

Hall of the House of Representatives

83rd General Assembly - Regular Session, 2001

Amendment Form

Subtitle of House Bill No. 2404

"TO MODERNIZE THE INSURANCE LAWS ON FINANCIAL ASSETS, LIABILITIES, AND
RESERVES FOR DOMESTIC INSURERS."

Amendment No. 1 to House Bill No. 2404.

Amend House Bill No. 2404 as originally introduced:

Insert additional sections immediately following SECTION 1 to read as follows:

"SECTION 2. The subchapter heading to Arkansas Code Title 23, Chapter 63, Subchapter 6 is amended to read as follows:

Subchapter 6.

~~Assets and Liabilities~~ Financial Reporting Standards.

SECTION 3. Arkansas Code 23-63-601 is amended to read as follows:
23-63-601. Definition.

In any determination of the financial condition, including whether an asset is allowable, of an a domestic insurer, domestic title insurer, or other domestic regulated entities reporting to the commissioner, including health maintenance organizations, hospital or medical service corporations, farmers' mutual aid associations or companies, and other licensees, all hereinafter called "reporting entities" for purposes of this subchapter, there shall be allowed as assets only such assets as are owned by the insurer and which consist of: the definition of an "asset" contained in the current edition, published by the National Association of Insurance Commissioners, of the "Accounting Practices and Procedures Manual", with certain additions, will be used in the determination. Additions shall include, but may not be limited to, the following:

~~(1) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company;~~

~~(2) Investments, securities, properties, and loans acquired or held in accordance with this code, and in connection therewith the following items:~~

~~(A) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest;~~

~~(B) Declared and unpaid dividends on stock and shares, unless the amount has otherwise been allowed as an asset;~~

~~(C) Interest due or accrued upon a collateral loan in an amount not to exceed one (1) year's interest thereon;~~

~~(D) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets if the interest is in the judgment of the Insurance Commissioner a collectible asset;~~

~~(E) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal, but in no event shall interest accrued for a period in excess of eighteen (18) months be allowed as an asset;~~

~~(F) Rent due or accrued on real property if the rent is not in arrears for more than three (3) months, and rent more than three (3) months in arrears if the payment of the rent is adequately secured by property held in the name of the tenant and conveyed to the insurer as collateral;~~

~~(G) The unaccrued portion of taxes paid prior to the due date on real property;~~

~~(3) Premium notes, policy loans, and other policy assets and liens on policies and certificates of life insurance and annuity contracts and accrued interest thereon, in an amount not exceeding the legal reserve and other policy liabilities carried on each individual policy;~~

~~(4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer;~~

~~(5) Premiums in the course of collection, other than for life insurance, not more than three (3) months past due, less commissions payable thereon. The foregoing limitation shall not apply to premiums payable directly or indirectly by the United States Government or by any of its instrumentalities;~~

~~(6) Installment premiums other than life insurance premiums to the extent of the unearned premium reserve carried on the policy to which premiums apply;~~

~~(7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon;~~

~~(8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer and which reinsurance is authorized under §§ 23-62-202, 23-62-203 [repealed], 23-62-204, and 23-62-205;~~

~~(9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty;~~

~~(10) Deposits or equities recoverable from underwriting associations, syndicates, and reinsurance funds, or from any suspended banking institution, to the extent deemed by the commissioner available for the payment of losses and claims and at values to be determined by him;~~

~~(11) All assets, whether or not consistent with the provisions of this section, as may be allowed pursuant to the annual statement form approved by the commissioner for the kinds of insurance to be reported upon therein;~~

~~(12) Other assets, not inconsistent with the provisions of this section, deemed by the commissioner to be available for the payment of losses and claims, at values to be determined by him;~~

~~(13)(1) Electronic and mechanical machines, data processing equipment, licenses, and operating system software, programs necessary to the operation of the machines, excluding any amount paid to officers and employees of the insurer, reporting entity, constituting, or necessary for installation and use of a data processing and or accounting system, or both, to be used in connection with the business of the insurer or reporting entity if the cost~~

