Commissioners' Accounting Practices and Procedures Manual. The commissioner
 4 is authorized to allow a life insurer or property and casualty insurer whose
 5 insurance premiums and required statutory reserves for accident and health
 6 insurance constitute at least ninety-five percent (95%) of its total premium
 7 considerations or total statutory required reserves, respectively, to file
 8 the "Annual Statement Blank for Health" as its annual statement with the
 9 companion quarterly statement forms.

10
 11 SECTION 27. Arkansas Code 23-63-216(g), concerning reports of insurers
 12 filed with the Insurance Commissioner, is amended to read as follows:

13 (g) In addition to information called for and furnished in connection
 14 with its annual statement, an insurer shall furnish to the commissioner as
 15 soon as reasonably possible such information with respect to any of its
 16 transactions or affairs as the commissioner may from time to time request in
 17 writing. In accordance with the specifications applicable to annual
 18 financial statements, each authorized domestic insurer and health maintenance
 19 organization and hospital or medical service corporation, or other domestic
 20 licensee so directed by the department in writing, shall also file with the
 21 commissioner a quarterly financial statement, on a form prescribed by the
 22 commissioner, not later than forty-five (45) days following the end of each
 23 of the first three (3) calendar quarters of each year, excepting the fourth
 24 (4th) quarter of each calendar year which shall be reconciled in the annual
 25 financial statement. The filing specifications of this section for annual
 26 financial reports shall apply to quarterly financial reports.

27
 28 SECTION 28. Arkansas Code 23-63-216(j), concerning filing of insurer
 29 reports with the NAIC, is amended to read as follows:

30 (j)(1) The National Association of Insurance Commissioners Annual
 31 Statement Diskette Filing Specifications are hereby adopted and incorporated
 32 by reference.

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

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SECTION 29. 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 30. 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,~~

1 ~~summons, subpoena, or order whereby any action, suit, or proceedings are~~
 2 ~~commenced or which is issued in or upon any action, suit, or proceedings.~~

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

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

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

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

10 (B) A state bank, domestic corporation or not-for-profit
 11 corporation whose business office is identical with the registered office; or

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

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

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

29
 30 SECTION 31. Arkansas Code 23-63-302 is amended to read as follows:

31 23-63-302. ~~Insurance Commissioner as process agent—Procedures.~~
 32 Change of registered office or registered agent.

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

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

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

10 (1) Its name;

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

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

14 (4) The name of its current registered agent;

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

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

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

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

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

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

30 (b) If a registered agent changes the street address of his or her
31 business office, he or she may change the street address of the registered
32 office of any foreign insurer holding a certificate of authority to transact
33 business in Arkansas or any domestic reciprocal insurer for which he or she
34 is the registered agent by notifying the insurer in writing of the change and
35 signing, either manually or in facsimile, and delivering to the commissioner
36 for filing a statement of change that complies with the requirements of

1 subsection (a) of this section and recites that the insurer has been notified
2 of the change.

3
4 SECTION 32. Arkansas Code Title 23, Chapter 63, Subchapter 3 is
5 amended to add additional sections to read as follows:

6 23-63-303. Resignation of registered agent.

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

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

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

20
21 23-63-304. Service of process of foreign or alien insurers or domestic
22 reciprocal insurers.

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

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

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

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

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

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

3 (1) The date the insurer receives the mail;

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

6 (3) Five (5) calendar days after its deposit in the United
 7 States mail, as evidenced by the postmark, if mailed postpaid and correctly
 8 addressed.

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

12
 13 SECTION 33. Arkansas Code 23-63-506(b), concerning filings for
 14 acquisitions of or mergers with a domestic insurer, is amended to read as
 15 follows:

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

29
 30 SECTION 34. Arkansas Code 23-63-510(b)(3), concerning the
 31 commissioner's findings on the proposed acquisition or merger of a domestic
 32 insurer under the insurer holding company act, is amended to read as follows:

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

36 (B) In connection with the change in control of the insurer,

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

6
7 SECTION 35. Arkansas Code 23-63-805(1), concerning domestic insurer
8 investments in any one person, is amended to read as follows:

9 (1) ~~One Person. An insurer shall not, except with the consent of the~~
10 ~~commissioner, have at any one time any combination of investments in or loans~~
11 ~~upon the security of the obligations, property, or securities of any one (1)~~
12 ~~person or issuer aggregating an amount exceeding ten percent (10%) of the~~
13 ~~insurer's assets, except that investments in certificates of deposit and~~
14 ~~savings and loan association deposits in any one (1) person may be the~~
15 ~~greater of ten percent (10%) of the insurer's assets or the maximum amount of~~
16 ~~federal insurance applicable to the deposit. This restriction shall not apply~~
17 ~~as to general obligations of the United States or of any state, or include~~
18 ~~policy loans made under § 23-63-821; (A) Except with the consent of the~~
19 ~~commissioner and except as otherwise specified in this subchapter, an insurer~~
20 ~~shall not have, directly or indirectly through an investment subsidiary, an~~
21 ~~investment under this subchapter if, as a result of and after giving effect~~
22 ~~to the investment, the insurer would hold more than five percent (5%) of its~~
23 ~~admitted assets in investments of all kinds issued, assumed, accepted,~~
24 ~~insured or guaranteed by a single person, or five percent (5%) of its~~
25 ~~admitted assets in investments in the voting securities of a depository~~
26 ~~institution or any company that controls the institution. The five percent~~
27 ~~(5%) limitation shall not apply to the aggregate amounts insured by a single~~
28 ~~financial guaranty insurer with the highest generic rating issued by a~~
29 ~~nationally recognized statistical rating organization; and investments in~~
30 ~~certificates of deposit and savings and loan association deposits in any one~~
31 ~~(1) person may be the greater of ten percent (10%) of the insurer's assets or~~
32 ~~the maximum amount of federal insurance applicable to the deposit. This~~
33 ~~restriction shall not apply as to general obligations of the United States or~~
34 ~~of any state, or include policy loans made under § 23-63-821. Provided~~
35 ~~further, the applicable limitation shall be twenty percent (20%) rather than~~
36 ~~five percent (5%) as to direct obligations of certain federal agencies~~

1 identified in §23-63-812 of this code.

