

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2813
"GENERAL INSURANCE OMNIBUS ACT."

Amendment No. 1 to House Bill No. 2813.

Amend House Bill No. 2813 as originally introduced:

Delete everything after the enactment clause and substitute the following:

SECTION 1. Arkansas Code § 9-14-504(a), concerning health insurance for minor children provided by custodial and noncustodial parents, is amended to read as follows:

(a) Any insurer, health maintenance organization, self-funded group, multiple-employer welfare arrangement, or hospital or medical services corporation operating in this state shall receive claims for payment, respond to requests concerning information necessary to determine coverage status, claims status, and health policy plan, or benefits, for minor children or to obtain benefits through such coverage for minor children, and otherwise communicate with the custodial parent or the noncustodial parent of the minor child or children, an assignee, or the Office of Child Support Enforcement, without regard to the fact that such coverage may be through a policy benefiting the noncustodial parent of such child or children.

SECTION 2. Effective January 1, 2004, Arkansas Code § 11-9-303 is amended to read as follows:

11-9-303. Payment of tax by carrier.

(a) In addition to the premium taxes collected from carriers, the carriers shall pay annually to the Workers' Compensation Commission a tax, at the rate to be determined as provided in § 11-9-306 but not to exceed three percent (3%), on all written manual premiums resulting from the writing of workers' compensation insurance on risks within the state.

(b) "Written manual premium" shall mean premium produced in a given year by the manual rates in effect during the experience period and shall exclude the premium produced by the expense constant. Furthermore, "written manual premium", for the purpose of this chapter, means premium before any allowable deviated discounts, any experience rating modification, any premium discount, any reinsurance or deductible arrangement as common with fronting carriers, any dividend consideration, or other trade discount.

(c)(1) This tax shall be collected by the ~~Insurance Commissioner~~ Workers' Compensation Commission from the carriers at the same time and in the same manner as other premium taxes are collected by the Insurance



Commissioner, provided in under the premium tax sections of the law of this state, and shall be deposited into the funds created in § 11-9-301.

(2) This transfer from the funds created in § 11-9-301 shall be in the same proportions that deposits were made into the three (3) funds as set forth in § 11-9-306(a)-(c).

(d) Assessments upon which premium taxes are based shall be made on forms prescribed ~~jointly by the Insurance Commissioner and~~ by the Workers' Compensation Commission.

SECTION 3. Effective January 1, 2004, Arkansas Code § 11-9-305 is amended to read as follows:

11-9-305. Payment of tax by public employer.

(a)(1) It shall be the duty of the Workers' Compensation Commission to collect a tax from every public employer providing workers' compensation coverage to its employees at a rate to be determined as provided by § 11-9-306 but not to exceed three percent (3%) of the written manual premium which an insurance carrier would have to pay under § 11-9-303 if the public employer were insured by a carrier.

(2)(A) ~~The Public Employee Claims Division, or its successor agency, Workers' Compensation Commission shall collect and tabulate the tax to be collected from public employers and furnish the tabulated information to the commission, together with four (4) separate payments representing the tax collected from~~ each of the four (4) categories of public employers: the state; the counties; the municipalities; and the school districts.

(B) In tabulating the manual premium, a public employer shall use the average compensation rate for this state as promulgated by the National Council on Compensation Insurance for the tax year in question.

(3) The tax collected shall be deposited in and paid to the commission from the Workers' Compensation Revolving Fund and miscellaneous revolving funds.

(b)(1) In the event any public employer fails to cooperate in furnishing information upon which the tax will be computed or fails to pay the tax within thirty (30) days of the date provided in § 11-9-306, the ~~Director of the Public Employee Claims Division~~ commission shall notify the ~~commission~~ Director of the Public Employees Claims Division of the failure, and the commission shall decertify the public employer from participation in the state's workers' compensation program.

(2) In the event of decertification, the public employer shall obtain its employer's workers' compensation liability coverage from the private market and shall not be entitled to participate in the state's workers' compensation program for a period of one (1) year thereafter.

(c) The procedure for decertification shall be the same as for the revocation or termination of the self-insurer privilege.

~~(d) [Repealed.]~~

SECTION 4. Effective January 1, 2004, Arkansas Code § 11-9-306 is amended to read as follows:

11-9-306. Certification of surplus and rate of taxation.

(a)(1) The Workers' Compensation Commission, on or before December 31 of each year, shall certify ~~to the Insurance Commissioner~~ the surplus, if any, in the Workers' Compensation Fund, together with the additional amounts necessary to properly administer this chapter for the ensuing year.

(2) The commission shall state in the certification the rate of taxation for collections for that year on or before March 1 of the following year.

(b)(1) The commission, on or before December 31 of each year, shall certify ~~to the Insurance Commissioner~~ the surplus, if any, in the Second Injury Trust Fund, together with the additional amounts necessary to properly administer this chapter for the ensuing year.

(2) The commission shall state in the certification the rate of taxation for collections for that year on or before March 1 of the following year.

(c)(1) The commission, on or before December 31 of each year, shall certify ~~to the Insurance Commissioner~~ the surplus, if any, in the Death and Permanent Total Disability Trust Fund, together with the additional amounts necessary to properly administer this chapter for the ensuing year.

(2) The commission shall state in the certification the rate of taxation for collections for that year on or before March 1 of the following year.

(d) The total rate of taxation for all three (3) funds when added together shall not exceed three percent (3%).

(e)(1) The ~~Insurance Commissioner~~ commission shall notify each insurance carrier of the rate of taxation applicable to each fund for the preceding year, and taxes shall be computed and paid pursuant to the provisions of § 11-9-303(c) on or before April 1 of the following year.

(2) The commission shall notify each self-insured employer subject to the tax as to the rate of taxation applicable to each fund for the preceding year, and taxes shall be computed by the commission and paid to each fund by the self-insurer through payments made directly to the commission on or before April 1 of the following year.

(3) The commission shall also notify each public employer subject to this tax ~~by notifying the Public Employee Claims Division, or its successor agency,~~ of the rate of taxation applicable to each fund for the preceding year, and taxes shall be computed by the division and paid to each respective fund by the public employer through payments made directly to the commission on or before April 1 of the following year.

(f) The commission, ~~in cooperation with the Insurance Commissioner,~~ shall have the authority to promulgate rules or regulations for administration of the assessment and tax collection process, including, but not limited to, rules and regulations applicable to the funds established in § 11-9-301.

(g) No later than March 30, 2004, and no later than March 30 each year thereafter, the commission shall provide to the Insurance Commissioner a complete listing of Workers' Compensation premium tax collections by year, by name of workers' compensation carrier, by National Association of Insurance Commissioners number, and disclosing the monetary amount of the Workers' Compensation premium tax paid for the preceding calendar year.

SECTION 5. Arkansas Code § 11-9-409(d)(1), concerning Workers' Compensation insurers' accident prevention services, is amended to read as follows:

(1) Any insurance company desiring to write workers' compensation insurance in Arkansas shall maintain or provide accident prevention services as a prerequisite ~~for a license~~ to write such insurance. Such services shall

be adequate to furnish accident prevention programs required by the nature of its policyholders' operations and shall include surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene, and industrial health services to implement the program of accident prevention services.

SECTION 6. Arkansas Code § 17-19-111 is amended to read as follows:
17-19-111. Fees.

(a) Notwithstanding any other provisions of this chapter to the contrary, and notwithstanding any other provisions of Arkansas law to the contrary, beginning July 1, 2003, professional bail bond companies are hereby required to charge, collect, and remit the following fees for direct deposit as special revenues into the ~~State Insurance Department Trust Fund~~ Bail Bondsman Board Fund for the support, personnel, maintenance, and operations of the ~~State Insurance Department~~, Arkansas Professional Bail Bond Company and Professional Bail Bondsman Licensing Board in addition to any other fees, taxes, premium taxes, levies, or other assessments imposed in connection with the issuance of bail bonds by professional bail bond companies under Arkansas law.

(b)(1) In addition to the bail or appearance bond premium or compensation allowed under § 17-19-301, each licensed professional bail bond company shall charge and collect as a nonrefundable fee for the fund an additional ten dollar (\$10.00) fee per bail bond for giving bond for each and every bail and appearance bond issued by the licensed professional bail bond company by or through its individual licensees.

(2) The fees shall be collected quarterly and then reported and filed with the ~~Insurance Commissioner~~ board no later than fifteen (15) calendar days after the end of each quarter.

(3) The notarized quarterly reporting form and a notarized annual reconciliation form as to all fees collected for the fund shall be filed by each professional bail bond company on forms prescribed by the ~~commissioner~~ board and at the times and in the manner as the ~~commissioner~~ board shall prescribe in conformity with this section.

(4) A paper-processing charge of fifteen dollars (\$15.00) shall be collected on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reporting requirements contained herein and to further defray the surety's costs incurred in the collection of all fees due, owing, and collected on behalf of the fund and the surety's costs incurred in the preparation of all required reports submitted in conformance with the standards established by the American Institute of Certified Public Accountants.

(c)(1) The ~~commissioner~~ Executive Director or other board designee may, in his or her discretion, grant an extension for the filing of the report and fees for good cause shown upon timely written request.

(2) Absent an extension for good cause shown, each licensed professional bail bond company failing to report or pay these fees shall be liable to the fund for a monetary penalty of one hundred dollars (\$100) per day for each day of delinquency.