~~of the system is at least fifty thousand dollars (\$50,000) which cost shall be amortized in full over a period not to exceed ten (10) calendar years. Commencing on and after January 1, 2001, assets allowed under this section, as well as non-operating system software, shall be accounted for in accordance with the current edition, published by the National Association of Insurance Commissioners, of the "Accounting Practices and Procedures Manual". However, assets allowed which consist of such system shall not exceed fifteen percent (15%) of the sum of the insurer's gross paid in and contributed surplus and unassigned surplus funds.~~

~~(2) In the transition from the fifteen percent (15%) limitations of this subsection effective for the reporting periods prior to January 1, 2001, to the limitations in subdivision (a)(1) of this section in effect upon and after passage of this act of 2001, the Insurance Commissioner in his discretion may allow domestic reporting entities to make the transition on a gradual basis over a time period not to extend beyond December 31, 2004, if immediate compliance with this subsection would be an excessive and undue hardship for a domestic entity or would cause it to be impaired or insolvent, to be evidenced in a filing of an extension request and plan of operation with the Insurance Commissioner; and~~

~~(3) Other assets as specified by the commissioner in a rule or regulation.~~

SECTION 4. Arkansas Code 23-63-602 is amended to read as follows:
23-63-602. Assets as deductions from liabilities.

Assets may be allowed as deductions from corresponding liabilities, and liabilities may be charged as deductions from assets. Deductions from assets may be charged as liabilities in accordance with ~~the form of annual statement applicable to the insurer as prescribed by the commissioner~~ the current edition published by the National Association of Insurance Commissioners, of the "Accounting Practices and Procedures Manual".

SECTION 5. Arkansas Code 23-63-603 is amended to read as follows:
23-63-603. Assets not allowed.

~~In addition to assets impliedly excluded by the provisions of § 23-63-601, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:~~

~~(1) Goodwill, trade names, and other like intangible assets;~~

~~(2) Advances to directors other than policy loans, whether secured or not, and advances other than policy loans to officers, employees, agents, and other persons on personal security only or in other respects not meeting the requirements for investment of funds of the insurer under §§ 23-63-801—23-63-833 and 23-63-835, exclusive of § 23-63-825 thereof concerning miscellaneous investments;~~

~~(3) Stock of the insurer, owned by it, or any equity therein, or loans secured thereby, or any proportionate interest in the stock acquired or held through the ownership by the insurer of an interest in another firm, corporation, or business unit;~~

~~(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature, and supplies, except in the case of title insurers, such materials and plants as the insurer is expressly authorized to invest in under § 23-63-832, and except in the case of any insurer, such personal property as the insurer is permitted to hold pursuant to §§ 23-63-801—23-~~

~~63-833 and 23-63-835 concerning investments, or which is acquired through foreclosure of chattel mortgages acquired pursuant to § 23-63-827, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes;~~

~~(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code. Assets not allowed shall be those so referenced or described as non-admitted in the current edition, published by the National Association of Insurance Commissioners, of the "Accounting Practices and Procedures Manual", unless otherwise specified in this subchapter.~~

SECTION 6. Arkansas Code 23-63-604 is amended to read as follows:

23-63-604. Liabilities - In general.

~~In any determination of the financial condition of an insurer, a reporting entity, capital stock and liabilities to be charged against its assets shall include:~~

~~(1) The amount, at par or stated value, of its capital stock outstanding, if any;~~

~~(2) The amount, estimated consistent with the provisions of this code, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof;~~

~~(3) With reference to life and disability insurance and annuity contracts:~~

~~(A) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to this code which are applicable thereto;~~

~~(B) Reserves for disability benefits, for both active and disabled lives;~~

~~(C) Reserves for accidental death benefits;~~

~~(D) Any additional reserves which may be called for under the form of financial statement required of the insurer;~~

~~(4) With reference to insurance other than specified in subdivision (3) of this section, and other than title insurance, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this subchapter;~~

~~(5) Taxes, expenses, and other obligations due or accrued at the date of the statement shall include definitions and amounts specified in the current edition, published by the National Association of Insurance Commissioners, of the "Accounting Practices and Procedures Manual".~~

SECTION 7. Arkansas Code 23-63-605 through 23-63-609 are repealed.