2 (B) If upon enactment, the immediate application of this
 3 provision would have the effect of reducing the admitted asset value of
 4 assets held by a particular insurer, the insurer may continue to reflect as
 5 admitted those assets that would be admissible but for the enactment of this
 6 provision, until the annual statement filing for the year ended December 31,
 7 2004.

8
 9 SECTION 36. Arkansas Code 23-63-825 is amended to read as follows:

10 23-63-825. Miscellaneous investments. Additional Investment Authority.

11 ~~(a) An insurer may make loans or investments not otherwise expressly~~
 12 ~~permitted under this subchapter, in aggregate amount not over ten percent~~
 13 ~~(10%) of the insurer's assets and not over three percent (3%) of the assets~~
 14 ~~as to any one (1) such loan or investment, if that loan or investment~~
 15 ~~fulfills the requirements of § 23-63-803 and otherwise qualifies as a sound~~
 16 ~~investment. No such loan or investment shall be represented by:~~

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

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

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

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

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

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

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

2 (A) Ten percent (10%) of its admitted assets; or

3 (B) Seventy-five percent (75%) of its total capital and

4 surplus.

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

7 (A) Medium grade or lower grade rated credit instruments;

8 (B) Mortgages or mortgage loans;

9 (C) Total of real estate, both home office and real estate
10 held for investment income, except with the commissioner's advance approval;

11 (D) Foreign investments and foreign currency exposures;

12 and

13 (E) Derivatives.

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

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

26 (A) Ten percent (10%) of its admitted assets; or

27 (B) Seventy-five percent (75%) of its total capital and

28 surplus.

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

31 (A) Medium grade or lower grade rated credit instruments;

32 (B) Equity interests;

33 (C) Mortgages or mortgage loans;

34 (D) Total of real estate, both home office and real estate
35 held for investment income, except with the commissioner's advance approval;

36 (E) Foreign investments and foreign currency exposures;

1 and

2 (F) Derivatives.

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

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

12

13 SECTION 37. Arkansas Code 23-63-838(b)(4), concerning domestic insurer
14 investments into "put" and "call" options, is amended to read as follows:

15 (4) An insurer may purchase or sell put or call options only through
16 an exchange which is registered with the Securities and Exchange Commission
17 as a national securities exchange pursuant to the provisions of the
18 Securities Exchange Act of 1934, as amended or for good cause shown through
19 an over-the-counter transaction with a counterparty on the list of approved
20 counterparties published in the "Purposes and Procedures Manual" of the
21 Securities Valuation Office of the National Association of Insurance
22 Commissioners, or with a counterparty otherwise approved in advance by the
23 commissioner when a petition is filed with his or her office, or other such
24 transactions approved in advance by the commissioner within his or her
25 discretion.

26

27 SECTION 38. Arkansas Code 23-63-840(a) is amended to read as follows:

28 (a) An insurer may invest in collateralized mortgage obligations
29 ~~without investment limitation~~ provided that the underlying mortgages pledged
30 to the repayment of principal and interest of the collateralized mortgage
31 obligation are in themselves unconditionally guaranteed as to timely
32 repayment of principal and interest by the United States, or by any agency or
33 instrumentality of the United States; and provided that the specific
34 investment right within that collateralized mortgage obligation is not a zero
35 coupon class, residual interest, or a class designated as principal or
36 interest only—, provided that the aggregate amount of collateralized

1 mortgage obligations secured by or evidencing an interest in a single asset
 2 or single pool of assets held by a trust or other business entity, then held
 3 by the insurer would not exceed five percent (5%) of the insurer's total
 4 admitted assets. For purposes of the "one person" diversification
 5 restriction found in § 23-63-805(1), collateral mortgage obligations issued
 6 by the United States or any agency or instrumentality of the United States
 7 shall not be considered investments in or loans upon the security of the
 8 obligations, property or securities of the United States or any such agency
 9 or instrumentality of the United States. If upon enactment, the immediate
 10 application of this provision would have the effect of reducing the admitted
 11 asset value of assets held by a particular insurer, the insurer may continue
 12 to reflect as admitted those assets that would be admissible but for the
 13 enactment of this provision, until the annual statement filing for the year
 14 ended December 31, 2004.

15
 16 SECTION 39. The provisions of this act which amend Subchapter 8 of
 17 Chapter 63 of Title 23 of the Arkansas Code shall become effective on October
 18 1, 2001.

19
 20 SECTION 40. Arkansas Code 23-63-909(b)(1), concerning payment of
 21 claims from an insurer's security deposit, is amended to read as follows:

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

26
 27 SECTION 41. Arkansas Code 23-63-910(a)(1), concerning insurance
 28 company statutory deposits, is amended to read as follows:

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

35
 36 SECTION 42. Arkansas Code Title 23, Chapter 64, Subchapter 2 is

1 amended by adding an additional section to read as follows:

2 23-64-231. Settlement with terminated producers required.

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

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

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

17
18 SECTION 43. Arkansas Code 23-64-403, as to licenses for managing
19 general agents, is amended to add an additional subsection to read as
20 follows:

21 (e) The commissioner shall not require a license under this subchapter
22 for insurers acting in the capacity of a managing general agent or agency in
23 this state for risks located in this state, nor for acting for a domestic
24 insurer with respect to risks located outside this state, so long as those
25 insurers hold a subsisting certificate of authority listing the same lines of
26 insurance as it will transact as a managing general agent or agency in this
27 state.

28
29 SECTION 44. Arkansas Code Title 23, Chapter 66, Subchapter 3 is
30 amended by adding an additional section to read as follows:

31 23-66-319. Method of payment of claims.

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

1 pursuant to the policy provisions.

