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2 92nd General Assembly  
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4

As Engrossed: S3/20/19

# A Bill

SENATE BILL 291

5 By: Senator Rapert  
6

## For An Act To Be Entitled

8 AN ACT TO ALLOW FOR AFFILIATE TRANSFER BETWEEN  
9 INSURERS; AND FOR OTHER PURPOSES.

### Subtitle

10 TO ALLOW FOR AFFILIATE TRANSFER BETWEEN  
11 INSURERS.  
12

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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17 SECTION 1. Arkansas Code § 23-79-307 is amended to read as follows:  
18 23-79-307. Standards.

19 (a) In addition to other applicable provisions of the Arkansas  
20 Insurance Code, insurers and insurance policies subject to the provisions of  
21 this subchapter shall meet the following standards:

22 (1) Notice of claim given by or on behalf of the named insured  
23 to any authorized agent of the insurer with specific information to identify  
24 the insured is deemed notice of claim to the insurer;

25 (2) Policies may be issued for a term in excess of twelve (12)  
26 months with the premium adjustable on an annual basis if the policy contains  
27 an express provision to that effect. At least thirty (30) days' advance  
28 notice in writing of the premium to be charged on the policy anniversary date  
29 must be given to the insured and the agent of record if the insured has  
30 furnished the information necessary to calculate the premium;

31 (3) Forms or endorsements issued after the policy inception date  
32 not at the request of the named insured that reduce, restrict, or modify the  
33 original policy coverage must be accepted and signed by the named insured;

34 (4) Any policy providing an aggregate limit of liability within  
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1 the schedule of limits must include a notice specifying that the policy limit  
2 is an "aggregate". The aggregate limit provision must be clearly defined  
3 within the policy;

4 (5)(A) Policies containing provisions that would reduce the  
5 limit of liability available for judgments or settlements by the amount of  
6 payment made for defense cost or claim expenses shall not be approved by the  
7 Insurance Commissioner unless a separate limit for defense costs equal to one  
8 hundred percent (100%) of the annual aggregate limit of liability stated in  
9 the policy for judgments or settlements is offered for defense costs or  
10 claims expenses to the insured. However, no policy covering automobile  
11 liability insurance may contain the defense within the limits concept.

12 (B) This subsection ~~shall~~ does not apply to policies or  
13 contracts that the commissioner may exempt by order upon a finding that this  
14 subsection may not practically be applied or that its application is not  
15 necessary or desirable for the protection of the public;

16 (6)(A) When an insurer revises its rates or rules and the  
17 revision results in a premium increase equal to or greater than twenty-five  
18 percent (25%) on any renewal policy issued for a term of twelve (12) months  
19 or less, the insurer shall mail or deliver to the insured's agent not less  
20 than thirty (30) days prior to the effective date of renewal, and to the  
21 insured not less than ten (10) days prior to the effective date of renewal,  
22 notice specifically stating the insurer's intention to increase the premium  
23 by an amount equal to or greater than twenty-five percent (25%).

24 (B) If the notice is not given as stated in subdivision  
25 (6)(A) of this section, the insurer is required to extend the existing policy  
26 thirty (30) days from the date the notice is mailed or delivered. The  
27 premium for the policy as extended in such circumstances shall be no more  
28 than the pro rata premium of the existing policy;

29 (7) Except in the case of nonpayment of premium, an insurer  
30 shall renew a policy unless a written notice of nonrenewal is mailed at least  
31 sixty (60) days prior to the expiration date of the policy or, for a policy  
32 for a term longer than one (1) year and not having a fixed expiration date,  
33 sixty (60) days prior to the anniversary date; and

34 (8) Policies containing an exclusion for punitive damages must  
35 include a definition of punitive damages substantially similar to the  
36 following: "Punitive damages" are damages that may be imposed to punish a

1 wrongdoer and to deter others from similar conduct.

2 (b) As used in this section, "renewal" or "renew" means the issuance  
3 and delivery by an insurer of a policy superseding a policy previously issued  
4 by the insurer at the end of the previously issued policy period if the  
5 policy is delivered by:

6 (1) The same insurer; or

7 (2) An affiliate or subsidiary, as those terms are defined in §  
8 23-63-503, that has a financial strength rating that is:

9 (A) Issued by an industry-recognized independent insurance  
10 rating company; and

11 (B) At least as good as the insurer issuing the superseded  
12 policy.

13 (c) This section does not repeal or supersede any requirements of the  
14 Insurance Holding Company Regulatory Act, § 23-63-501 et seq., including  
15 without limitation the provisions of § 23-63-515 that are applicable to  
16 material transactions between an insurer and an insurer's affiliates.

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18 SECTION 2. Arkansas Code § 23-79-102 is amended to read as follows:  
19 23-79-102. Scope.

20 Sections 23-79-101, 23-79-103 – 23-79-107, 23-79-109 – 23-79-128, 23-  
21 79-131 – 23-79-134, 23-79-162, and 23-79-202 – 23-79-210 do not apply to:

22 (1) Reinsurance;

23 (2)(A) Policies or contracts not issued for delivery in this  
24 state nor delivered in this state, except:

25 (i) On subjects of insurance other than life or  
26 accident and health insurance, located or to be performed in this state; and

27 (ii) Pursuant to § 23-79-109(e).