~~23-63-605. Unearned premium reserve.~~

~~(a) As to insurance against loss or damage to property, except as provided in § 23-63-606, and as to all general casualty insurance and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.~~

~~(b)(1) The commissioner may require that the reserves shall be equal to the unearned portions of the gross premiums in force after deducting~~

~~applicable reinsurance in solvent insurers as computed on each respective risk from the policy's date of issue.~~

~~(2) If the commissioner does not so require, the portion of the gross premium in force, less applicable reinsurance in solvent insurers, to be held as an unearned premium reserve, shall be computed according to the following table:~~

Term for Which Policy Was Written	Reserve for Unearned Premium
1 year or less	1/2
2 years	1st year 3/4 2nd year 1/4
3 years	1st year 5/6 2nd year 1/2 3rd year 1/6
4 years	1st year 7/8 2nd year 5/8 3rd year 3/8 4th year 1/8
5 years	1st year 9/10 2nd year 7/10 3rd year 1/2 4th year 3/10 5th year 1/10
Over 5 years	pro rata

~~(3) If a term premium is payable to the insurer in periodic installments, the unearned premium reserve thereon shall be an amount not less than as computed upon the premium charged by the insurer for the applicable unexpired installment period.~~

~~(c) In lieu of computation according to the foregoing table, the insurer, at its option, may compute all of the reserves on a monthly, or more frequent, pro rata basis.~~

~~(d) After adopting a method for computing the reserve, an insurer shall not change methods without approval of the commissioner.~~

~~(e) This section does not apply to title insurance.~~

~~23 63 606. Unearned premium reserve for marine and transportation insurance.~~

~~(a) As to marine and transportation insurance, the entire amount of premiums on trip risks not terminated shall be deemed unearned.~~

~~(b) The commissioner may require the insurer to carry a reserve equal to one hundred percent (100%) of premiums on trip risks written during the month ended as of the date of statement.~~

~~23 63 607. Reserve for disability insurance.~~

~~For all disability insurance policies, the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and be not less than the reserve according to appropriate standards set forth in regulations issued by the commissioner and, in no event, less in the aggregate than the pro rata gross unearned premiums for disability insurance policies.~~

~~23 63 608. Loss reserves — Liability insurance and workers'~~

~~compensation.~~

~~If a reserve is required under the form of annual statement required of the insurer, the reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employee or other person and for which the insured is liable shall be computed as follows:~~

~~(1) For all liability suits being defended under policies written more than:~~

~~(A) Ten (10) years prior to the date as of which the statement is made, one thousand five hundred dollars (\$1,500) for each suit;~~

~~(B) Five (5) or more and less than ten (10) years prior to the date as of which the statement is made, one thousand dollars (\$1,000) for each suit;~~

~~(C) Three (3) or more and less than five (5) years prior to the date as of which the statement is made, eight hundred fifty dollars (\$850) for each suit;~~

~~(2) For all liability policies written during the three (3) years immediately preceding the date as of which the statement is made, the reserve shall be sixty percent (60%) of the earned liability premiums of each of such three (3) years less all losses and expense payments made under liability policies written in the corresponding years. In any event, the reserve shall for the first of such three (3) years be not less than seven hundred fifty dollars (\$750) for each outstanding liability suit on that year's policies;~~

~~(3) For all workers' compensation claims under policies written more than three (3) years prior to the date as of which the statement is made, the reserve shall be the present value at four percent (4%) interest of the determined and the estimated future payments;~~

~~(4) For all workers' compensation claims under policies written in the three (3) years immediately preceding the date as of which the statement is made, the reserve shall be sixty five percent (65%) of the earned compensation premiums of each of the three (3) years, less all loss and loss expense payments made in connection with the claims under policies written in the corresponding years. But, in any event, in the case of the first year of any three year period, the reserve shall be not less than the present value at four percent (4%) interest of the determined and the estimated unpaid compensation claims under policies written during the year.~~