2
3 SECTION 45. Arkansas Code 23-66-501(4)(C), as to insurance fraud, is
4 amended to read as follows:

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

8
9 SECTION 46. Arkansas Code 23-66-507(a), concerning confidentiality of
10 fraud investigations, is amended to read as follows:

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

18
19 SECTION 47. Arkansas Code 23-69-105(b), describing incorporators of
20 new domestic stock or mutual insurers, is amended to read as follows:

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

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

30
31 SECTION 48. Arkansas Code 23-69-105(c), concerning the articles of
32 incorporation of a domestic stock or mutual insurer, is amended to read as
33 follows:

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

1 articles of incorporation shall state and show:

2 (1) The name of the corporation. If a mutual, the word "mutual"
3 ~~must~~ may be a part of the name. An alternative name may be specified for use
4 in jurisdictions wherein conflict of name with that of another insurer or
5 organization might otherwise prevent the corporation from being authorized to
6 transact insurance therein;

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

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

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

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

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

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

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

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

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

33

34 SECTION 49. Arkansas Code 23-69-106 is amended to read as follows:

35 23-69-106. Articles of incorporation - Filing and approval.

36 (a) The ~~incorporators~~ incorporator(s) of a proposed domestic insurer

1 incorporated under Subchapter 1 of Chapter 69, particularly §§ 23-69-101 -
 2 23-69-103, 23-69-105 - 23-69-141, 23-69-143, and 23-69-149 - 23-69-156, shall
 3 deliver the ~~triplicate~~ duplicate originals of the articles of incorporation
 4 thereof to the commissioner together with the filing fees therefor specified
 5 in § 23-61-401 or any companion rule and regulation of the commissioner.

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

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

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

19 (b) If the commissioner finds that the proposed articles of
 20 incorporation do not comply with law or that the corporation, if organized,
 21 could not meet the requirements for a certificate of authority under § 23-63-
 22 202 or other provisions of this code, he shall refuse to approve the articles
 23 of incorporation and shall return the ~~triplicate~~ duplicate sets thereof to
 24 the ~~incorporators~~ incorporator(s), together with a written statement of his
 25 reasons for the nonapproval. The filing fee paid pursuant to subsection (a)
 26 of this section shall not be returnable.

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

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

35
 36 SECTION 50. Arkansas Code 23-69-107(c), concerning amended articles of

1 domestic stock and mutual insurers, is amended to read as follows:

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

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

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

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

20 ~~(4)~~(3) The amendment shall be effective when the commissioner
21 has endorsed his approval on the certificate of amendment and placed it on
22 file in his office.

23

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

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

32

33 SECTION 52. Arkansas Code 23-69-112 is amended to read as follows:
34 23-69-112. Initial qualifications - Domestic mutuals.

35 (a) When newly organized, a domestic mutual insurer may be authorized
36 to transact any one (1) of the kinds of insurance listed in ~~the schedule~~

1 ~~contained in subsection (b) of this section §§ 23-62-101 – 23-62-108.~~

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

14 ~~(1) (2) (3) (4) (5) (6) (7) (8)~~

16	Life (c)(1)	500	500	quar	\$10	\$25	\$50,000	\$100,000
17	Disabil-			terly	(weekly	(weekly		
18	ity (c)(2)				indem.)	(indem.)		
19	Prop-							
20	erty (c)(3)	100	250	annual	\$1,000	\$3,000	\$50,000	\$100,000
21	Casual-							
22	ty (c)(4)	250	500	annual	\$1,000	\$10,000	\$100,000	\$200,000
23	With work-							
24	er's com-							
25	pensation	250	1,500	quar	\$1,000	\$10,000	\$150,000	\$200,000
26				terly				

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

30 ~~(1) Surplus required of domestic mutual legal reserve life~~
 31 ~~insurers is as provided in §§23-63-205 and 23-63-207;~~

32 ~~(2) No group, blanket, or family plans of insurance shall be~~
 33 ~~included. In lieu of weekly indemnity a like premium value in medical,~~
 34 ~~surgical, and hospital benefits may be provided. Any accidental death or~~
 35 ~~dismemberment benefit provided shall not exceed two thousand five hundred~~
 36 ~~dollars (\$2,500);~~

1 ~~(3) Only insurance of the owner's interest in real property may~~
2 ~~be included;~~

3 ~~(4) Must include insurance of legal liability for bodily injury~~
4 ~~and property damage, to which the maximum and minimum insured amounts apply;~~

5 ~~(5) The maximum provided for in column (6) of the schedule in~~
6 ~~subsection (b) of this section are net of applicable reinsurance;~~

7 ~~(6) The deposit of surplus in the amount specified in column (7)~~
8 ~~or (8) of the schedule in subsection (b) of this section must thereafter be~~
9 ~~maintained unimpaired. The deposit is subject to the provisions of §§23-63-~~
10 ~~901-23-63-912, referring to administration of deposit.~~

11
12 SECTION 53. Arkansas Code 23-69-113 is amended to read as follows:

13 23-69-113. Formation of nonlife mutual insurer - Bond required.

14 (a) Before soliciting any applications for insurance required under §
15 23-69-112 as qualification for the certificate of authority, the
16 ~~incorporators~~ incorporator(s) of the proposed insurer shall file with the
17 commissioner a corporate surety bond or other acceptable securities in the
18 penal sum of ~~fifteen thousand dollars (\$15,000),~~ one hundred thousand dollars
19 (\$100,000), in favor of the state and for the use and benefit of the state
20 and of applicant members and creditors of the corporation. The bond shall be
21 conditioned as follows:

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

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

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

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

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

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

6
7 SECTION 54. Arkansas Code 23-69-132 is amended to read as follows:
8 23-69-132. Borrowed surplus.

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

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

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

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

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

33 (3) The commissioner shall disapprove any proposed loan or
34 agreement if he finds the loan is unnecessary or excessive for the purpose
35 intended, or that the terms of the loan agreement are not fair and equitable
36 to the parties, and to other similar lenders, if any, to the insurer, or that

1 the information so filed by the insurer is inadequate.

2 (d) Any loan to ~~a mutual~~ an insurer or substantial portion thereof
3 shall be repaid by the insurer when no longer necessary for the purpose
4 originally intended. No repayment of the loan shall be made by ~~a mutual~~ an
5 insurer unless it is, in advance, approved by the commissioner.

