

State of Arkansas  
76th General Assembly  
Regular Session, 1987  
By: Representative Hays

HOUSE BILL 1453

"AN ACT TO AMEND SECTION 181 OF ACT 148 OF 1959, THE SAME BEING ARKANSAS STATUTES ANNOTATED SECTION 66-2901, TO ALLOW THE INSURANCE COMMISSIONER TO ISSUE CEASE AND DESIST ORDERS AS TO PERSONS ACTING AS OR AIDING UNAUTHORIZED INSURERS IN THIS STATE; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 181 of Act 148 of 1959, the same being Arkansas Statute 66-2901, is hereby amended to read as follows:

"Section 181. (1) No person shall in this State act as agent for, or otherwise represent or aid on behalf of another, any insurer not then authorized to transact insurance in this State, in the solicitation, negotiation or effectuation of insurance, inspection of risks, fixing of rates, investigation or adjustment of losses, collection of premiums, or in any other manner in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this State.

(2) (a) Whenever the Commissioner shall have reason to believe that any person has been acting as an unauthorized insurer in this State as defined in Section 8 in violation of Sections 10 and 43, or acting as an agent for, or otherwise aiding on behalf of another, an unauthorized insurer in this State in violation of subsection (1), and that an action by him in respect thereto would be in the best interests of the public, he shall issue and serve upon such person by certified mail, return receipt requested, an order containing a statement of the charges in that respect and requiring such person immediately to cease and desist from the acts, methods or practices stated. The Commissioner may, in his discretion, order the immediate suspension of any license issued by him pending further proceedings under subsection (b) of this Section.

(b) Such order shall contain a provision that within twenty (20) days from receipt of the order, such person shall have an opportunity to be heard in person or by counsel and to show cause why such acts, methods or practices are not violations of the Arkansas Insurance Code, and why the Commissioner should modify or set aside any order issued by him under this Section. Upon good cause shown, the Commissioner shall permit any person to intervene, appear, and be heard by counsel or in person at such hearing.

(3) Any person who violates or otherwise fails to comply with a cease and desist order of the Commissioner under this Act while such order is in effect may be subject at the discretion of the Commissioner to any one (1) or more of the following:

(a) A monetary penalty of not more than \$10,000; and  
(b) Suspension or revocation of such person's license; and  
(c) Upon the Commissioner's petition filed in the Circuit or Chancery Court of Pulaski County, and upon good cause shown, such Court may order injunctive relief.

(4) The provisions of Section 36, as to witnesses and evidence; Sections 37 and 221, as to immunity from prosecution; Sections 38, 39, and 40, as amended, as to hearings; Sections 41 and 42, as amended, as to orders on hearings and appeals of orders; and Section 216, as amended, as to judicial review of cease and desist orders, shall be applicable to hearings held by and orders issued by the Commissioner under this Act.

(5) The Commissioner may promulgate such reasonable rules and regulations as are necessary to carry out the provisions of this Act.

(6) The Commissioner shall have the power to examine and investigate into the affairs of every person suspected of engaging in activities which are prohibited by this Act or by the Arkansas Insurance Code, as amended.

(7) The powers vested in the Commissioner by this Act shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law or other provisions of the Arkansas Insurance Code, as amended, with respect to activities which are prohibited by this Act or the Arkansas Insurance Code, as amended.

(8) This section shall not apply to:

(a) Acceptance of service of process by the Commissioner under Section 185.

(b) Surplus lines insurance, and other transactions as to which a

certificate of authority is not required of an insurer, as stated in Section 44."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