~~23-63-609. Increase of inadequate reserves.~~

~~If loss experience shows that an insurer's loss reserves, however computed or estimated, are inadequate, the commissioner shall require the insurer to maintain loss reserves in such increased amount as is needed to make them adequate.~~

SECTION 8. Arkansas Code 23-63-610 is amended to read as follows:

23-63-610. Title insurance reserves Assets - Conflict of treatment in subchapters in this code.

~~In addition to an adequate reserve as to outstanding losses as required under § 23-63-604, a domestic title insurer shall maintain a own guaranty fund or unearned premium reserve of not less than an amount computed as follows:~~

~~(1) Ten percent (10%) of the total amount of the risk premiums hereafter written in the calendar year for title insurance contracts shall be~~

~~assigned originally to the reserve;~~

~~(2) During each of the twenty (20) years next following the year in which the title insurance contract was issued, the reserve applicable to the contract may be reduced by five percent (5%) of the original amount of the reserve.~~

In the event of a conflict as to treatment of assets between Subchapter 6 of Chapter 63 of Title 23 and Subchapter 8 of Chapter 63 of Title 23, Subchapter 6 of Chapter 63 of Title 23 shall govern.

SECTION 9. Arkansas Code 23-63-611 is amended to read as follows:
23-63-611. ~~Asset~~ valuation of bonds and other securities.

~~(a)(1) All bonds or other evidence of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:~~

~~(A) If purchased at par, at the par value;~~

~~(B) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the Insurance Commissioner;~~

~~(C) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage, or express charges paid in the acquisition of the securities;~~

~~(D) Unless otherwise provided by valuation established or approved by the commissioner, no security shall be carried at above the call price for the entire issue during any period within which the security may be so called;~~

~~(2) The commissioner shall have discretion in determining the method of calculating values according to the rules set forth in this section but not inconsistent with any method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.~~

~~(b)(1) Securities other than those referred to in subsection (a) of this section held by an insurer shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value, or at prices determined by the commissioner as representing their fair market value.~~

~~(2) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with such method of computation as he may approve.~~

~~(3) If any valuation method stated in this section shall be inconsistent with any applicable valuation or method then currently approved or formulated by the Securities Valuation Office Guidelines of the National Association of Insurance Commissioners or its successor organization, then the valuation or method currently approved or formulated by the Securities Valuation Office Guidelines of the National Association of Insurance Commissioners or its successor organization shall govern. Assets of reporting entities shall be valued in accordance with the following:~~

~~(1) Bonds and securities shall be valued in accordance with the methods specified in the current edition, published by the National~~

Association of Insurance Commissioners, of the "Valuation of Securities Manual" prepared by the Securities Valuation Office; or

(2) Shares of stock shall be valued in accordance with the methods specified in the current edition, published by the National Association of Insurance Commissioners, of the "Accounting Practices and Procedures Manual"; or

(3) Other assets shall be valued as specified by the Insurance Commissioner in a rule and regulation, in accordance with the provisions of § 23-63-601(2), and which method of valuation is not inconsistent with the current edition, published by the National Association of Insurance Commissioners, of the "Valuation of Securities Manual" prepared by the Securities Valuation Office.

SECTION 10. Arkansas Code 23-63-612 is amended to read as follows:

23-63-612. ~~Valuation of property~~ Purpose - Compliance date.