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

9
10 SECTION 55. Arkansas Code 23-69-134(b) concerning the home office of
11 specified domestic insurers, is amended by adding an additional subdivision
12 to read as follows:

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

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

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

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

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

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

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

6
7 SECTION 56. Arkansas Code 23-69-134(c)(3), concerning permission for
8 removal of records or assets of a domestic insurer from this state, is
9 amended to read as follows:

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

18
19 SECTION 57. Arkansas Code 23-69-135(a) is amended to read as follows:

20 (a) No insurer shall make any disbursement of ~~twenty-five dollars~~
21 ~~(\$25.00)~~ one thousand dollars (\$1,000) or more unless evidenced by a voucher,
22 bill or other document correctly describing the consideration for the payment
23 or evidenced by a check, draft or receipt endorsed or signed by or on behalf
24 of the person receiving the money.

25
26 SECTION 58. Arkansas Code 23-69-138, concerning notice to domestic
27 stock or mutual insurers to cure impairments or insolvencies, is amended to
28 read as follows:

29 23-69-138. Impairment of capital or assets.

30 (a) ~~If a stock insurer's capital, as represented by the aggregate par~~
31 ~~value of its outstanding capital tock, becomes impaired or the assets of a~~
32 ~~mutual insurer are less than its liabilities and the minimum amount of~~
33 ~~surplus required to be maintained by it under §23-69-112 or §23-69-117 for~~
34 ~~authority to transact the kinds of insurance being transacted, or mutual~~
35 insurer becomes impaired or insolvent, the commissioner shall at once
36 determine the amount of deficiency and serve notice upon the insurer to make

1 good the deficiency within thirty (30) days after service of the notice. The
 2 commissioner may, after a hearing, suspend the insurer from soliciting or
 3 writing any new coverages in this state until the deficiency is made good.
 4 For purposes of this section, "insolvent" or "impairment" shall be defined as
 5 those terms are used in Chapter 68 of Title 23.

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

15 (c) If the deficiency is not made good and proof thereof filed with
 16 the commissioner within the thirty-day period, the insurer shall be deemed
 17 insolvent, and the commissioner shall institute delinquency proceedings
 18 against it under ~~§§ 23-68-101—23-68-113 and 23-68-115—23-68-132~~ Chapter
 19 68 of Title 23. However, if the deficiency exists because of increased loss
 20 reserves required by the commissioner, or because of disallowance by the
 21 commissioner of certain assets or reduction of the value at which carried in
 22 the insurer's accounts, the commissioner may, in his discretion and upon
 23 application and good cause shown, extend for not more than an additional
 24 thirty (30) days the period within which the deficiency may be so made good
 25 and the proof thereof so filed. However, acquisitions or changes of control
 26 of an impaired or insolvent domestic insurer which is or which has applied to
 27 become an affiliate or subsidiary of a depository institution pursuant to
 28 federal law shall comply with the time periods set forth therein to restore
 29 capital or surplus.

30
 31 SECTION 59. Arkansas Code 23-69-140(c), concerning mutualization of
 32 domestic stock insurers other than title insurers, is amended to read as
 33 follows:

34 (c) This section shall not apply to mutualization under order of court
 35 pursuant to rehabilitation or reorganization of an insurer under
 36 ~~§§ 23-68-101—23-68-113, and 23-68-115—23-68-132~~ Chapter 68 of Title 23,

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

10
11 SECTION 60. Arkansas Code 23-69-141 is amended by adding
12 additional subsections to read as follows:

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

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

24
25 SECTION 61. Arkansas Code 23-69-142(b) concerning mergers,
26 consolidations and acquisitions of domestic stock insurers, is amended to
27 read as follows:

28 (b) "Acquiring person", as used in §§ 23-69-101 - 23-69-103, 23-69-105
29 - 23-69-141, 23-69-143, and 23-69-149 means any individual, any stock
30 insurance corporation incorporated under this code or under prior laws of
31 this state relating to the incorporation of domestic insurance corporations,
32 any stock corporation incorporated under the Arkansas Business Corporation
33 Act, § 4-26-101 et seq., or under prior laws of this state authorizing the
34 establishment of business corporations and any foreign or alien stock
35 corporation qualified to do business in Arkansas, and any foreign or alien
36 stock insurance company authorized to do business in Arkansas. "Acquiring

1 person" shall also be deemed to include a depository institution or any
2 affiliate thereof as appropriate under applicable federal law.

3
4 SECTION 62. Arkansas Code 23-69-142(c), concerning mergers,
5 consolidations and acquisitions of domestic stock insurers, is amended to
6 read as follows:

7 (c) No merger or consolidation or exchange of stock shall be
8 effectuated unless in advance thereof the plan and agreement therefor have
9 been filed with the Insurance Commissioner and approved in writing by him
10 after a hearing thereon. With regard to proposed affiliations between a
11 depository institution, or any affiliate thereof, and an insurer, the hearing
12 shall be concluded and the order issued within the sixty-day period preceding
13 the effective date of the transaction; and these orders shall be final upon
14 entry, pursuant to federal law. Further, any restoration of capital or
15 surplus or special surplus required for approval of the transaction affecting
16 the depository institution's affiliate or subsidiary shall also be
17 accomplished within the same sixty-day period. The commissioner shall give
18 such approval within a reasonable time after the filing unless he finds such
19 plan or agreement:

20 (1) Is contrary to law; or

21 (2) Is inequitable to the stockholders of any domestic insurer
22 involved; or

23 (3) Would substantially reduce the security of and service to be
24 rendered to policyholders of the domestic insurer in this state or elsewhere.

25
26 SECTION 63. Arkansas Code 23-69-143, concerning mergers and
27 consolidations of domestic mutual insurers, is amended to add additional
28 subsections to read as follows:

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

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

4
 5 SECTION 64. Arkansas Code 23-69-144(d), concerning abandonment of any
 6 plan to merge or consolidate or acquire domestic insurers, is amended to read
 7 as follows:

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

18
 19 SECTION 65. Arkansas Code 23-69-148, concerning nonconsenting
 20 stockholders and domestic company transactions, is amended to add an
 21 additional subsection to read as follows:

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

26
 27 SECTION 66. The catchline and subsection (a) of Arkansas Code 23-69-
 28 149, concerning bulk policy sales of domestic stock insurers, are amended to
 29 read as follows:

30 23-69-149. ~~Bulk~~ Assumption reinsurance - Stock insurers.