(3) The ~~commissioner~~ board may pursue any appropriate legal remedies on behalf of the fund to collect any delinquent fees and penalties owed as special revenues.

(d)(1) Upon collection of the fees and any monetary penalties, the

~~commissioner~~ board shall deposit all fees and penalties directly into the fund as special revenues.

(2) The fees and penalties shall be in addition to all other fees, licensure or registration fees, taxes, assessments, levies, or penalties payable to any federal or state office, court, agency, board, or commission or other public official or officer of the state, or its political subdivisions, including counties, cities, or municipalities, by professional bail bond companies.

(3)(A) Each individual bail bondsman is required to assist in collection of the fees, but is exempt from the duty and responsibility of payment of the fees to the fund unless he or she misappropriates or converts such moneys to his or her own use or to the use of others not entitled to the fees.

(B) In that case, the ~~commissioner~~ board shall proceed on behalf of the fund with any civil or criminal remedies at his or her disposal against the individual responsible.

(C) Upon criminal conviction of the individual responsible for fraudulent conversion of the moneys due the fund the individual responsible shall pay restitution to the ~~trust~~ fund, and the court shall incorporate a finding to that effect in its order.

(D) Absent substantial evidence to the contrary, the violations of the individual may be attributed to the employing bail bond company, and any criminal or civil court may, in its discretion and upon substantial evidence, order the employing bail bond company to pay restitution to the fund on behalf of the responsible individual and shall incorporate that finding into its order.

(e) For purposes of any statutory security deposit Arkansas law requires of professional bail bond companies, including, but not limited to, the deposit under § 17-19-205, the payment of the fees required by this section is considered to be a duty of the licensee, so as to allow the ~~commissioner~~ board on behalf of the fund to make a claim against any such deposit for the fees required by this section and any penalties owed thereon, up to the limit of any security deposit.

(f) Under no circumstances shall the fees or penalties thereon held in or for deposit into the fund as special revenues be subject to any tax, levy, or assessment of any kind, including, but not limited to, any bond forfeiture claims, any garnishment or general creditors' claims, any remedies under title 19 of this Code, or other provisions of Arkansas law.

(g)~~(1)~~ At the beginning of each fiscal year, the ~~department~~ board shall certify to the Chief Fiscal Officer of the State an amount sufficient to provide for personal services and operating expenses of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

~~(2) The Chief Fiscal Officer of the State shall then transfer the certified amount from the State Insurance Department Trust Fund to the Bail Bondsman Board Fund.~~

SECTION 7. Arkansas Code § 17-19-301(d) and (e), concerning bail bond premiums, are amended to read as follows:

(d)(1)(A) In addition to the ten percent (10%) bail or appearance bond premium or compensation allowed in subsection (a) of this section, and commencing on ~~April 1, 1993~~, July 1, 2003, each licensed professional bail bond company shall charge and collect as a nonrefundable administrative and

regulatory fee for the ~~State Insurance Department Trust Fund~~ Bail Bondsman Board Fund an additional ten dollars (\$10.00) per bond fee for giving bond for each and every bail and appearance bond issued by the licensed professional bail bond company by or through its individual licensees.

(B) The administrative and regulatory fees payable by these companies to the fund for the support and operation of the ~~department, board,~~ and collected by the bail bond companies as required by this section, shall be reported and filed with the ~~Insurance Commissioner~~ board no later than fifteen (15) calendar days after the end of each calendar quarter, contemporaneous with the professional bail bond company's filing of its quarterly bail bond report with the ~~department~~ board.

(C) A notarized annual reconciliation of all such fees collected in the preceding calendar year for the fund shall be filed by each licensed professional bail bond company at a time and on forms prescribed by the ~~commissioner~~ board.

(D) The ~~commissioner~~ executive director of the board may in his or her discretion grant an extension for good cause shown upon timely written request.

(E) In no event shall the administrative and regulatory fees payable by the bail bond companies to the fund exceed ten dollars (\$10.00) per bond, as required by this subchapter, exclusive of statutory licensure fees elsewhere in this chapter.

(2)(A) Absent an extension the ~~commissioner~~ executive director granted for good cause to a company and in addition to any license suspension or revocation, the ~~commissioner may in his or her~~ board may in its discretion order after notice and a hearing a professional bail bond company failing timely to report or pay the regulatory fee to the fund by and through the ~~commissioner~~ board shall be liable to the fund for a monetary penalty of one hundred dollars (\$100) per day for each day of delinquency.

(B) The ~~commissioner~~ board may pursue any appropriate legal remedies on behalf of the fund to collect any delinquent fees and penalties owed pursuant to this section as special revenues to the fund.

(3) Upon collection of the regulatory fees and any monetary penalties payable to the fund and assessed under this section, the ~~commissioner~~ board shall deposit all fees and penalties directly into the fund as special revenues.

(4)(A) Upon failure of the bail bond company to remit the fees timely, the ~~commissioner~~ board may pursue civil legal remedies against the noncomplying bail bond company on behalf of the fund to recover the balance of the fees and any penalties owed.

(B) In its discretion, the board may also fine, or suspend or revoke the license of, any professional bail bond company failing to remit or pay timely the fees required by this section.

(5)(A) Other than sole proprietors licensed as professional bail bond companies, individual bail bondsmen are exempt from the duty and responsibility of payment of the administrative and regulatory fees to the fund, except that the individual licenses of such individual employees of the professional bail bond company may be suspended or revoked by the ~~commissioner~~ board pursuant to the administrative procedures provided in this chapter if the individual licensee fails to comply with his or her duties in proper collection of the bail bond premiums earmarked for later payment to the fund pursuant to this subsection, if he or she converts such moneys to

his or her own use, or commits other infractions in regard to collection of such premium amounts.

(B) In those instances, the violations of the individual may in the ~~commissioner's~~ board's discretion be attributed to the employing professional bail bond company for good cause shown, and its license may be sanctioned by the ~~commissioner~~ board pursuant to the administrative procedures provided in this chapter.

(C) Further, upon criminal conviction of the individual bondsman for theft of property in connection with fraudulent conversion of those premium amounts due the fund, the board shall revoke the individual's license, and in its discretion fine, or suspend or revoke the license of, the employing professional bail bond company if it assisted the individual in such fraudulent conduct.

(6)(A) For purposes of § 17-19-205 requiring the professional bail bond company's deposit of a letter of credit or certificate of deposit for the faithful performance of its duties, the company's payment of the administrative and regulatory fee as required by this subsection shall be considered to be and shall be a duty of the licensee so as to allow the ~~commissioner~~ board to make a claim against the security deposit required in § 17-19-205 on behalf of the fund for the balance of any owed and unpaid administrative and regulatory fees the professional bail bond company still owes to the fund, and the ~~commissioner~~ board shall promptly proceed to make claims against such security deposits on behalf of the fund, up to the limit of the company's deposit for any remaining fee balance due, in the manner provided in this subchapter for any claim against the deposit required herein.

(B) Under no circumstances shall such deposits held for the fund, or fees or any moneys deposited into the fund be subject to any levy or assessment of any kind, including forfeiture claims, misconduct claims, or general creditor claims of the bail bond company, subject to garnishment or other creditors' remedies under Title 19 or other provisions of Arkansas law.

(e) The administrative and regulatory fees imposed on professional bail bond companies under this section shall be in addition to all other fees, taxes and assessments, and penalties licensed professional bail bond companies pay the State of Arkansas through the ~~department~~ board or other state agencies under other laws.

SECTION 8. Arkansas Code § 19-5-922(b), concerning special revenues transferred to fund the State Insurance Department Trust Fund, is amended to read as follows:

(b) Such fund shall consist of those special revenues as specified in § 19-6-301(172), ~~the first \$100,000 of workers' compensation premium taxes transferred from the various funds created in § 11-9-301 as provided in § 11-9-303(e)~~, grants, refunds, gifts, and any remaining funds of the Arkansas Earthquake Authority as provided in § 23-102-119 and examination of insurers payments as set out in §§ 23-61-201 - 23-61-206, there to be used to defray the expenses of the State Insurance Department in the discharge of its administrative and regulatory powers and duties as prescribed by law and as set out in § 23-61-701 et seq.

SECTION 9. Arkansas Code § 19-5-1088 is amended to read as follows:

19-5-1088. Bail Bondsman Board Fund.

There is hereby established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State, a fund to be known as the Bail Bondsman Board Fund. This fund shall consist of those moneys ~~transferred from the State Insurance Department Trust Fund~~ deposited directly into the Bail Bondsman Board Fund by the Arkansas Professional Bail Bond Company and Professional Bail Bondsman Licensing Board from licensee fee collections, beginning July 1, 2003; and other moneys, including from the collection of fees, there to be used exclusively for the operation of the Professional Bail Bondsman Licensing Board board.

SECTION 10. Arkansas Code § 21-2-704(b), concerning claims covered by the Governmental Bonding Board, is amended to read as follows:

(b)(1) The fidelity bond coverage provided by the Self-Insured Fidelity Bond Program shall cover actual losses sustained by the participating governmental entities as defined in § 21-2-702 through any fraudulent or dishonest act or acts committed by any of the officials or employees of the participating governmental entity, acting alone or in collusion with others, during the bond period to an amount not exceeding the lesser of three hundred thousand dollars (\$300,000) or the amount of the bond.