~~(a) Real property acquired under a mortgaged loan or pursuant to a contract of sale shall be valued according to the accounting procedures and practices prescribed by the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.~~

~~(b) Other real property held by an insurer shall be valued according to the accounting procedures and practices prescribed by the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.~~

~~(c) Personal property acquired under a chattel mortgage made in accordance with § 23-63-827 shall be valued according to the accounting procedures and practices prescribed by the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.~~

(a) It is the intention of this act of 2001 to allow the Insurance Commissioner to adopt rules to modernize and harmonize the financial accounting laws of this state governing assets and liabilities of domestic reporting entities as defined. This act of 2001 requires domestic health maintenance organizations and domestic title insurers, and other type domestic licensees to modernize financial accounting methods in order to comply with laws and rules of the state applicable to domestic insurance companies and reporting entities. The provisions of this act of 2001 are designed to allow domestic licensees to compete in the financial and insurance markets with changing federal and state laws, particularly those dealing with the treatment of assets, liabilities, and financial accounting.

(b) The provisions of this act of 2001 are intended to and shall govern the financial reports for the year 2001 of domestic reporting entities, and shall govern the annual report for the year 2001 of domestic reporting entities due at the State Insurance Department on and after March 1, 2002 and supported by 2001 quarterly reports for the first three quarters, and the provisions of this act of 2001 shall govern as to all quarterly and annual financial reports due in subsequent reporting periods thereafter.

(c) This act of 2001 shall govern domestic stock and mutual insurers, domestic reciprocal and stipulated premium plan insurers, domestic mutual assessment life and disability insurers, domestic farmers' mutual aid associations or companies, domestic title insurers, domestic health maintenance organizations, domestic hospital or medical service organizations, domestic licensed casualty insurers transacting business as a risk retention group, or other domestic "reporting entities" as used in this

act of 2001.

(d) If the immediate application of this act of 2001 to any domestic reporting entity shall cause a demonstrably excessive and undue hardship or would cause the domestic reporting entity to be impaired or insolvent, as evidenced in a filing of a written extension request and plan of operation with the commissioner, then the commissioner shall be authorized to allow the domestic reporting entity to propose and follow a remedial plan to resolve its difficulties in the compliance and implementation of this act of 2001. The commissioner is authorized to waive any statutory penalties for non-complying domestic insurers who demonstrate in a filing to the commissioner's satisfaction that the insurers would be impaired or insolvent upon immediate compliance with these new standards, or they would have an unduly expensive or harsh economic or administrative burden upon any compliance with these new standards. However, the commissioner's authority provided under this act to waive these provisions for domestic insurers shall not extend beyond December 31, 2004; and all domestic insurers shall be in compliance after the expiration of any waivers granted by the commissioner, but not later than January 1, 2006.

SECTION 11. Arkansas Code 23-63-613 is amended to read as follows:

~~23-63-613. Valuation of purchase money mortgages~~ Use of new and revised manuals - Rule-making authority.

~~Purchase money mortgages on real property referred to in § 23-63-612 shall be valued in accordance with the accounting procedures and practices prescribed by the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.~~

(a)(1) The commissioner is authorized to employ the standards and requirements set forth in publications currently recited in this subchapter and adopted and published by the National Association of Insurance Commissioners, including, but not limited to those listed in this subchapter.

(2) The Valuation of Securities Manual and the Accounting Practices and Procedures Manual, and the Annual Statement Instructions are published by the National Association of Insurance Commissioners. These publications and others currently recited in Arkansas Code 23-63-601, et seq., are hereby adopted in their present form as of the effective date of this act of 2001.

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

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

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

(B) Ninety (90) days after the publication by the National Association of Insurance Commissioners of a revised manual containing such amendments, modifications, or revisions unless the commissioner shall reject

them by regulation if he or she determines that such action is not in the best interest of the public.

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

SECTION 12. Arkansas Code 23-64-405(g)(2), concerning managing general agent duties, is amended to read as follows:

(2) This subsection shall not apply to relationships governed by ~~§ 23-63-601 et seq.~~ Subchapter 6 of Chapter 63 of Title 23.