31 (a) A domestic stock insurer may reinsure all or substantially all of
 32 its insurance in force or a major class thereof with another insurer by an
 33 agreement of ~~bulk~~ assumption reinsurance. However, no agreement shall become
 34 effective unless filed with the commissioner and approved by him in writing
 35 after a hearing thereon. With regard to proposed transactions between a
 36 domestic stock insurer which is a subsidiary or affiliate of a depository

1 institution, and another insurer, the hearing shall be concluded and the
 2 order issued within the period required by federal law, and the order shall
 3 be final upon entry.

4
 5 SECTION 67. The catchline and subsection (a) of Arkansas Code 23-69-
 6 150, concerning sales of domestic mutual company policies, are amended to
 7 read as follows:

8 23-69-150. ~~Bulk~~ Assumption reinsurance - Mutual insurers.

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

18
 19 SECTION 68. Arkansas Code 23-69-156(e), concerning the impact of
 20 reinsurance sales of insurance policies, is amended to read as follows:

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

35
 36 SECTION 69. Arkansas Code 23-70-111(a), concerning reciprocal

1 insurers, is amended to read as follows:

2 (a) Legal process shall be served upon a domestic reciprocal insurer
3 by serving the insurer's attorney at his principal offices. ~~or by serving the~~
4 ~~commissioner as the insurer's process agent under §§ 23-63-301 and 23-63-302~~
5 Alternatively service may be made by use of an Arkansas resident agent for
6 service of process appointed on behalf of the insurer in accordance with §§
7 23-63-301 - 23-63-304, on and after January 1, 2003.

8

9 SECTION 70. Arkansas Code 23-71-103(3), concerning laws applicable to
10 stipulated premium plan insurers, is amended to read as follows:

11 (3) Sections ~~23-63-101~~ 23-63-102 - 23-63-104, 23-63-201 - 23-63-216,
12 23-63-301, 23-63-302, ~~and 23-63-401 - 23-63-404~~ 23-63-303 and 23-63-304,
13 authorization of insurers and general requirements, with the exception of the
14 following sections:

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

18

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

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

24

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

28 (e) In the action against a foreign corporation, service of summons or
29 process may be made upon the corporation by service of summons or process
30 upon the ~~commissioner thirty (30) days before the trial of the action, and~~
31 ~~any service is sufficient service upon the foreign corporation~~ registered
32 agent pursuant to §§ 23-63-301 - 23-63-304, as amended by this act or
33 pursuant to methods specified in other laws or rules on and after January 1,
34 2003.

35

36 SECTION 73. Arkansas Code 23-74-605(a)(1)(C), concerning process

1 against a fraternal benefit society, is amended to read as follows:

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

4
5 SECTION 74. Arkansas Code 23-74-701 is amended to read as follows:
6 23-74-701. Service of process - Registered agent.

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

18 (b) Service On or after January 1, 2003, service shall only be made
19 upon the registered agent listed with the commissioner, or if absent, upon
20 the person in charge of the commissioner's office. It shall be made in
21 duplicate and shall constitute sufficient service upon the society. When
22 legal process against a society is served upon the commissioner, the
23 commissioner shall forthwith forward one of the duplicate copies by
24 registered mail, prepaid, directed to the secretary or corresponding officer.
25 No such service shall require a society to file its answer, pleading, or
26 defense in less than thirty (30) days from the date of mailing the copy of
27 the service to a society. Legal process shall not be served upon a society
28 except in the manner herein provided in the manner provided in §§ 23-63-301 -
29 23-63-304, as amended by this act; except that no service of legal process
30 shall require a society to file its answer, pleading or defense in less than
31 thirty (30) calendar days after the date of service upon its registered agent
32 in this state.

33
34 SECTION 75. Arkansas Code 23-75-102 is amended to read as follows:
35 23-75-102. Applicability of other provisions.

36 The corporations shall also be subject to the following chapters and

1 provisions of this code, to the extent applicable and not in conflict with
2 the express provisions of this chapter:

3 (1) Sections 23-60-101 - 23-60-108, 23-60-110, referring to scope of
4 code;

5 (2) Subchapters 1 - 3 of chapter 61 of this title, referring to the
6 Insurance Commissioner;

7 (3) Sections ~~23-63-101~~ 23-63-102 - 23-63-104, 23-63-201 - 23-63-216,
8 ~~23-63-301~~, referring to service of process; ~~commissioner as process agent;~~
9 ~~23-63-302~~, referring to serving process; ~~time to~~ 23-63-301 - 23-63-304, as
10 amended by this act, referring to registration of registered agents for
11 service of process;

12 (4) Sections 23-63-901 - 23-63-912, referring to administration of
13 deposits;

14 (5) ~~Sections 23-64-204 - 23-64-229~~ Chapter 64 of Title 23, referring
15 to agents, brokers, ~~solicitors~~, producers and adjusters;

16 (6) Sections 23-66-201 - 23-66-214, 23-66-301 - 23-66-306, 23-66-308 -
17 23-66-311, 23-66-313, and 23-66-314, referring to trade practices and frauds;

18 (7) ~~Sections 23-63-601 - 23-63-613~~ Subchapter 6 of Chapter 63 of Title
19 23 and 23-84-101 - 23-84-111, referring to assets and liabilities;

20 (8) ~~Sections 23-68-101 - 23-68-113 and 23-68-115 - 23-68-132~~, Chapter
21 68 of Title 23, referring to rehabilitation and liquidation;

22 (9) Sections 23-85-101 - 23-85-131, referring to ~~disability~~ accident
23 and health insurance policies;

24 (10) Sections 23-86-101 - 23-86-106, 23-86-108, and 23-86-109,
25 referring to group and blanket ~~disability~~ accident and health insurance;

26 (11) Sections 23-79-101 - 23-79-107, 23-79-109 - 23-79-128, 23-79-131
27 - 23-79-134, and 23-79-202 - 23-79-210, referring to insurance contracts;

28 (12) Section 23-69-134, referring to home office and records; penalty
29 for unlawful removal of records;

30 (13) Section 23-69-156, referring to extinguishment of unused
31 corporate charters.

