

ARKANSAS SENATE
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of Senate Bill No. 1087

"TO AMEND VARIOUS LAWS CONCERNING FARMERS' MUTUAL AID
ASSOCIATIONS."

Amendment No. 1 to Senate Bill No. 1087.

Amend Senate Bill No. 1087 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 23-73-105(f)(2)(A), concerning an association's authorization to write a homeowner or farm owner policy, is amended to read as follows:

(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, and 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 and the association shall have and thereafter maintain with the commissioner a statutory deposit of not less than fifty thousand dollars (\$50,000) in the form of securities eligible under § 23-63-903.

(ii)(a) After January 1, 2006, each association or company shall maintain an unimpaired minimum surplus of five hundred thousand dollars (\$500,000).

(b)(1) If compliance with subdivision (f)(2)(A)(ii)(a) of this section would cause the association or company to become impaired or insolvent, the Insurance Commissioner may allow that domestic association or company to augment incrementally its unimpaired minimum surplus in order for the association or company to achieve compliance no later than December 31, 2010.

(2) For good cause shown in writing by an association or company, the commissioner may grant a one-time extension of the deadline set for compliance in subdivision (f)(2)(A)(ii)(b)(1) of this section for a period not to exceed two (2) years.

SECTION 2. Arkansas Code § 23-73-112 is amended to read as follows:
23-73-112. Qualifications for certificate of authority.

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

(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~~ If an association fails to restore the membership level to ~~fifty (50)~~ two hundred fifty (250) members within the prescribed ninety-day period ~~shall cause,~~ the commissioner may:

(i) Direct the association to follow a course of action that will protect the assets of the association and allow for continued protection of the members; or

(ii) ~~to place~~ Place the association into involuntary dissolution as contained in § 23-73-120; and

(2)(A)(i) If immediate initial compliance with § 23-73-112(1) would cause a domestic association or company to be ineligible for a continued certificate of authority to operate in this state on the effective date of this section, the commissioner may allow that domestic association or company to augment its membership in increments in order for it to achieve compliance with the minimum requirements by no later than December 31, 2006.

(ii) For good cause shown in writing by an association or company, the commissioner may grant a one-time extension of the deadline set for compliance in subdivision (2)(B)(i) of this section for a period not to exceed one (1) year;

(3)(A) Maintain contracts or treaties of reinsurance based on its risk and surplus level with insurance companies, excluding surplus lines insurers, licensed or otherwise registered to conduct that business in the State of Arkansas.

(B) Indemnity reinsurance contracts or treaties shall be structured to provide protection to the company or association against a reduction of the surplus to an extent that the reduction:

(i) Endangers the solvency of the company or association; or

(ii) Hinders the company's or association's ability to pay claims made by policyholders; and

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

SECTION 3. Arkansas Code § 23-73-113 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) After September 1, 2005, the commissioner shall prepare and send to each qualified farmers' mutual aid association or company a substitute Arkansas certificate of authority evidencing full licensure from the original date when the association or company was issued a certificate of authority.

(2)(A) A certificate issued under subdivision (b)(1) of this section shall:

(i) Render any previous certificate of authority null and void as of the effective date of the new certificate;

(ii) Remain in force and effect until it expires or is suspended, revoked, or surrendered; and

(iii) Be continuous, subject to compliance with annual fee and reporting requirements.

(B) The association or company shall promptly deliver the certificate to the commissioner upon the certificate's expiration, suspension, revocation, or surrender.

(C)(i) If for any reason the association or company is not entitled to a continuation of the certificate of authority, the commissioner:

(a) May refuse to continue the certificate;
and

(b) Shall give either written or electronic notice of the refusal to continue the certificate to the association or company.

(ii) The certificate of authority shall expire on the next May 1 following the notice provided in subdivision (b)(2)(C)(i)(b) of this section.

(c) After notice and a hearing, the commissioner may suspend or revoke a certificate of authority if the association or company:

(1) No longer meets the requirements for holding a certificate of authority or is impaired or insolvent;

(2) Is using methods or practices in the conduct of its business that unreasonably expose its members, policyholders, or the public to injury;

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

(4) Has failed to pay a final judgment against it; or

(5) Has violated or failed to comply with any applicable provision of the Arkansas Code or any lawful order or regulation of the commissioner.

SECTION 4. Arkansas Code § 23-73-120 is amended to read as follows:
23-73-120. Dissolution.

(a)(1) Voluntary. An association or company may at any meeting of its members, due notice of the time, place, and purpose of which shall have been given to its members and the Insurance Commissioner, by a vote of two-thirds (2/3) of the members present or represented by proxy at the meeting, discontinue its operations and settle its affairs.

(2) Voting shall be conducted by written ballot which shall be signed by the member, on a ballot form approved by the commissioner prior to voting.

~~(3) Thereupon it shall designate a committee of three (3) of its members who shall, on behalf of the association or company and under the supervision of the commissioner, liquidate its assets, pay its debts and expenses, and divide any remaining surplus among the existing members and those who were members within the preceding three (3) years, as they may be entitled.~~

(3)(A) After the members have voted to dissolve, the association or company shall file a plan of dissolution with the commissioner for approval.

(B) The dissolution plan must include provisions that:

(i) Allow current policyholders to obtain similar coverage with another licensed insurer; and

(ii) Designate a committee of policyholders to liquidate assets and pay debts or expenses.

(4) After the commissioner has approved the dissolution plan, the designated committee of policyholders shall liquidate any assets and pay the debts and expenses of the association or company.

~~(4)(5)~~ Upon final settlement of all the affairs of the association by the committee, it shall make a final report and accounting of the proceedings of the dissolutions which shall be signed by its members and filed with and approved by the commissioner.

~~(5)(6)~~ If the commissioner approves the final report, the commissioner shall transmit to the committee a certificate of approval and thereupon the association shall be deemed dissolved and shall cease to exist. The commissioner shall certify the dissolution to the Secretary of State.

~~(6)(7)~~ The committee shall have its necessary and reasonable expenses reimbursed in the dissolution of the association or company as approved by the commissioner.

(b) Involuntary. An association or company shall be statutorily dissolved in accordance with the provisions of §§ 23-68-101 – 23-68-113 and 23-68-115 – 23-68-132.

SECTION 5. Arkansas Code § 23-88-303 is amended to read as follows:

23-88-303. Arkansas Rural Risk Underwriting Association – Plan of property insurance.

(a)(1) All insurers licensed to transact property insurance, as defined in § 23-62-104, shall become members of the Arkansas Rural Risk Underwriting Association.

(2) For the purposes of this section, farmers' mutual aid associations or companies are insurers and are subject to the assessments and other requirements imposed on insurers under this section.

(b) This association shall provide a plan of property insurance to insurable rural risk applicants. Rural risk applicants are those applicants seeking insurance on risks located in geographic areas to be determined "rural areas" by the governing board, subject to the approval of the Insurance Commissioner.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the laws of this state as to regulation of farmers' mutual aid associations or companies are inadequate for the protection of the public and that this act is immediately necessary in order to provide for the adequate protection of the public. Therefore, an

emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Horn

GLG/TRA - 03-22-2005 15:15

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Secretary