(2) Coverage for loss of property other than money and securities shall be limited to the actual cash value of the property on the day the loss was discovered.

(3) No coverage shall be provided for and no monetary benefits shall be paid for any claim in which a participating governmental entity, through fraudulent means, takes money or other property from another participating governmental entity.

SECTION 11. Arkansas Code § 21-2-705(b)(2), concerning the payment of per diem and mileage of the Governmental Bonding Board, is amended to read as follows:

(b)(2) The expense reimbursement of members of the board shall be paid ~~by the Department of Insurance from funds specifically appropriated to the department for that purpose or from other funds available to the department for paying expense reimbursement~~ from the Fidelity Bond Trust Fund.

SECTION 12. Arkansas Code § 21-2-709 is amended to read as follows:
21-2-709. Determination of coverage – Assignment of rights.

(a)(1)(A) Upon the receipt of the proof of loss from the Legislative Auditor, the board shall determine whether the loss is covered under the Self-Insured Fidelity Bond Program.

(B) The board may withhold claim determination and payments until the investigation in each case has been completed and all information deemed necessary for determination of coverage under the Self-Insured Fidelity Bond Program has been received.

(C) Coverage will be provided only for losses disclosed in audits as defined in § 21-2-702.

(2)(A) If the board determines that the loss is covered under the program, the Insurance Commissioner shall authorize fidelity bond loss payments from the fund to the participating governmental entity on a timely basis.

(B) The board shall provide a timely explanation of payments and denial of losses to the Legislative Auditor and to the participating governmental entity.

(3) All vouchers for bond claim payments shall include as supporting documents a copy of the payment recommendation by the State Risk Manager and a copy of the proof of loss from the Legislative Auditor.

(4) Any loss payment may be adjusted by any applicable deductibles, restitution, or coinsurance payments.

~~(b)(1) Upon fidelity bond loss payment from the fund, the recipients of the loss payment shall, to the extent of the payment, assign to the fund all rights and claims that they may have against the official, officer, or employee involved.~~ Before any bond loss payment is issued from the fund, the recipient of the bond loss payment shall sign and return a transfer of rights form, assigning to the fund, to the extent of payment, all rights and claims that the recipient may have against the official, officer, or employee involved. The fund shall be subrogated to all of the rights of the recipients of the fidelity bond loss payment to the extent of the payment.

(2) If the participating governmental entity shall sustain any loss which exceeds the amount of indemnity provided by the Fidelity Bond Program, the governmental entity shall be entitled to all recoveries, except from suretyship, insurance, reinsurance, security, or indemnity taken by or for the benefit of the Fidelity Bond Program, by whomever made, on account of such loss until fully reimbursed, less the amount of the deductible and coinsurance; and any remainder shall be applied to reimbursement of the Fidelity Bond Program.

(3) If a participating governmental entity fails to pay over amounts due the Fidelity Bond Program under these provisions, the Governmental Bonding Board may, at its discretion, deduct any amounts due from future bond loss payments due the applicable participating governmental entity or from any treasury funds of the applicable participating governmental entity.

~~(c) The Insurance Commissioner shall timely notify the Legislative Auditor if the board determines that the loss is not covered under the Fidelity Bond Program.~~

SECTION 13. Arkansas Code § 21-2-710 is amended to read as follows:
21-2-710. Premium Billing certification – Payment and deposit.

~~(a)~~ The board, with the assistance of the State Insurance Department, shall:

(1)(A) Prepare a billing certification to be remitted to the Department of Finance and Administration. Upon receipt of this certification, the Director of the Department of Finance and Administration shall pay it from funds specifically appropriated for it by the General Assembly or from other funds available therefore;

(B) Funds so appropriated or otherwise made available for this purpose shall not be subject to reduction as a result of any shortfall of projected revenues, for premiums for fidelity bonds for state public officials and employees and state officers and employees;

(2) Prepare a billing certification to be remitted to the Chief Fiscal Officer of the State who shall pay it from funds withheld from the County Aid Fund which are due each county participating in the Self-Insured Fidelity Bond Program for premiums for fidelity bonds for county public officials and

employees;

(3) Prepare a billing certification to be remitted to the Chief Fiscal Officer of the State who shall pay it from funds withheld from the Municipal Aid Fund which are due each municipality participating in the Self-Insured Fidelity Bond Program for premiums for fidelity bonds for municipal public officials and employees; and

(4) Prepare a billing certification to be remitted to the Chief Fiscal Officer of the State who shall pay the same from funds withheld from the Public School Fund which are due each school district participating in the Self-Insured Fidelity Bond Program for premiums for fidelity bonds for school district officials and employees.

~~(b) Upon receipt of these funds, the commissioner shall deposit them in the fund created in § 21-2-711.~~

SECTION 14. Arkansas Code § 21-2-711, concerning Governmental Bonding Board funds and expenditures, is amended to read as follows:

21-2-711. Fidelity Bond Trust Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a separate fund to be known as the Fidelity Bond Trust Fund.

(b)(1) No money shall be appropriated from this fund for any purpose except for the use and benefit of participating governmental entities for bond claims, board members travel, and for ~~board~~ other expenses including, but not limited to, actuarial, consultant, and service contract fees.

(2) The fund established in this section shall be administered by and disbursed at the direction of the board.

(c)(1)(A) The assets of the fund may be invested and reinvested as the board may determine with the advice of the State Board of Finance.

(B) All incomes derived through investment of the fund as established herein shall be credited, as investment income, to the fund.

(C) For the purposes of investment, fund moneys invested and interest earned thereon shall be administered as trust funds pursuant to the provisions of § 19-3-219(a).

(2) Further, all moneys deposited to the fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

~~(d) The bond premiums collected by the board under the provisions of this subchapter~~ All moneys received by the board for the Fidelity Bond Program, including premiums collected by the board under this subchapter, restitution, interest payments, grants and gifts, and refunds shall be deposited in the fund created in subsection (a) of this section.

SECTION 15. Arkansas Code § 23-61-107(a), concerning records maintained in the Insurance Commissioner's office, is amended to read as follows:

(a)(1) The Insurance Commissioner shall enter, in permanent form, records of his or her official transactions, examinations, investigations, and proceedings and keep these records in his or her office.

(2)(A) These records and insurance filings in his or her office shall be open to public inspection, except as otherwise provided in the Arkansas Insurance Code with respect to particular records or filings.

(B) The commissioner may establish a retention-destruction

schedule for records of his or her office, in order to dispose of hard copy and electronic copy records five (5) years after receipt or creation, or two (2) years after hard copy records have been reduced to electronically imaged records for retention until proper disposition; except for State Insurance Department records whose retention or destruction is subject to other applicable provisions of Arkansas law.

(C) The commissioner may dispose of consumer complaint records in the five-year cycle under (a)(2)(B) of this section.

(D) The commissioner may adopt rules and regulations governing records maintenance and destruction in accordance with this and other applicable provisions of Arkansas law.

(3) Confidential data and reports provided to the commissioner by the National Association of Insurance Commissioners, including, but not limited to, insurers' Insurance Regulatory Information System ratios and examiner team synopses, shall be deemed privileged communications. These data and reports shall not be open to public inspection and shall not be admissible in evidence in any action or proceeding, other than those brought by the commissioner, nor shall any insurers, agents, or brokers, which may be the subject of the confidential reports, have a cause of action against the commissioner or his or her deputies, examiners, assistants, or employees or against the National Association of Insurance Commissioners, or its members, subscribers, officers, directors, assistants, or employees by reason of the furnishing of any such information to the commissioner.

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

(5)(A) In order to assist in the performance of the commissioner's duties, the commissioner may:

(i) Share documents, materials, or other information, including confidential and privileged documents, materials, or information, with other state, federal, and international regulatory and legislative agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, ~~and~~ with state, federal, and international law enforcement authorities, and the Arkansas Life and Health Insurance Guaranty Association and the Arkansas Property and Casualty Advisory Association, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication, or other information;

(ii) Receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, ~~and~~ from regulatory, legislative, and law enforcement officials of other foreign, alien, or domestic jurisdictions, and the Arkansas Life and Health Insurance Guaranty Association and the Arkansas Property and Casualty Advisory Association, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(iii) Enter into agreements governing sharing and use of information consistent with this subsection.

(B) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized by this subsection.

(C) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this state.

SECTION 16. Arkansas Code § 23-61-205(a)(2), concerning adoption of insurer examination reports issued by the Commissioner, is amended to read as follows:

(2) No later than sixty (60) days following completion of the examination, the examiner in charge shall file with the State Insurance Department a verified written report of the examination under oath. Upon receipt of the verified report, the department shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than ~~twenty (20)~~ thirty (30) days to make a written submission or rebuttal with respect to any matters contained in the examination report.

SECTION 17. Arkansas Code § 23-61-205(c), concerning the distribution of confidential Department examination reports to insurers, is amended to read as follows:

(c) Upon the adoption of the examination report under subdivision (a)(3)(A) of this section, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of thirty (30) days from the date the company received, by United States mail, the order issued by the commissioner to adopt the examination report, except to the extent provided in subdivision (a)(2) of this section. Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

SECTION 18. Arkansas Code § 23-61-711 is amended to read as follows:

23-61-711. Fees additional to all others currently payable -
Exception.

