

# Arkansas Insurance Department

*Kerr*

Asa Hutchinson  
Governor



Allen Kerr  
Commissioner

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## INTEROFFICE MEMORANDUM

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**TO:** COMMISSIONER KERR  
**CC:** RUSS GALBRAITH; SUZANNE TIPSON; RYAN JAMES  
**FROM:** AMANDA CAPPS ROSE  
**SUBJECT:** 2019 LEGISLATION  
**DATE:** 12/10/2018

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\* General Omnibus:

Section 1. This section, amending 23-40-103, is needed to define funding methods for prepaid funeral contracts.

Section 2. The amendment to 23-40-122 is intended to clarify the interest income on prepaid funeral contracts.

Section 3. Section 23-61-114 is no longer needed, as there have been no substantive changes in the report recently due to a stabilization of the market. The Department will continue to track and report as circumstances require.

Section 4. The market conduct annual statement filing requirement in 23-63-216 is being amended to expand its scope in order to provide better regulation of all companies.

Sections 5 – 14. The captive insurance subchapter, 23-63-1601, et seq., is being modernized and updated to encourage new captive business in Arkansas. The Arkansas Insurance Department continues to reach out and coordinate with the captive insurance industry to develop best practices, guidelines and procedures to facilitate continued industry growth in Arkansas. The proposed amendments to the existing captive law seek to provide needed updates to areas such as protected cell requirements, conversion and merger procedures, and other technical/procedural standards addressing captive market developments.

Section 15. This subchapter, 23-63-2001, et seq., adds a new NAIC accreditation standard regarding corporate governance and reporting for insurance companies. *The* Corporate Governance Annual Disclosure Act provides the Arkansas Insurance Department with an annual summary of an insurer or insurance group's corporate governance structure, policies and practices to permit the Insurance Commissioner to gain and maintain an understanding of the

insurer's corporate governance framework. This new provision *does* not attempt to impose additional corporate governance rules, standards or procedures on insurance companies. The filing is intended to provide information to assist in fulfilling existing AID oversight responsibilities. Regulatory oversight of insurance companies has changed significantly over the past several years. The new provision will provide important information to AID regarding how an insurer manages itself, and, in particular, how it identifies, assesses and mitigates risks.

Section 16. This section amends 23-64-219 to make appointing an insurance agent simpler for the company and helps streamline the regulatory process for the Department.

Section 17. The change in 23-65-315 from monthly to quarterly filings assists the Accounting Division in the Department, as this aligns with the filing forms used when payments are made.

Section 18. This section amends 23-66-206 to remove the requirement that a complaint must be written.

Section 19. The requirement for the Commissioner to hold a public hearing to consider approval for an insurer to reinsure all or substantially all of its insurance in-force, or a major class of business, is eliminated from 23-69-149 in this section. The requirement to hold a public hearing is an expensive and burdensome process which adds little value to the existing in-depth substantive review process already conducted by AID to consider proposed transactions for approval under this subsection.

Section 20. This sections adds the requirements of a certificate of authority to those provisions applicable to Farmers' Mutual Aid Associations under 23-73-104.

Section 21. This amendment to 23-86-310 is made to clarify the meaning of "excepted benefits." [Our Legal Division is working to determine a better location in the Arkansas Insurance Code for this amendment. The substance will not change, but it is likely to be moved to Chapter 79 or 99 to be applicable to both individual and group markets.]

#### \* Life and Health Insurance Guaranty Association Act:

This bill amends the current Life and Health Insurance Guaranty Association Act to add health maintenance organizations ("HMOs") as "member insurers" and to allocate assessments for long-term disability assessments equally between the life insurance and health insurance companies in conformity with the current NAIC Model Act. In addition, this bill amends the HMO provisions to remove solvency requirements which will be redundant when HMO's are included as guaranty association member companies.

This legislation is necessary to reallocate assessment costs equally between the life insurance and health insurance companies for potential long-term care insurance insolvencies and to expand the assessment base for health insolvencies by including HMO's as "member insurers" of the Arkansas Life and Health Insurance Guaranty Association.

\* Block Transfer/Novation:

This bill adds §§ 23-69-501, *et seq.*, to the Arkansas Insurance Code, which will allow for a blanket transfer or novation of a book of insurance business from one company to another. This change will ease the transition of insurance business from one company to another without disruption in coverage to policyholders in a way that would not require the policyholders' specific consent. It is a court-supervised process.