SECTION 13. Arkansas Code 23-71-103(5), as to related insurance laws applicable to stipulated premium plan insurers, is amended to read as follows:

~~(5) Sections 23-63-601, "assets" defined; 23-63-602, assets as deductions from liabilities; 23-63-603, assets not allowed; 23-63-611, valuation of bonds; 23-63-611, valuation of other securities; 23-63-612, valuation of property; and 23-63-613, valuation of purchase money mortgages~~ Provisions of Subchapter 6 of Chapter 63 of Title 23 as to assets and valuation of assets;

SECTION 14. Arkansas Code 23-71-105(a)(2), as to insurance asset laws applicable to domestic stipulated premium plan insurers, is amended to read as follows:

(a)(2) Reserves on all stipulated premium ~~disability~~ accident and health insurance policies shall be established and maintained in accordance with ~~§ 23-63-607.~~ the provisions of Subchapter 6 of Chapter 63 of Title 23 as to required insurance reserves;

SECTION 15. Arkansas Code 23-72-103 is amended to read as follows:

23-72-103. Other provisions applicable.

In addition to the provisions contained in this chapter, other chapters and provisions of this code shall apply to mutual assessment life and disability insurers, to the extent so applicable, as follows:

(1) Sections 23-60-101 - 23-60-108 and 23-60-110, scope of code;

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

(3) Sections ~~23-63-101~~ 23-63-102 - 23-63-104, 23-63-201 - 23-63-216, 23-63-301, and 23-63-302, ~~and 23-63-401 — 23-63-404 [repealed],~~ authorization of insurers and general requirements, with the exception of the following sections:

(A) Section 23-63-205, capital funds required;

(B) Section 23-63-207, special surplus requirement; and

(C) Section 23-63-206, bond or deposit requirement;

~~(4) Sections 23-63-401 and 23-63-402, fees and taxes [repealed]~~

~~(5)(4) Sections 23-63-601, "assets" defined; 23-63-602, assets as deductions from liabilities; 23-63-603, assets not allowed; 23-63-611, valuation of bonds; 23-63-611, valuation of other securities; 23-63-612, valuation of property; and 23-63-613, valuation of purchase money mortgages~~

Applicable provisions of Subchapter 6 of Chapter 63 of Title 23 on assets and liabilities;

~~(6)(5)~~ Sections ~~23-63-801~~ ~~23-63-833~~ and ~~23-63-835~~, investments

Applicable provisions of Subchapter 8 of Chapter 63 of Title 23 on investments;

~~(7)(6)~~ Chapter 64 of this title, agents, brokers and producers;

~~(8)(7)~~ Chapter 65 of this title, unauthorized insurers;

~~(9)(8)~~ Sections 23-66-201 - 23-66-214, 23-66-301 - 23-66-306, 23-66-308 - 23-66-311, 23-66-313, and 23-66-314, trade practice and frauds;

~~(10)(9)~~ Sections 23-79-101 - 23-79-107, 23-79-109 - 23-79-128, 23-79-131 - 23-79-134, and 23-79-202 - 23-79-210, the insurance contract, except §§ 23-79-131 - 23-79-134, exemption of proceeds; 23-79-204, venue; and 23-79-205, registered agents for service of process;

~~(11)(10)~~ The following provisions of §§ 23-69-101 - 23-69-103, 23-69-105 - 23-69-141, 23-69-143, and 23-69-149 - 23-69-156, organization and corporate procedures of domestic stock and mutual insurers:

(A) Section 23-69-103, inapplicability of general corporation statutes;

(B) Section 23-69-107, amendment of articles of incorporation;

(C) Section 23-69-111, corporate powers in general;

(D) Section 23-69-111, contributions;

(E) Section 23-69-120, meetings of stockholders or members;

(F) Section 23-69-123, corrupt practices - penalty;

(G) Section 23-69-110, removal of director - vacancies;

(H) Section 23-69-108, officers;

(I) Section 23-69-109, prohibited pecuniary interest of officials;

(J) Section 23-69-134, home office and records; penalty for unlawful removal of records;

(K) Section 23-69-135, voucher for expenditures;

(L) Section 23-69-136, situs of personal property for taxation;

(M) Section 23-69-137, management and exclusive agency contracts;

(N) Sections 23-69-151 - 23-69-154, voluntary dissolution;

(O) Section 23-69-155, mutual member's share of assets on liquidation; and

(P) Section 23-69-156, extinguishment of unused corporate charters;

~~(12)(11)~~ Sections ~~23-68-101~~ ~~23-68-113~~ and ~~23-68-115~~ ~~23-68-132~~, rehabilitation and liquidation Applicable provisions of chapter 68 of title 23 as to rehabilitation and liquidation;

~~(13)(12)~~ Section 23-62-205, reinsurance.