The fees assessed or imposed by this subchapter upon insurers, as defined or referenced in § 23-61-703, and the fees assessed or imposed in § ~~17-19-301~~ and §§ 23-61-706 - 23-61-709 upon ~~professional bail bond companies,~~ insurers, insurance agents, brokers, and other licensees or registrants are imposed in addition to all other fees, assessments, premium and privilege taxes, penalties, and other such payments such licensees or registrants pay the State of Arkansas through the State Insurance Department ~~or other state or governmental agencies~~ pursuant to applicable Arkansas laws, except that insurers' payments of these administrative and financial regulation fees in § 23-61-703 are expressly and in pertinent part to be paid in lieu of payment of department examiners' salaries, wages, and compensation due at or after each examination conducted on the insurer by the department's examiners pursuant to the provisions of § 23-61-201 et seq., and, in particular, § 23-61-206. Therefore, insurers shall still be liable for payment of and shall pay department examiners' expenses for food, lodging, and travel as directed under § 23-61-201 et seq.

SECTION 19. Arkansas Code § 23-62-204 is amended to read as follows:
23-62-204. Allowance of credit.

(a)(1) No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance contract provides, in substance, that if the ceding insurer becomes insolvent, the reinsurance is shall be payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed by the liquidation court, the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

(2) Payments under subsection (a)(1) of this section shall be made directly to the ceding insurer or to its domiciliary liquidator unless:

(A) The contract or other written agreement specifically provides another reinsurance payee if the insolvency of the ceding insurer; or

(B) The assuming insurer, with the consent of the direct insurer, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under the policy and as a substitute for the obligations of the ceding insurer to the payees.

(b)(1) Notwithstanding subsection (a) of this section, if a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for the coverage.

(2) Payment for reinsured claims under this section shall only be made by the reinsurer under the direction of the guaranty association or its designated successor.

(3) Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for the claim payment.

(c)(1) A reinsurance agreement under this section may require the domiciliary liquidator of an insolvent ceding insurer to give written notice to the assuming insurer of the pendency of a claim against the ceding insurer on the contract reinsured within a reasonable time after the reinsurance claim is filed in the liquidation proceeding.

(2)(A) During the pendency of a reinsured claim under this section, any assuming insurer may investigate the claim and may interpose, at its own expense, in the proceeding in which the claim is to be adjudicated, any defenses that it deems available to the ceding insurer, or its liquidator.

(B) An assuming insurer's expense under subdivision (c) (2)(A) of this section may be filed as a claim against the insolvent ceding insurer to the extent of the proportionate share of the benefit that may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

(C) Where two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

SECTION 20. Arkansas Code § 23-62-305 is amended to read as follows:
23-62-305. Credit allowed a domestic ceding insurer.

(a)(1) Upon the insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with this subchapter:

(A) The assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance commissioner with regulatory oversight; and

(B) The assets shall be distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies.

(2) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a ~~deduction~~ reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of this subchapter.

(3) Credit shall be allowed under subsections (b), (c), and (d) of this section only for cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume:

(A) In its state of domicile; or

(B) In the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance.

(4) Credit shall be allowed under subsections (d) and (e) of this section only if requirements under subsection (g) of this section have been satisfied.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in this state.

(c)(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

~~(1)~~(A) Files with the Insurance Commissioner evidence of its submission to this state's jurisdiction;

~~(2)~~(B) Submits to this state's authority to examine its books and records;

~~(3)~~(C) Is licensed to transact insurance or reinsurance in at least one (1) state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state; and

~~(4)~~(D) Files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile, or state of entry if an alien insurer, and a copy of its most recent audited financial statement; and ~~either:~~

~~(A)~~(i) Maintains a surplus as regards policyholders in an amount ~~which is~~ not less than twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the commissioner within ninety (90) days of its submission; or

~~(B)~~(ii) Maintains a surplus as regards policyholders in an amount less than twenty million dollars (\$20,000,000) and whose accreditation has been approved by the commissioner.

~~(d)~~(2) ~~No credit~~ Credit shall not be allowed a domestic ceding insurer, if the assuming insurer's accreditation has been revoked by the

commissioner after notice and hearing.

~~(e)(d)(1)~~ Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

~~(1)(A)~~ Maintains a surplus as regards policyholders in an amount not less than twenty million dollars (\$20,000,000); and

~~(2)(B)~~ Submits to the authority of this state to examine its books and records.

~~(2)~~ Provided, however, that the The requirement of subdivision ~~(e)(1)(d)(1)~~ of this section does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

~~(f)(e)(1)~~ Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in § 23-62-307(b), for the payment of the valid claims of its United States ~~policyholders and~~ ceding insurers, their assigns and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by licensed insurers. to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000). In the case of a group of incorporated and/or individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members, and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants. The assuming insurer shall submit to examination of its books and records by the commissioner and bear the expense of examination.

~~(2)~~ In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subdivision ~~(f)(1)~~ of this section and which has continuously transacted an insurance business outside the United States for at least three ~~(3)~~ years immediately prior to making application for accreditation, and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of ten billion dollars (\$10,000,000,000); the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United

~~States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trusteed surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.~~

~~(3)(2)(A) Such trust shall be established in a form approved by the commissioner. Credit for reinsurance shall not be granted under this section unless the form of the trust and any amendments to the trust have been approved by:~~

(i) The commissioner of the state in which the trust is domiciled; or

(ii) The commissioner of another state who, under the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(B) The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in ~~the its~~ trustees ~~of the trust~~ for the benefit of the assuming insurer's ~~its~~ United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner.

(C) The trust ~~described herein must~~ shall remain in effect for as long as the assuming insurer ~~shall have~~ has outstanding obligations due under the reinsurance agreements subject to the trust. ~~(4)~~No later than February 28 of each year, the trustees of the trust shall report to the commissioner in writing ~~setting forth~~ the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust ~~shall~~ will not expire prior to the ~~next~~ following December 31.

(3) The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars (\$20,000,000).

(4)(A) In the case of a group including incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date beginning August 1, 1995, the trust shall consist of a trusteed account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(ii) Notwithstanding any other provision of this subchapter, for reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, the trust shall consist of a trusteed account in an amount not less than the group's several insurance and reinsurance liabilities

attributable to business written in the United States; and

(iii) In addition to these trusts, the group shall maintain in trust a trustee surplus of which one hundred thousand dollars (\$100,000) shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account; and

(B)(i) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group, and shall be subject to the regulations and degree of solvency control by the group's domiciliary regulator as are the unincorporated members.

(ii) Within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner:

(a) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or

(b) If a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

~~(g)~~(f) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of ~~subsection~~ subsections (a), (b), (c), (d), or (e) of this section, but only with respect as to the insurance of risks located in jurisdictions where ~~such the~~ the reinsurance is required by applicable law or regulation of that jurisdiction.

~~(h)~~(g) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by ~~subsections (e) and (g)~~ (d) and (e) of this section shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1)(A) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of ~~such the~~ the court or of any appellate court in the event of an appeal; and

(B) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(2) This ~~provision~~ section is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if ~~such an~~ the arbitration obligation is created in the agreement.

(h) If the assuming insurer does not meet the requirements of subsections (b), (c), or (d) of this section, the credit permitted by subsection (e) of this section shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by subdivision (e)(3) of this section, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an

order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(2) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(3) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(4) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this section.

SECTION 21. Arkansas Code § 23-62-306 is amended to read as follows:

23-62-306. Reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer.

(a) ~~A~~ An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of § 23-62-305 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer, ~~and such~~ The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if ~~such~~ the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in § 23-62-307(b).

(b) This security may be in the form of:

(1) Cash;

(2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;

(3)(A) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in § 23-62-307(a), effective no later than December 31 ~~in respect~~ of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement;

(B) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(4) Any other form of security acceptable to the Insurance Commissioner.

SECTION 22. Arkansas Title 23, Chapter 63, Subchapter 1 is amended by adding an additional section to read as follows:

23-63-111. Consumer information system.

(a)(1) The Insurance Commissioner may utilize, develop, or cause to be developed a consumer information system that will provide and disseminate price and other relevant information on a readily available basis to purchasers of insurance in this state.

(2) The consumer information system may be developed by the State Insurance Department, in cooperation with other state insurance departments, through outside contracts, or in any other appropriate manner.

(3) To the extent deemed necessary and appropriate by the commissioner, licensed insurers, advisory organizations, fraternal benefit societies, health maintenance organizations, hospital and medical service corporations, farmers' mutual aid associations, and other persons or organizations involved in conducting the business of insurance in this state shall cooperate in the development and utilization of a consumer information system.

(b)(1) Any moneys assessed and received by the department for these consumer advocacy purposes under comparable prior laws and maintained by the commissioner in an account with the Arkansas State Treasury are to be used solely for the maintenance, operation, and support of the department in its role of providing consumer services and disseminating prices, and other relevant information to purchasers of insurance in this state.

(2) The commissioner may purchase items which are necessary to offer information on the department for public awareness, including advertising material on the Arkansas Insurance Department.

(3) No additional fees or assessments shall be imposed or collected to support the development or maintenance of a consumer information system under this section.