28 (B) Subdivision (2)(A) of this section does not apply to  
29 group insurance certificates issued under group insurance policies carried  
30 out and delivered outside this state but covering a person that is a resident  
31 in this state;

32 (3) Wet marine and foreign trade insurance; and

33 (4) Title insurance, except that the following apply to this  
34 line:

35 (A) Section 23-79-101(1), §§ 23-79-109 – 23-79-111, 23-79-  
36 113, 23-79-116, 23-79-118, 23-79-119, and 23-79-202 – 23-79-205; and

1 (B) Section 23-79-121, provided that the insurer may  
2 authorize or require its title agents to provide the policy to the insured.

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4 SECTION 3. Arkansas Code Title 23, Chapter 79, Subchapter 1, is  
5 amended to add an additional section to read as follows:

6 23-79-162. Notice of renewal in affiliate or subsidiary.

7 (a) This section applies to all forms of property and casualty  
8 insurance written under this subchapter.

9 (b) A notice of nonrenewal is not required if:

10 (1) The insured is transferred from an insurer to an affiliate  
11 insurer for future coverage; and

12 (2) The transfer results in substantially similar or broader  
13 coverage to the insured.

14 (c)(1) Notice of a renewal in an affiliate or subsidiary shall be  
15 provided to a policyholder according to the renewal notice requirements  
16 applicable to the type or kind of policy being renewed.

17 (2) The notice of renewal in an affiliate or subsidiary  
18 described in subdivision (c)(1) of this section shall state:

19 (A) The reason for the change to the affiliate or  
20 subsidiary;

21 (B) That coverage shall be provided by the affiliate or  
22 subsidiary unless the policyholder chooses to pursue coverage with an insurer  
23 outside the group of affiliated insurers; and

24 (C) The relevant information about changes to the policy's  
25 deductible, provisions, and amount of premium.

26 (d) At least ninety (90) days in advance of mailing the notice of  
27 renewal in an affiliate or subsidiary to its policyholders, an insurer shall  
28 notify the Insurance Commissioner of its intention to renew policies in bulk  
29 in an affiliate or subsidiary and provide the commissioner with a copy of the  
30 notice to policyholders.

31 (e) This section does not repeal or supersede any requirements of the  
32 Insurance Holding Company Regulatory Act, § 23-63-501 et seq., including  
33 without limitation the provisions of § 23-63-515 that are applicable to  
34 material transactions between an insurer and an insurer's affiliates.

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36 SECTION 4. Arkansas Code § 23-88-105, concerning notice required

1 before expiration of a property insurance policy, is amended to add an  
2 additional subsection to read as follows:

3 (c) As used in this section, "renewal" means the issuance or delivery  
4 by an insurer of a policy superseding a policy previously issued by the  
5 insurer at the end of the previously issued policy period if the policy is  
6 delivered by:

7 (1) The same insurer; or

8 (2) An affiliate or subsidiary, as those terms are defined in §  
9 23-63-503, that has a financial strength rating that is:

10 (A) Issued by an industry-recognized independent insurance  
11 rating company; and

12 (B) At least as good as the insurer issuing the superseded  
13 policy.

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15 *SECTION 5. Arkansas Code § 23-89-301(6), concerning the definition of*  
16 *"renewal" or "to renew", is amended to read as follows:*

17 (6)(A) "Renewal" or "to renew" means the issuance and delivery  
18 by an insurer of a:

19 ~~(i) policy replacing at the end of the policy period~~  
20 Policy superseding a policy previously issued and delivered by:

21 ~~(a) the~~ The same insurer; or

22 ~~(b) An affiliate or subsidiary, as defined in~~  
23 § 23-63-503, that has a financial strength rating that is:

24 (1) Issued by an industry-recognized  
25 independent insurance rating company; and

26 (2) At least as good as the insurer  
27 issuing the superseded policy; or

28 ~~(ii) the issuance and delivery of a certificate~~  
29 Certificate or notice extending the term of a policy beyond its policy period  
30 or term.

31 (B) *However, for the purposes of this subchapter:*

32 (i) *Any policy with a policy period or term of less*  
33 *than six (6) months shall be considered as if written for a policy period or*  
34 *term of six (6) months; and*

35 (ii) *Any policy written for a term longer than one*  
36 *(1) year or any policy with no fixed expiration date shall be considered as*

1 *if written for successive policy periods or terms of one (1) year, and the*  
2 *policy may be terminated at the expiration of any annual period upon giving*  
3 *twenty (20) days' notice of cancellation prior to the anniversary date. This*  
4 *cancellation shall not be subject to any other provisions of this subchapter.*

5 *(C) This section does not repeal or supersede any*  
6 *requirements of the Insurance Holding Company Regulatory Act, § 23-63-501 et*  
7 *seq., including without limitation the provisions of § 23-63-515 that are*  
8 *applicable to material transactions between an insurer and an insurer's*  
9 *affiliates.*

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12 */s/Rapert*

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15 **APPROVED: 4/4/19**