32
33 SECTION 76. Arkansas Code 23-75-114(a), in connection with annual
34 reports of licensed hospital or medical service corporations, is amended to
35 read as follows:

36 (a) Not later than March 1 of each year, every corporation shall file

1 with the commissioner a statement sworn to by at least two (2) of its
2 principal officers, showing its condition on the last day of the next
3 preceding calendar year. In accordance with the specifications applicable to
4 annual financial reports, each licensed hospital or medical service
5 corporation shall prepare and file with the commissioner a quarterly
6 financial report on forms and at such times as the commissioner shall
7 prescribe. The quarterly statement shall be verified by the officers of the
8 corporation.

9
10 SECTION 77. Arkansas Code 23-77-106(d)(1)(B), concerning the agent for
11 service of automobile clubs or associations, is amended to read as follows:

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

20
21 SECTION 78. Arkansas Code 23-79-101(2), concerning definitions of
22 insurance terms, is amended to read as follows:

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

27
28 SECTION 79. Arkansas Code 23-79-102(2), concerning proper application
29 of the subchapter, is amended to read as follows:

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

35
36 SECTION 80. Arkansas Code 23-79-105 is amended to read as follows:

1 23-79-105. Application required - Life and ~~disability~~ accident and
2 health insurance.

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

9 (1) A spouse may effectuate the insurance upon the other spouse;

10 (2) Any person having an insurable interest in the life of a
11 minor, or any person upon whom a minor is dependent for support and
12 maintenance, may effectuate insurance upon the life of, or pertaining to, the
13 minor;

14 (3) The application for accident insurance procured through a
15 vending machine licensed under § 23-64-223 must be signed by the individual
16 to be so insured or, if the individual to be so insured does not have legal
17 capacity to contract, the application must be signed by the individual's
18 parent, guardian, or other legally constituted representative; and

19 (4) Family policies may be issued insuring any two (2) or more
20 members of a family on an application signed by either parent, a stepparent,
21 or by a husband or wife.

22
23 SECTION 81. Arkansas Code 23-79-106 is amended to read as follows:

24 23-79-106. Application - Use as evidence - Alteration.

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

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

1 making the request a copy of the application.

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

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

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

16

17 SECTION 82. Arkansas Code 23-79-107(a), concerning written
18 applications for insurance, is amended to read as follows:

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

25 (1) Fraudulent; or

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

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

34

35 SECTION 83. Arkansas Code 23-79-108 is amended to read as follows:

36 23-79-108. Return of premium to rejected applicant.

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

4
5 SECTION 84. Arkansas Code 23-79-109(a)(1)(A), concerning insurance
6 policy form and rate filings, is amended to read as follows:

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

15
16 SECTION 85. Arkansas Code 23-79-109 (a)(1)(B), concerning approval of
17 insurance policy form filings, is amended to read as follows:

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

35
36 SECTION 86. Arkansas Code 23-79-109(a)(3), concerning group policy

1 form filings, is amended to read as follows:

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

10

11 SECTION 87. Arkansas Code 23-79-109 is amended to add an additional
12 subsection to read as follows:

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

20

21 SECTION 88. The preface of subdivision (a)(5)(A) of Arkansas Code 23-
22 79-110 before the subdivisions begin, concerning individual health policy
23 rate and form filings, is amended to read as follows:

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

33

34 SECTION 89. Arkansas Code 23-79-110(b) is repealed.

35 ~~(b) However, upon the petition of an insured under a general liability~~
36 ~~insurance policy, if a substantial restriction of coverage previously~~

1 ~~provided in the policy is deemed by the insurance commissioner to be~~
 2 ~~detrimental to the best interest of the public, the policy form may be~~
 3 ~~disapproved.~~

4
 5 SECTION 90. Arkansas Code 23-79-112 (e), concerning standard contents
 6 of insurance policy forms, is amended to read as follows:

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

15
 16 SECTION 91. Arkansas Code 23-79-112(f)(1), concerning standard
 17 contents of individual accident and health policy forms, is amended to read
 18 as follows:

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

28
 29 SECTION 92. Arkansas Code 23-79-114(e)(i), concerning rates of
 30 insurance policy reimbursements for services, is amended to read as follows:

31 (e)(i) Notwithstanding any provision of any ~~health or~~ accident and
 32 health insurance contract or any group ~~disability~~ accident and health
 33 insurance contract or blanket ~~disability~~ accident and health insurance
 34 contract as provided for in §§ 23-79-101 - 23-79-107, 23-79-109 - 23-79-128,
 35 23-79-131 - 23-79-134, and 23-79-202 - 23-79-210, benefits shall not be
 36 denied thereunder for any health service performed by any person licensed

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

6
7 SECTION 93. Arkansas Code 23-79-115(a)(1), concerning rates of
8 insurance policy reimbursement for services, is amended to read as follows:

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

19
20 SECTION 94. Arkansas Code 23-79-115(b)(1), concerning rates of
21 insurance policy reimbursement for services, is amended to read as follows:

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

32
33 SECTION 95. Arkansas Code 23-79-120(d), concerning insurance binders,
34 is amended to read as follows:

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

1
2 SECTION 96. Arkansas Code 23-79-124(b), concerning assignment of life
3 or accident and health policies, is amended to read as follows:

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

10
11 SECTION 97. Arkansas Code 23-79-125(a), concerning payment of policy
12 proceeds under an assignment, is amended to read as follows:

13 (a) Whenever the proceeds of or payments under a life or ~~disability~~
14 accident and health insurance policy or annuity contract become payable in
15 accordance with the terms of the policy or contract, or the exercise of any
16 right or privilege thereunder, and the insurer makes payment of the amount in
17 accordance with the terms of the policy or contract or in accordance with any
18 written assignment thereof, the person then designated in the policy or
19 contract or by the assignment as being entitled to the benefits shall be
20 entitled to receive the proceeds or payments and to give full acquittance
21 therefor.