SECTION 23. Arkansas Code § 23-63-201(d)(1)(D)(ii), concerning statements required to be filed with the Insurance Commissioner by certain organization receiving charitable annuities, is amended to read as follows:

(ii) A statement certifying that it adopts and will adhere to the annuity rates as published from time to time by the ~~Committee on Gift Annuities of Dallas, Texas,~~ American Council on Gift Annuities or its successor, until such corporation or association advises the commissioner to the contrary in writing. At such latter time, the corporation or association shall then file a schedule of its new proposed maximum annuity rates for approval.

SECTION 24. Effective January 1, 2004, Arkansas Code § 23-63-205 is amended to read as follows:

23-63-205. Certificate of authority - Eligibility - Capital Funds.

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

funds as surplus as are required under § 23-63-207:

Kinds of Insurance	Minimum Capital or Surplus Required
Life	\$750,000
Accident and Health.....	750,000
Life and Accident and Health.....	750,000
Property.....	500,000
Casualty.....	750,000
Surety.....	750,000
Marine.....	500,000
Title.....	250,000
Property, Casualty, Surety, and Marine.....	750,000
Combination of other lines.....	750,000

(2)(A) As to any combination of kinds of insurance, other than combinations of kinds of insurance specifically listed in this subsection, the insurer shall possess the sum of the minimum capital or surplus required ~~by this subsection~~ by the Arkansas Insurance Code for the separate kinds of insurance it proposes to transact, ~~unless the commissioner deems it sufficient for the applicant to possess and maintain the total amount of seven hundred and fifty thousand dollars (\$750,000) for the proposed combination of lines.~~

(B) If the Arkansas Insurance Code does not specify the minimum capital or surplus for any line of insurance, then the commissioner shall affix a minimum capital and surplus not less than five hundred thousand dollars (\$500,000).

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

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

(b) An insurer holding a valid certificate of authority to transact insurance in this state immediately prior to January 1, 2002, may continue to be authorized to transact the same kinds of insurance as permitted by the certificate of authority by maintaining thereafter the same amount of paid-in capital stock, if the insurer is a stock insurer, or the amount of surplus, if the insurer is a mutual or reciprocal insurer, as required by the laws of this state for such an insurer immediately prior to January 1, 2002. However, the insurer shall not be granted authority to transact any other or additional kind of insurance, unless it then fully complies with the requirement as to capital and surplus, as applied to the kinds of insurance it then proposes to transact, as provided by this section with respect to insurers applying for original certificates of authority.

(c) Capital and surplus requirements shall be based upon all the kinds of insurance actually transacted or currently to be transacted by the insurer in any and all areas in which it operates, whether or not only a portion of the kinds are to be transacted in this state.

(d) As to surplus required for qualification to transact one (1) or more kinds of insurance and to be maintained, domestic mutual insurers, other

than mutual life insurers, shall be governed by §§ 23-69-101 - 23-69-103, 23-69-105 - 23-69-141, 23-69-143, and 23-69-149 - 23-69-156, and domestic reciprocal insurers shall be governed by §§ 23-70-101 et seq.

(e) A life insurer may also grant annuities without additional capital or additional surplus.

(f) A casualty insurer may be authorized to transact also accident and health insurance without additional capital or additional surplus.

SECTION 25. Arkansas Code § 23-63-206(a)(1)(A)(ii), concerning insurer security deposits, is amended to read as follows:

(ii)(a) On and after January 1, 2002, the provisions of subdivision (a)(1)(A)(i) of this section shall apply only to domestic insurers licensed or hereafter licensed.

(b) Foreign and alien insurers licensed or hereafter licensed shall be exempt upon filing of evidence of a satisfactory deposit in the state of domicile, Canada, Mexico, or port-of-entry state.

(c) Deposit releases will continue to be allowed after 2004.

SECTION 26. Arkansas Code § 23-63-206(a)(2)(A)(ii), concerning foreign insurer security deposits, is amended to read as follows:

(ii)(a) On and after January 1, 2002, the provisions of subdivision (a)(2)(A)(i) of this section shall apply only to domestic insurers licensed or hereafter licensed.

(b) Foreign and alien insurers licensed or hereafter licensed shall be exempt upon filing of evidence of a satisfactory deposit in the state of domicile, Canada, Mexico, or port-of-entry state.

(c) Deposit releases will continue to be allowed after 2004.

SECTION 27. Arkansas Code § 23-63-206(a)(3)(D)(i), concerning deposit releases for foreign insurers, is amended to read as follows:

(D)(i) On and after January 1, 2002, the provisions of this subdivision (a)(3) shall apply only to domestic insurers licensed or hereafter licensed.

(ii) Foreign and alien insurers licensed or hereafter licensed shall be exempt upon filing of evidence of a satisfactory deposit in the state of domicile, Canada, Mexico, or port-of-entry state.

(iii) Deposit releases will continue to be allowed after 2004.

SECTION 28. Arkansas Code § 23-63-206, concerning foreign insurer deposits, is amended to add a new subsection follows:

(c)(1) As of the effective date of this subsection, foreign and alien insurers seeking release permission must make a special filing with the commissioner to demonstrate the adequacy and sufficiency of the deposit in the state of domicile, Canada, Mexico, or port-of-entry state, in order to obtain release of deposited assets.

(2) Applicants under subdivision (c)(1) of this section shall agree to maintain deposits adequate to cover Arkansas deposit obligations at all times, by certificate of authority lines of insurance in this state as they are reflected on the Uniform Certificate of Authority Application and

shall file with the commissioner an updated certificate of deposit issued by the insurance regulator in the state of domicile, Canada, Mexico, or port-of-entry state.

SECTION 29. Arkansas Code § 23-63-216(a)(1), concerning annual financial reports of insurers, is amended to read as follows:

(a)(1)(A) Annually on or before March 1, or within any extension of time which the Insurance Commissioner for good cause may have granted, each authorized insurer shall file with the commissioner a full and true statement of its financial condition, transactions, and affairs as of the December 31 preceding in hardcopy format only and as specified by the commissioner.

(B) Beginning July 1, 2003, foreign and alien insurers authorized to transact insurance in this state may satisfy the department's filing requirements by filing with the National Association of Insurance Commissioners a hardcopy and an electronic annual statement, and electronic quarterly statements if requested, using the most recent National Association of Insurance Commissioners specifications adopted by the commissioner.

SECTION 30. Arkansas Code § 23-63-216(a)(2), concerning financial statements filed by licensed insurers, is amended to read as follows:

(2)(A) The prescribed statement shall be prepared in accordance with the most recent, companion National Association of Insurance Commissioners' "Annual Statement Instructions" and shall follow those accounting practices and procedures prescribed by the most recent National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.

(B) The statement shall be, as adopted by the commissioner, the appropriate and most recent National Association of Insurance Commissioners':

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

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

~~(C)(iii)~~ "Title Insurance Annual Statement Blank";

~~(D)(iv)~~ "Annual Statement Blank for Health" for use by hospital, medical, and dental service or indemnity corporations;

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

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

~~(G)(i)(vii) Other National Association of Insurance Commissioners' convention blank blanks as appropriate, which shall be prepared in accordance with the most recent and appropriate, companion National Association of Insurance Commissioners' "Annual Statement Instructions" and follow those accounting practices and procedures prescribed by the most recent and appropriate companion National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.~~

~~(ii)(C)~~ The commissioner is authorized to allow a life insurer or property and casualty insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of its total premium considerations or total statutory required reserves, respectively, to file the "Annual Statement Blank for Health" as its annual statement with the companion quarterly

statement forms.

SECTION 31. Effective March 1, 2004, Arkansas Code § 23-63-216, is amended to read as follows:

23-63-216. Annual statement and other information.

(a)(1) Annually on or before March 1, or within any extension of time which the Insurance Commissioner for good cause may have granted, each authorized insurer shall file with the commissioner a full and true statement of its financial condition, transactions, and affairs as of the December 31 preceding.

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

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

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

(C) "Title Insurance Annual Statement Blank";

(D) "Annual Statement Blank for Health" for use by hospital, medical, and dental service or indemnity corporations;

(E) "Fraternal Annual Statement Blank";

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

(G)(i) Other National Association of Insurance Commissioners' convention blank as appropriate, which shall be prepared in accordance with the most recent and appropriate, companion National Association of Insurance Commissioners' "Annual Statement Instructions" and follow those accounting practices and procedures prescribed by the most recent and appropriate companion National Association of Insurance Commissioners' Accounting Practices and Procedures Manual.

(ii) The commissioner is authorized to allow a life insurer or property and casualty insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least ninety-five percent (95%) of its total premium considerations or total statutory required reserves, respectively, to file the "Annual Statement Blank for Health" as its annual statement with the companion quarterly statement forms.

(3) The insurer shall furnish all information as called for by the applicable portions of the National Association of Insurance Commissioners' annual statement convention blank, and casualty and surety insurance companies shall include a report on income derived from investment of unearned premiums.

(4) The National Association of Insurance Commissioners' annual statement convention blank shall be verified by the oath of the insurer's president or vice president and secretary or actuary as applicable or, if a reciprocal insurer, by the oath of its attorney in fact or its like officers if a corporation.

(b) The statement of an alien insurer shall be verified by the oath of the insurer's United States manager or other officer authorized and shall relate only to its transactions and affairs in the United States unless the commissioner requires otherwise. If the commissioner requires a statement as to the alien insurer's affairs throughout the world, the insurer shall file the statement with the commissioner as soon as reasonably possible.