SECTION 16. Arkansas Code 23-72-104(a)(1)(B), concerning reserves required for accident and health policies of mutual assessment life and disability insurers, is amended to read as follows:

(B) Reserves on all disability accident and health insurance policies shall be established and maintained in accordance with § 23-63-607 the provisions of Subchapter 6 of Chapter 63 of Title 23;

SECTION 17. Arkansas Code 23-73-104 (7), as to assets and required reserves of farmers' mutual aid associations and companies, is amended to read as follows:

~~(7) Sections 23-63-601 — 23-63-613, assets and liabilities of insurance companies, except that § 23-63-605 in regard to unearned premium reserve shall not apply Provisions of Subchapter 6 of Chapter 63 of Title 23 as to assets and reserves and valuation of assets;~~

SECTION 18. Arkansas Code 23-81-130(a), concerning securities for registered life insurance policies and annuity contracts, is amended to read as follows:

(a) A domestic life insurer existing on January 1, 1960, may deposit and shall thereafter maintain on deposit with the Insurance Commissioner securities and assets equal to the legal reserve on its registered life insurance policies and annuity contracts in force under the provisions of Subchapter 6 of Chapter 63 of Title 23. The securities and assets shall be held on deposit in trust for the common benefit of all the holders of the policies and contracts.

SECTION 19. Arkansas Code 23-81-134(a), concerning maintenance of securities for registered life policies and annuity contracts, is amended to read as follows:

(a) Each insurer which has made the deposit provided for under § 23-81-130 shall make additional deposits from time to time in amounts not less than five thousand dollars (\$5,000) and of such securities as are permitted by §§ 23-63-901 - 23-63-912 to be deposited so that the value of the securities deposited, when valued as provided in ~~§§ 23-63-601 — 23-63-613~~ Subchapter 6 of Chapter 63 of Title 23, and 23-84-101 - 23-84-111, shall always be equal to the current net value of the currently outstanding registered policies and annuity bonds and contracts issued by the insurer, less such liens as the insurer may have against them, not exceeding the net value. So long as the insurer maintains its deposits at an amount equal to or in excess of the net value of its registered policies, bonds, and contracts, the Insurance Commissioner shall sign and affix his seal to the certificates on every policy, annuity bond, or contract presented to him for that purpose by the insurer as provided in § 23-81-131.

SECTION 20. Arkansas Code 23-91-216, concerning legal insurance policy, is amended to read as follows:

23-91-216. Reserves required.

~~(a)~~ An insurer must maintain the reserves necessary for the sound operation of the business including unearned premium reserves and the amount and manner of calculating these reserves shall be determined by the provisions of Subchapter 6 of Chapter 63 of Title 23.

~~(b) The amount and manner of calculating these reserves shall be determined by rule or regulation by the commissioner in accordance with § 23-91-224.~~

SECTION 21. EMERGENCY CLAUSE. It is hereby found and determined by the Eighty-Third General Assembly, that the insurance financial accounting laws for domestic insurer and domestic title insurer and domestic HMO assets and liabilities are not modern and not in compliance with those of other states; and that such lack of uniformity affects how domestic insurers and domestic title insurers and domestic health maintenance organizations participate in interstate commerce, as well as electronic commerce. The provisions of this

act should be effective as to the year 2001 annual financial report of those reporting entities and annually thereafter. It is vital that the provisions of this act become effective immediately, to allow sufficient time for reporting entities to begin advanced preparation to reflect the new codification principles set forth herein. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective upon the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

The Amendment was read _____
By: Representative Files
LH/JB _____
JMB372 **Chief Clerk**