22
23 SECTION 98. Arkansas Code 23-79-128 is amended to read as follows:
24 23-79-128. Right to insure ~~husband's~~ spouse's life.

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

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

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

36 (3) All proceeds and avails of the insurance shall be free from

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

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

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

19
 20 SECTION 99. Arkansas Code 23-79-129(a), concerning insurance for
 21 newborn infants, is amended to read as follows:

22 (a) Every ~~disability~~ accident and health insurance policy, contract,
 23 certificate, or health care plan sold, delivered, issued, or offered for
 24 sale, issue, or delivery in this state, other than coverage limited to
 25 expenses from accidents or specified diseases, whether an individual or group
 26 policy, contract, certificate, or plan, which covers the insured and members
 27 of the insured's family, shall include coverage for newborn infant children
 28 by the insured from the moment of birth. The coverage of newborn children
 29 shall be the same as is provided for other members of the insured's family
 30 and shall include coverage for illness, injury, congenital defects, premature
 31 birth, and tests for hypothyroidism, phenylketonuria, and galactosemia, and,
 32 in the case of non-Caucasian newborn infants, tests for sickle-cell anemia,
 33 as well as any testing of newborn infants hereafter mandated by law, and
 34 subject to minimum benefits required by § 23-99-404, shall also include
 35 coverage to pay for routine nursery care and pediatric charges for a well
 36 newborn child for up to five (5) full days in a hospital nursery or until the

1 mother is discharged from the hospital following the birth of the child,
2 whichever is the lesser period of time.

3

4 SECTION 100. Arkansas Code 23-79-133 is amended to read as follows:

5 23-79-133. Exemption of proceeds - ~~Disability~~ Accident and health
6 insurance.

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

13

14 SECTION 101. Arkansas Code 23-79-137(a), concerning health insurance
15 for adopted minor children, is amended to read as follows:

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

25

26 SECTION 102. The preface to Arkansas Code 23-79-138(a) before the
27 subdivisions begin, concerning information to accompany insurance policies
28 upon delivery, is amended to read as follows:

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

34

35 SECTION 103. Arkansas Code 23-79-139(a)(1), concerning insurance
36 benefits for alcohol or drug dependency treatment, is amended to read as

1 follows:

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

11

12 SECTION 104. Arkansas Code 23-79-140(b) before the subdivisions begin,
13 concerning insurance benefits for mammogram screenings, is amended to read as
14 follows;

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

20

21 SECTION 105. Arkansas Code 23-79-141(d)(1), concerning children's
22 preventive health care insurance, is amended to read as follows:

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

34

35 SECTION 106. Arkansas Code 23-79-141(e), concerning children's
36 preventive health care insurance, is amended to read as follows:

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

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

15
16 SECTION 107. Arkansas Code 23-79-141(f)(2), concerning children's
17 preventive health care insurance, is amended to read as follows:

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

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

25
26 SECTION 108. Arkansas Code 23-79-142 is amended to read as follows:

27 23-79-142. Payment for services of psychological examiners.

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

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SECTION 109. 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 110. 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.

1 SECTION 111. Arkansas Code 23-79-205(a)(2), concerning service of
2 process on foreign or alien insurers, is amended to read as follows:

3 (2) As to licensed foreign or alien insurers, service on and after
4 January 1, 2003 may be ~~had upon the commissioner~~ made as provided in §§ 23-
5 63-301 and 23-63-302, 23-63-303 and 23-63-304;

6
7 SECTION 112. Arkansas Code 23-79-208(a)(1), concerning damages on loss
8 claims, is amended to read as follows:

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

19
20 SECTION 113. Arkansas Code 23-79-208(e)(2), concerning damages on loss
21 claims, is amended to read as follows:

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

27
28 SECTION 114. Arkansas Code 23-79-209(a), concerning monetary awards in
29 lawsuits against insurers, is amended to read as follows:

30 (a) In all suits in which the judgment or decree of a court is against
31 a life, ~~fire~~ property, accident and health, ~~accident~~, or liability insurance
32 company, either in a suit by it to cancel or lapse a policy or to change or
33 alter the terms or conditions thereof in any way that may have the effect of
34 depriving the holder of the policy of any of his rights thereunder, or in a
35 suit for a declaratory judgment under the policy, or in a suit by the holder
36 of the policy to require the company to reinstate the policy, the company

1 shall also be liable to pay the holder of the policy all reasonable
 2 attorneys' fees for the defense or prosecution of the suit, as the case may
 3 be.

4
 5 SECTION 115. Arkansas Code 23-81-503(G), concerning process against
 6 viatical settlement providers, is amended to read as follows:

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

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

11 (2) The applicant has filed with the commissioner the
 12 applicant's written irrevocable consent that any action against the applicant
 13 may be commenced against the applicant by service of process on the
 14 ~~commissioner~~ registered agent and that the applicant submits to the
 15 jurisdiction of this state.

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

21
 22 SECTION 116. Arkansas Code 23-91-208(c), concerning process against
 23 authorized prepaid legal insurers, is amended to read as follows:

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

36

1 SECTION 117. Arkansas Code 23-91-209(a)(3)(D), concerning statutory
2 deposits of pre-paid legal insurance companies, is amended to read as
3 follows:

4 (D) Any deposit of ~~cash or~~ securities, in kind and an amount
5 determined to be appropriate by the commissioner, as a guarantee that the
6 obligations to provide the promised benefits will be performed; and
7

8 SECTION 118. Arkansas Code 23-93-207(I), concerning process against
9 life care providers, is amended to read as follows:

10 (1) An irrevocable appointment of an Arkansas resident to serve as the
11 registered agent for the provider shall be filed with the department;
12 thereafter the registered agent shall be authorized to receive service of any
13 lawful process in any proceeding arising under this subchapter against the
14 provider or his agents; on and after January 1, 2003, all licensed life care
15 providers shall file with the commissioner a designation of an Arkansas
16 resident as an agent for service of legal process; and the commissioner shall
17 maintain a listing in conformity with §§ 23-63-301 - 23-63-304;
18

19 SECTION 119. Arkansas Code 23-96-104(L), defining licensees who
20 participate in the Life and Disability Guaranty Fund, is amended to read as
21 follows:

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

27 (1) A hospital or medical service organization, whether profit
28 or nonprofit;

29 (2) A health maintenance organization;

30 (3) A fraternal benefit society;

31 (4) A mandatory state pooling plan;

32 (5) A burial association;

33 (6) An insurance exchange;

34 (7) Prepaid funeral trusts; ~~or~~

35 (8) An organization which has a certificate or license limited
36 to the issuance of charitable gift annuities; or

1 ~~(8)~~(9) Any entity similar to any of the above.