(c) The commissioner may waive any requirement under this section for

verification under oath.

(d) The commissioner shall furnish to each domestic insurer two (2) copies of the forms on which the annual statement is to be made.

(e)(1) The commissioner may refuse to continue the insurer's certificate of authority, as provided in § 23-63-211, or in his or her discretion may suspend or revoke the certificate of authority of an insurer failing to file its annual statement when due.

(2) In addition, the insurer shall be subject to a penalty of one hundred dollars (\$100) for each day of delinquency. The penalty shall be collected by the commissioner, if necessary, by a civil suit therefor brought by the commissioner in the Circuit Court of Pulaski County, unless the penalty is waived by the commissioner upon a showing by the insurer of good cause for its failure to file its report on or before the date due.

(f) At the time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by § 23-61-401.

(g)(1) In addition to information called for and furnished in connection with its annual statement, an insurer shall furnish to the commissioner as soon as reasonably possible such information with respect to any of its transactions or affairs as the commissioner may from time to time request in writing.

(2) In accordance with the specifications applicable to annual financial statements, each authorized domestic insurer and health maintenance organization and hospital or medical service corporation, or other domestic licensee so directed by the department in writing, shall also file with the commissioner a quarterly financial statement on a form prescribed by the commissioner, not later than forty-five (45) days following the end of each of the first three (3) calendar quarters of each year, excepting the fourth quarter of each calendar year which shall be reconciled in the annual financial statement.

(3) The filing specifications of this section for annual financial reports shall apply to quarterly financial reports.

(h)(1) ~~On or before March 1, 1992, and annually~~ Annually, on or before March 1 of each year ~~thereafter~~, each domestic, foreign, and alien insurer authorized to transact business in this state shall file with the National Association of Insurance Commissioners a hardcopy and an electronic copy of its annual statement, ~~convention blank~~, along with such additional filings as prescribed by the commissioner as of the December 31 preceding. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the actuarial certification. Any amendments and addendums to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners.

(2) Foreign insurers that are domiciled in a state which has a law substantially similar to this subsection shall be deemed in compliance with these requirements.

(3) In the absence of actual malice, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, task forces, delegates, National Association of Insurance Commissioners' employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks shall be acting as

agents of the commissioner under the authority of this subsection and shall not be subject to civil liability for libel, slander, or any other cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required hereunder.

(4) The commissioner may impose the sanctions set out in subsection (e) of this section on any insurer failing to file its annual statement with the National Association of Insurance Commissioners when due or within any extension of time which the commissioner for good cause may have granted.

(i)(1) Each domestic insurer authorized to transact business in this state shall include in its annual statement an opinion, as is relevant to the lines of business the domestic insurer is authorized to write, on its life and health policy and claim reserves and its property and liability loss and loss adjustment expense reserves by a qualified actuary.

(2) Such opinion shall be in the format prescribed by the National Association of Insurance Commissioners' Annual Statement Instruction Handbook.

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

(2) Each authorized insurer shall submit its annual and quarterly statement information in manual and computer-readable form using the diskette medium.

SECTION 32. Arkansas Code § 23-63-304 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

~~(d) This section does not prescribe the only means, or necessarily the required means, of serving a licensed foreign insurer or a licensed domestic reciprocal insurer. When service is made upon the designated Arkansas~~

registered agent, service shall be perfected under the Arkansas Rules of Civil Procedure.

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

SECTION 33 Arkansas Code § 23-63-503(5)(A), concerning definitions for holding company laws applicable to insurers with depository corporation affiliates, is amended to read as follows:

(5)(A) A "person" is a corporation, a partnership, an association, a joint-stock company, a business trust, an unincorporated organization, depository corporation, or any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

SECTION 34. Arkansas Code § 23-63-506(a), concerning changes in control of domestic insurers in an insurer holding company, is amended to read as follows:

(a) No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, the person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer. No person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time ~~any~~ the offer, request, or invitation is made or ~~any the~~ agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the Insurance Commissioner and has sent to the insurer, ~~and the insurer has sent to its shareholders,~~ a statement containing the information required by this section and §§ 23-63-507 - 23-63-513 and ~~such an~~ the offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner prescribed in this section and §§ 23-63-507 - 23-63-513.

SECTION 35. Arkansas Code § 23-63-909(b), as to administration and release of security deposits of insurers, is amended to read as follows:

(b)(1) The commissioner, under procedures he or she shall prescribe, may release to the insurer any part of the special additional four percent (4%) accident and health deposit ~~to the insurer~~ required under former laws.

(2) ~~Provided, that any funds withdrawn pursuant to this subsection shall be replaced within one hundred eighty (180) days after such a withdrawal.~~ For good cause, the commissioner may exempt insurers in writing from filing replacement deposits for any line of insurance, including statutory deposits for discontinued lines of insurance.

SECTION 36. Arkansas Code § 23-65-302 is amended to read as follows:
23-65-302. Exceptions.

~~The provisions of this subchapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed agents or brokers of this state: This subchapter shall not apply to reinsurance or to the following kinds of~~

insurance placed by licensed agents or brokers in this state:

- (1) Wet marine and foreign trade insurance;
- (2) Insurance on subjects located, resident, or to be performed wholly outside of this state or on vehicles or aircraft owned and principally garaged outside this state;
- (3) Insurance on property or operation of railroads engaged in interstate commerce; and
- (4) Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of the aircraft.

SECTION 37. Arkansas Code § 23-66-507 is amended to read as follows:
23-66-507. Confidentiality.

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

(b) Subsection (a) of this section does not prohibit release by the commissioner of documents and evidence obtained by the division in an investigation of suspected or actual fraudulent insurance acts:

- (1) In administrative or judicial proceedings to enforce laws administered by the commissioner;
- (2) To federal, state, or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing fraudulent insurance acts, or to the National Association of Insurance Commissioners; or
- (3) At the discretion of the commissioner, to a person in the business of insurance that is aggrieved by a fraudulent insurance act.

(c) Release of documents and evidence under subsection (b) of this section does not abrogate or modify the privilege granted in subsection (a) of this section.

SECTION 38. Arkansas Code § 23-66-508 is amended to read as follows:
23-66-508. Creation and purpose of the ~~Insurance Fraud~~ Criminal Investigation Division.

(a)(1) The ~~Insurance Fraud~~ Criminal Investigation Division is established within the Arkansas Insurance Department.

(2) The Insurance Commissioner shall appoint the full-time supervisory and investigative personnel of the division, who shall be qualified by training and experience to perform the duties of their positions.

(3)(A) The commissioner shall designate the personnel assigned to the division, who, upon meeting the qualifications established by the Arkansas Commission on Law Enforcement Standards and Training, shall have the powers of specialized law enforcement officers of the State of Arkansas for the purpose of conducting investigations under § 23-66-504 and any criminal

violations related to those investigations.

(B) Personnel hired as specialized law enforcement officers shall have a minimum of three (3) years of certified law enforcement experience or its equivalent in national or military law enforcement experience as approved by the Arkansas Commission on Law Enforcement Standards and Training.

(4) The commissioner shall also appoint clerical and other staff necessary for the division to carry out its duties and responsibilities under this subchapter.

(b) It shall be the duty of the division to:

(1) Initiate independent inquiries and conduct independent investigations when the division has cause to believe that a fraudulent insurance act may be, is being, or has been committed;

(2) Review reports or complaints of alleged fraudulent insurance activities from federal, state, and local law enforcement and regulatory agencies, persons engaged in the business of insurance, and the public to determine whether the reports require further investigation and to conduct these investigations; and

(3) Conduct independent examinations of alleged fraudulent insurance acts and undertake independent studies to determine the extent of fraudulent insurance acts.

(c) The division shall have the authority to:

(1)(A) Issue subpoenas to examine any individual under oath and to compel the production of records, books, papers, contracts, and other documents.

(B) Subpoenas shall be served in the same manner as if issued by a circuit court.

(C) If any individual fails to obey a subpoena issued and served pursuant to this subsection, upon application of the division, the Pulaski County Circuit Court or the circuit court of the county where the subpoena was served may issue an order requiring the individual to comply with the subpoena.

(D) Any failure to obey the order of the court may be punished by the court as contempt thereof;

(2) Administer oaths and affirmations;

(3) Share records and evidence with federal, state, or local law enforcement or regulatory agencies;

(4)(A) Make criminal referrals to prosecuting authorities.

(B) The prosecuting attorney of the judicial district where a criminal referral has been made shall, for the purpose of assisting in the prosecution, have the authority to appoint as special deputy prosecuting attorneys licensed attorneys in the employment of the division.

(C) The prosecuting attorney shall have the right and discretion to proceed against any person or organization on criminal referrals made hereunder, both organizational and individual liability being intended; and

(5)(A) Conduct investigations outside of this state.

(B) If the information the division seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the division to examine at the place where the information is located.

(C) The division may designate representatives, including

officials of the state in which the matter is located, to inspect the information on behalf of the division, and the division may respond to similar requests from officials of other states.

SECTION 39. Arkansas Code § 23-67-211(a), regarding a waiver of the twenty-day review period for certain property and casualty filings in competitive markets, is amended to read as follows:

(a)(1) Filings ~~as to~~ in Competitive Markets. In a competitive market, every insurer shall file with the Insurance Commissioner all rates, supplementary rate information, and supporting information for risks which are to be written in this state. The rates and information shall be filed twenty (20) days prior to the effective date. A filing shall be deemed to meet the requirements of this chapter and to become effective upon the expiration of the waiting period.

(2) Upon written request the commissioner may waive any portion of the twenty-day period provided for in this subsection (a) if:

(A) The filing has been pending for more than twenty (20) days;

(B) The current rates are inadequate; or

(C) The filing will result in a net decrease in rates.

~~(2)(3)~~ (3) In a competitive market, if the commissioner determines after a hearing or by agreement that an insurer's rates require closer supervision because of the insurer's financial condition or its rating practices, the insurer shall file with the commissioner at least sixty (60) days prior to the effective date all rates and supplementary rate information and supporting information prescribed by the commissioner. Upon application by the filer, the commissioner may authorize an earlier effective date. A filing shall be deemed to meet the requirements of this chapter and to become effective upon the expiration of the waiting period.

SECTION 40. Arkansas Code § 23-69-108(a)(1), concerning officers for domestic stock or mutual insurers, is amended to read as follows:

(a)(1) Every domestic stock or mutual insurer shall have a chief executive officer, who may or may not be the insurer's president, a president who shall be a director, and a secretary and a treasurer. They shall be chosen by the board of directors and shall hold their offices until their respective successors are chosen and qualify.

SECTION 41. Arkansas Code § 23-69-141(d), as to a domestic stock insurer's conversion to a mutual insurer, is amended to read as follows:

(d) This section ~~shall not apply to~~ is not intended to conflict with formations of, or insurer conversions to, domestic mutual holding companies under other provisions of the Arkansas Insurance Code.

SECTION 42. Arkansas Code § 23-73-105(f)(2)(A), concerning licensure eligibility of and financial stability for farmers' mutual aid associations or companies, is amended to read as follows:

(2)(A)(i) Before any association shall be authorized to write the coverages listed in subdivision (f)(1) of this section, the policy form shall have prior approval of the commissioner, in accordance with § 23-79-109, ~~the association shall have and thereafter maintain a minimum surplus of fifty thousand dollars (\$50,000) to be deposited with the commissioner in the~~

~~form of securities eligible for deposit under § 23-63-903.~~

(ii) Beginning January 1, 2004, each farmers' mutual aid association or company shall maintain unimpaired a minimum surplus of five hundred thousand dollars (\$500,000).

(iii) If immediate compliance with subdivision (f)(2)(A) of this section would cause the domestic association or company to be impaired or insolvent, the commissioner, in his or her sole discretion, may allow domestic associations or companies to augment surplus and special surplus in increments over five (5) years until December 31, 2008, to achieve compliance with the minimum requirements of subdivision (f)(2)(A) of this section.

SECTION 43. Arkansas Code § 23-73-112, concerning the minimum number of members required for domestic farmers' mutual aid associations or companies, is amended to read as follows:

23-73-112. Continuance of certificate of authority.

To qualify for and hold a certificate of authority to insure property or issue policies, the company or association must:

(1)(A) Have at least ~~fifty (50)~~ two hundred fifty (250) members who hold policies or certificates upon at least ~~fifty (50)~~ two hundred fifty (250) separate risks.

(B) An association whose membership falls below ~~fifty (50)~~ two hundred fifty (250) members shall notify the Insurance Commissioner immediately and shall have ninety (90) days from that date to bring its membership level back up to the requisite number of ~~fifty (50)~~ two hundred fifty (250) members.

(C) Failure to restore the membership level to ~~fifty (50)~~ two hundred fifty (250) members within the prescribed ninety-day period shall cause the commissioner to place the association into involuntary dissolution as contained in § 23-73-120; and

(2) Fully comply with and qualify according to the other provisions of this chapter.

(3) If immediate compliance with this subsection would cause the domestic association or company to be ineligible for a continued certificate of authority to operate in this state, the commissioner, in his or her sole discretion, may allow domestic associations or companies to augment membership in increments over five (5) years until December 31, 2008, to achieve compliance with the minimum requirements of this section.

SECTION 44. Arkansas Code § 23-73-113, concerning certificates of authority for farmers' mutual aid associations or companies, is amended to read as follows:

23-73-113. Continuance of certificate of authority.

(a) For continuance of an original certificate of authority, a farmers' mutual aid company or association shall file with the Insurance Commissioner:

(1) A concise statement of its financial condition, management, and affairs on a form satisfactory to the commissioner;

(2) Other documents or stipulations as the commissioner may reasonably require to evidence compliance with the provisions of this chapter; and

(3) Pay any fees required by the Arkansas Insurance Code to be

paid for filing the accompanying documents and for the certificate of authority if granted.

(b)(1) Beginning September 1, 2003, the commissioner shall prepare and forward to each farmers' mutual aid association or company, licensed in good standing on department records as of that date, a new Arkansas certificate of authority, evidencing full licensure from the original year and date on department records when each association or company commenced business in this state.

(2) The certificate under subdivision (b)(1) of this section shall replace any previous certificate of authority, which shall be void upon the effective date of the new certificate.

(3) The new certificate shall remain in force and effect until cancelled, revoked, expired, or surrendered if:

(A) The association or company is entitled to the new certificate;

(B) The association or company timely and satisfactorily complies with annual continuation requirements of this section and other applicable laws or rules.

(4) Although issued to the association or company under this law, the certificate of authority is the property of the State of Arkansas, and, upon any termination or expiration, the association or company shall promptly deliver the certificate to the commissioner.

(5)(A) If for any reason the association or company is not entitled to a continuation of the certificate of authority, the commissioner may refuse to continue the certificate under this section.

(B) If the commissioner refuses to continue the certificate under this section, the certificate shall expire on the next April 30 following the commissioner's written or electronic notice to the association or company.

(c) The certificate of authority of a farmers' mutual aid association or company may be suspended or revoked or otherwise cancelled, after notice and a hearing, by the commissioner:

(1) If the association or company no longer meets the requirements for the authority originally granted, on account of a deficiency of assets or otherwise, or if the association or company is impaired or insolvent;

(2) If the association or company is using methods or practices in the conduct of its business that render further transactions of insurance in Arkansas hazardous or injurious to its members, policyholders, or the public;

(3) If the association or company has refused to be examined or to produce its accounts, records, or files for examination, or if any of its officers have refused to give information with respect to its affairs, when required by the commissioner;

(4) If the association or company has failed to pay a final judgment against it; or

(5) If the association or company has violated or failed to comply with applicable provisions of the Arkansas Code or any lawful order or regulation of the commissioner.

SECTION 45. Arkansas Code § 23-77-107(a)(2), concerning the suspension and licenses for automobile clubs, is amended to read as follows:

(2) If the automobile club or association no longer meets the requirements for the authority originally granted due to a deficiency in the deposit required by § 23-77-106(d)(1)(A) or the failure to maintain a ~~surety bond~~ deposit of securities or other assets acceptable to the commissioner, in such amount as prescribed by § 23-77-106(d)(1)(A); or

SECTION 46. Arkansas Code § 23-79-121(a), concerning insurance policies delivered to consumers, is amended to read as follows:

(a)(1) Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled to receive it, within a reasonable period of time after its issuance, except where a condition required by the insurer has not been met.

(2)(A) The insurer may mail or deliver an electronic copy of the policy to the insured or to the person entitled to receive it.

(B) The insurer shall retain the electronic transmittal, along with an electronic or imaged copy of the policy, as a part of the insurer's records.

SECTION 47. Arkansas Code § 23-79-123(a) concerning delivery of insurance certificates or endorsements to policyholders, is amended to read as follows:

(a)(1) Any insurance policy terminating by its terms at a specified expiration date and not otherwise renewable may be renewed or extended at the option of the insurer upon a currently authorized policy form and at the premium rate then required for that type of policy, for a specific additional period or periods by certificate or by endorsement of the policy, or by electronic certificate or electronic endorsement properly executed, and without requiring the issuance of a new policy.

(2) The insurer shall retain the electronic transmittal, and a copy of the certificate or endorsement, as a part of the insurer's records.

SECTION 48. Arkansas Code § 23-81-304(b)(1)(A), concerning minimum values for annuity contracts, is amended to read as follows:

(b)(1)(A) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of ~~three percent (3%)~~ one and one-half percent (1.5%) per annum of percentages of the net considerations paid prior to the time, decreased by the sum of:

(i) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of ~~three percent (3%)~~ one and one-half percent (1.5%) per annum; and

(ii) The amount of any indebtedness to the insurer on the contract, including interest due and accrued and increased by any existing additional amounts credited by the insurer to the contract.

SECTION 49. Arkansas Code § 23-81-308 is amended to read as follows:
23-81-308. Maturity date.

(a) For the purpose of determining the benefits calculated under §§ 23-81-306 and 23-81-307, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which

election shall be permitted by the contract. This date shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(b) This section does not apply to annuities funding funeral and related expenses.

SECTION 50. Arkansas Code Title 23, Chapter 86, Subchapter 3 is amended to add an additional section to read as follows:

23-86-315. Commissioner's regulatory authority.

The Insurance Commissioner may promulgate, adopt, and enforce reasonable rules and regulations necessary and proper to enforce this subchapter.