2

3 SECTION 120. Arkansas Code 23-96-106(A)(2) and (3), concerning
4 policies which are not covered by the Life and Disability Guaranty Fund Act,
5 are amended to read as follows:

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

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

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

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

27

28 SECTION 121. Arkansas Code 23-96-110(C)(1), concerning duties of the
29 Life and Disability Guaranty Association, is amended to read as follows:

30 C. (1) The association shall have standing to appear or intervene
31 before any court or agency in this state with jurisdiction over an impaired
32 or insolvent insurer concerning which the association is or may become
33 obligated under this chapter or with jurisdiction over any person or property
34 against whom the association may have rights through subrogation or
35 otherwise. Provided, at its option, the association may appear solely for the
36 purpose of receiving copies of all pleadings and notices and attending

1 hearings without otherwise becoming a party to the proceeding. Such standing
 2 shall extend to all matters germane to the powers and duties of the
 3 association, including, but not limited to, proposals for reinsuring,
 4 modifying, or guaranteeing the policies or contracts of the impaired or
 5 insolvent insurer and the determination of the policies or contracts and
 6 contractual obligations.

7
 8 SECTION 122. Arkansas Code 23-96-113, concerning Guaranty Fund action
 9 to process insurance policies of an impaired or insolvent insurer, is amended
 10 to add an additional subsection to read as follows:

11 D. In carrying out its duties in connection with guaranteeing,
 12 assuming or reinsuring policies or contracts under §§ 23-96-111 or 23-96-
 13 112A, the association may, subject to approval of the receivership court,
 14 issue substitute coverage for a policy or contract that provides an interest
 15 rate, crediting rate or similar factor determined by use of an index or other
 16 external reference stated in the policy or contract employed in calculating
 17 returns or changes in value by issuing an alternative policy or contract in
 18 accordance with the following provisions:

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

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

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

29
 30 SECTION 123. Arkansas Code 23-96-114(A)(2), concerning Life and
 31 Disability Guaranty Fund claim limitations for policy benefits of impaired or
 32 insolvent insurers, is amended to read as follows:

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

35 (i) One Three hundred thousand dollars ~~(\$100,000)~~
 36 (\$300,000) in life insurance death benefits or net cash surrender and net

1 cash withdrawal values for life insurance;

2 (ii) ~~One~~ Three hundred thousand dollars ~~(\$100,000)~~
3 (\$300,000) in disability insurance benefits, including any net cash surrender
4 and net cash withdrawal values;

5 (iii) ~~One~~ Three hundred thousand dollars
6 ~~(\$100,000)~~ (\$300,000) in the present value of annuity benefits, including net
7 cash surrender and net cash withdrawal values;

8 (b) With respect to each individual participating in a
9 governmental retirement benefit plan established under sections 401(k),
10 403(b), or 457, of the United States Internal Revenue Code covered by an
11 unallocated annuity contract or the beneficiaries of each such individual if
12 deceased, in the aggregate, ~~one~~ three hundred thousand dollars ~~(\$100,000)~~
13 (\$300,000) in present value annuity benefits, including net cash surrender
14 and net cash withdrawal values;

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

18

19 SECTION 124. Arkansas Code 26-57-604 is amended to read as follows:
20 26-57-604. Remittance of tax.

21 (a) Coincident with the filing of the tax report, each authorized life
22 or ~~disability~~ accident and health insurer, including licensed health
23 maintenance organizations, may apply for a credit for the noncommissioned
24 salaries and wages of the insurer's Arkansas employees which are paid in
25 connection with its insurance operations. The credit may be applied as an
26 offset against the premium tax imposed on life and ~~disability~~ accident and
27 health insurance.

28 (1) In no event shall the offset reduce the ~~disability~~ accident
29 and health premium tax due by more than eighty percent (80%). In no event
30 shall the offset reduce the life premium tax due by more than seventy percent
31 (70%). The taxes shall be reported and paid on a quarterly estimated basis as
32 prescribed by the Insurance Commissioner and shall be reconciled annually at
33 the time of filing the annual report required in § 26-57-603(a)-(c).

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

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

10 (B) Subdivision (a)(3)(A) of this section shall only apply
11 for tax years beginning prior to January 1, 2000. On or before March 1 of
12 2000 and each year thereafter, any such authorized life or disability
13 insurer, including health maintenance organizations, desiring to qualify
14 ~~under~~ this provision shall furnish the appropriate data and request on forms
15 prescribed by the commissioner. However, for purposes of calculating the
16 taxes under §§ ~~23-63-101~~ 23-63-102 - 23-63-104, an insurer qualifying for a
17 credit under this section shall compute the tax due under §§ ~~23-63-101~~ 23-63-
18 102 - 23-63-104, if any, by using an Arkansas premium tax rate of two and
19 one-half percent (2 1/2%) without regard to the credit specified in this
20 section.

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

29
30 SECTION 124. Arkansas Code 23-86-106(1)(C), defining groups of persons
31 as to group accident and health insurance, is amended to read as follows:

32 (C) The term "employees" as used in subdivision (1) of
33 this section may include retired employees. The term employees as used in
34 subdivision (1) of this section shall include members of limited liability
35 corporations and of limited liability partnerships.

36 /s/ Hausam