SECTION 51. Arkansas Code § 23-89-213 is amended to read as follows:

23-89-213. ~~Premium delinquencies~~ Auto Liability – Proof of insurance card.

All insurance companies authorized to do business in this state and issuing automobile liability insurance policies in this state shall furnish to the insured a proof of insurance card which shall contain the following information:

(1) The name, address, and telephone number of the insurer; ~~and as the National Association of Insurance Commissioners' five-digit identification number assigned to the insurer;~~

(2) The name and telephone number of the local agent through whom the policy was issued, if any, or a blank space where a local agent's name may be stamped or filled in;

(3) The policy number;

(4) The effective date of the insurance policy coverage and the expiration date of the insurance policy coverage;

(5) The vehicle identification number and a brief description of the insured vehicle; and

(6) The name and address of the insured person.

SECTION 52. Arkansas Code § 23-100-101 is amended to read as follows:
23-100-101. Title.

This chapter shall be known as "The ~~Insurance Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund Act".

SECTION 53. Arkansas Code § 23-100-102(a), concerning insurers' payment extensions for antifraud assessments and penalties for noncompliance, is amended to read as follows:

(a) The Insurance Commissioner may grant any licensed insurer an extension for payment of the annual antifraud assessment for good cause shown, upon written application of the licensed insurer received at the State Insurance Department on or before each annual due date. Absent the commissioner's approval of such time extensions for good cause, licensed insurers failing timely to pay the antifraud assessment shall be subject to a penalty of one hundred dollars (\$100) per day for each day of delinquency, payable to the ~~Insurance Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund. The commissioner may pursue any appropriate legal remedies to collect the antifraud assessment and penalties

due and unpaid from any insurer. Further, the commissioner may in his discretion order suspension of the delinquent insurer's Arkansas certificate of authority after notice and hearing until the payment of all such antifraud assessments and penalties is remitted to the fund. Absent grant of his waiver for good cause shown, the commissioner may revoke the Arkansas certificate of authority of any delinquent insurer consistently refusing and failing without good cause to remit payment of these antifraud assessments and penalties to the fund pursuant to this section.

SECTION 54. Arkansas Code § 23-100-103 is amended to read as follows:

23-100-103. The ~~Insurance Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund - Creation.

(a) There is hereby established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the ~~Insurance Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund to be used to defray the expenses of the ~~Insurance Fraud~~ Criminal Investigation Division of the State Insurance Department in the discharge of its administrative and regulatory powers and duties as prescribed by law.

(b) No money is to be appropriated from this fund for any purpose except for the personal services and operating expenses, maintenance and operations, and support of and improvements to the division, and at the direction of the Insurance Commissioner for the use, benefit, and support of the division.

(c) The fund established pursuant to this section shall be administered, disbursed, and invested under the direction of the commissioner and the Treasurer of State.

(d) All income derived through investment of the fund, including, but not limited to, interest and dividends, shall be credited as investment income to the fund. All income derived through grants, refunds, gifts, or any other sources, to the fund shall be credited as income to the fund and deposited therein.

(e) Further, all moneys deposited to the aforementioned fund shall not be subject to any deduction, tax, levy, or any other type of assessment, except as may be provided by law.

SECTION 55. Arkansas Code § 23-100-104(a)(1) is amended to read as follows:

(a)(1) Notwithstanding the provisions of § 26-57-601 et seq., § 23-61-701 et seq., and other provisions of Arkansas law, all licensed insurers, including, but not limited to, all licensed stock and mutual insurance companies, reinsurers, health maintenance organizations, fraternal benefit societies, hospital and medical service corporations, stipulated premium insurers, farmers' mutual aid associations, and prepaid legal insurers, shall, not later than June 30, 1997, for the 1996-1997 fiscal year, and thereafter annually on or before June 30 for all subsequent years at the time and in the manner as the Insurance Commissioner shall prescribe, or at times alternate from June 30 annually as the commissioner shall prescribe, pay to the ~~Insurance Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund, in addition to the premium taxes and fees now required under existing law, a nonrefundable antifraud assessment as directed by the commissioner for the reasonable and necessary expenses and operation of the ~~Insurance Fraud~~ Criminal Investigation Division.

SECTION 56. Arkansas Code § 23-100-105 is amended to read as follows:
23-100-105. Insurers' antifraud fees - Deposit into the ~~Insurance~~
~~Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund.

The Insurance Commissioner shall deposit all antifraud assessments and any penalties assessed under this chapter, as well as any other income received for purposes set out in § 23-100-103(a), into the ~~Insurance Fraud~~
State Insurance Department Criminal Investigation Division Trust Fund as special revenues.

SECTION 57. Arkansas Code § 23-100-107 is amended to read as follows:
23-100-107. The ~~Insurance Fraud~~ State Insurance Department Criminal
Investigation Division Trust Fund - Department vouchers and Auditor of State warrants.

All antifraud assessments, penalties, and revenues provided in this chapter received as special revenues for the ~~Insurance Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund and deposited therein shall be deemed for all purposes special revenues of the fund and of the State Insurance Department for the sole support, operation, and maintenance of the ~~Insurance Fraud~~ Criminal Investigation Division of the State Insurance Department, and, when paid into the State Treasury by the Insurance Commissioner, shall be maintained by the State Treasury as the ~~Insurance Fraud~~ State Insurance Department Criminal Investigation Division Trust Fund, separate from all other funds, and available only for the payment of the expenses of the division pursuant to the appropriations therefor. The Auditor of State shall, upon proper voucher from the commissioner, issue his warrant on the Treasurer of State in payment of all salaries and other expenses incurred in the administration of this chapter.

SECTION 58. Arkansas Code § 26-57-606 is repealed.

~~26-57-606. Foreign automobile insurance companies - Annual reports. Each alien and foreign insurance company insuring motor vehicles in this state shall annually file a report with the Insurance Commissioner showing the total premiums collected on collision, comprehensive, and liability insurance written on motor vehicles, the licensed address of which is a city or town in the state, and the total premium taxes paid thereon to the state. The report shall show separately the premiums collected upon insurance policies or contracts for motor vehicles addressed in each city or town in this state and the amount of premium taxes paid to the State of Arkansas on such premiums.~~

SECTION 59. Arkansas Code § 26-57-614(e), concerning premium taxes for fire protection services, is amended to read as follows:

(e)(1) Premium tax payments shall be made upon company checks payable to the Fire Protection Premium Tax Fund.

(2)(A) If the premium taxes required to be paid are less than twenty-five dollars (\$25.00), the insurer may defer payment to the following quarter or quarters of that calendar year.

(B) However, the tax payment shall be remitted to the State Insurance Department no later than March 1 of the following year, coincident with the filing of the annual statement.

SECTION 60. Arkansas Code § 27-19-717 is amended to read as follows:
27-19-717. Money or security as proof.

(a)(1)(A) Proof of financial responsibility may be evidenced by the certificate of the ~~Insurance Commissioner~~ State Revenue Commissioner that the person named therein has deposited with him ~~sixty-five thousand dollars (\$65,000)~~ seventy-five thousand dollars (\$75,000) in cash or securities such as may be legally purchased by savings banks or for trust funds of a market value of ~~sixty-five thousand dollars (\$65,000)~~ seventy-five thousand dollars (\$75,000).

(B) Surety bonds will no longer be accepted for the statutory deposit after the effective date of this subdivision (a)(1)(B).

(2) The commissioner shall not accept any such deposit and issue a certificate therefor and the office shall not accept the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b)(1) The deposit shall be held by the commissioner to satisfy, in accordance with the provisions of this subchapter, any execution on a judgment issued against the person making the deposit, for damages, including damages for care and loss of services because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a vehicle of a type subject to registration under the laws of this state after the deposit was made.

(2) Money or securities so deposited shall not be subject to attachment or execution unless the attachment or execution shall arise out of a suit for damages as indicated.

SECTION 61. Arkansas Code § 27-19-719 is amended to read as follows:
27-19-719. Substitution of proof.

The office shall consent to the cancellation of any bond or certificate of insurance or the office shall direct, and the ~~Insurance Commissioner~~ State Revenue Commissioner shall return, any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

SECTION 62. Subsection (a) of Arkansas Code 27-19-721(a), concerning refund deposits posted to meet vehicle financial responsibility laws, is amended to read as follows:

(a) The office shall, upon request, consent to the immediate cancellation of any bond or certificate of insurance, or the office shall direct, and the ~~Insurance Commissioner~~ State Revenue Commissioner shall return, to the person entitled thereto any money or securities deposited pursuant to this subchapter as proof of financial responsibility, or the office shall waive the requirement of filing proof, in any of the following events:

(1) At any time after three (3) years from the date the proof was required when, during the three-year period preceding the request, the office has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license or registration of the person by or for whom the proof was furnished; or

(2) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor

vehicle; or

(3) In the event the person who has given proof surrenders his license and registration to the office.

SECTION 63. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the laws of this state regarding insurance regulation and vehicle liability deposits for proof of financial responsibility are inadequate for the protection of the public; and that the immediate passage of this act is necessary in order to provide for the adequate protection of the public. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety, shall become effective on July 1, 2003.

The Amendment was read _____
By: Representative Biggs
AAF/CDS - 031820030957
CDS363

Chief Clerk