

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill

HOUSE BILL 1870

4 **By: Representatives Newman, Turner and D. Roberts**

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
9 INSURANCE CODE, THE SAME BEING ARKANSAS CODE ANNOTATED
10 SECTIONS 23-63-802 THROUGH 23-94-202, AND
11 RELATED LAWS; AND FOR OTHER PURPOSES."

12

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

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15 SECTION 1. Arkansas Code 23-63-802 is hereby amended to read as
16 follows:

17 "23-63-802. Eligible investments.

18 (a) Insurers shall invest in, or lend their funds on the security of,
19 and shall hold as invested assets only eligible investments as prescribed in
20 23-63-801 - 23-63-833 and 23-63-835.

21 (b) Any particular investment held by an insurer on January 1, 1960,
22 and which was a legal investment at the time it was made, or which the insurer
23 was legally entitled to possess immediately prior to January 1, 1960, shall be
24 deemed to be an eligible investment.

25 (c) Eligibility of an investment shall be determined as of the date of
26 its making or acquisition, except as stated in subsection (b) of this section.

27 (d) Any investment limitation based upon the amount of the
28 insurer's assets or particular funds shall relate to such assets or funds as
29 shown by the insurer's annual statement as of the December 31 next preceding
30 the date of acquisition of the investment by the insurer, or as shown by a
31 current financial statement filed with the commissioner.

32 (e) None of the requirements, restrictions, limitations, or
33 prohibitions for investments made under this subchapter or contained in any
34 regulation promulgated pursuant thereto, shall be preempted by the provisions
35 of section 106 of Title 1 of the Secondary Mortgage Market Enhancement Act

1 of 1984 (15 U.S.C. §77r-1) (SMMEA). The provisions of this subchapter and
2 any regulations promulgated pursuant thereto that pertain to investments in
3 the categories of securities specified in paragraphs one and two of
4 subsection (a) of SMMEA shall remain in full force and effect notwithstanding
5 the enactment of SMMEA."

6

7 SECTION 2. Arkansas Code 23-65-101 is hereby amended to read as
8 follows:

9 "23-65-101. Unauthorized insurance transactions prohibited.

10 (a) (1) No person shall in this State act as agent or broker for, or
11 otherwise represent or aid on behalf of another, any insurer or health
12 maintenance organization not then authorized to transact insurance in this
13 State, in the solicitation, negotiation or effectuation of insurance,
14 inspection of risks, fixing of rates, investigation or adjustment of losses,
15 collection of premiums, or in any other manner in the transaction of insurance
16 with respect to subjects of insurance resident, located or to be performed in
17 this State.

18 (2) No person shall act as a solicitor, adjuster, consultant,
19 without first obtaining appropriate licensure or registration as required by
20 the insurance laws of this State for the transaction of insurance with respect
21 to subjects of insurance or self-insurance resident, located or to be
22 performed in this State. *No person shall act as a multiple employer trust or*
23 *self-insurance plan providing disability benefits to citizens of this State*
24 *without first obtaining appropriate registration as required by §23-92-101;*
25 *provided, however, this provision shall not be deemed to require registration*
26 *by multiple employer trusts or self-insurance plans which are exempt from*
27 *registration under the Employee Retirement Income Security Act of 1974. No*
28 *person shall act as a third party administrator for multiple employer trusts*
29 *or self-insurance plans providing disability insurance benefits to the*
30 *citizens of this State without first obtaining appropriate registration as*
31 *required by §§ 23-92-102 et seq.*

32 (3) Whenever the commissioner shall have reason to believe that:

33 (A) Any person has been acting as an unauthorized insurer
34 in this State as defined in §23-60-102(12), in violation of §§23-60-110 and
35 23-63-201; or

1 (B) Any person has been acting as an agent or broker for,
2 or otherwise aiding on behalf of another, an unauthorized insurer or health
3 maintenance organization in this State in violation of subsection (1) of this
4 section; or

5 (C) Any person has been acting as an unauthorized licensee
6 or registrant in violation of subsection (a) (2) of this section; and that an
7 action by him in respect thereto would be in the best interests of the public,
8 he shall issue and serve upon such person by certified mail, return receipt
9 requested, an order containing a statement of the charges in that respect and
10 requiring such person immediately to cease and desist from the acts, methods
11 or practices stated. The commissioner may, in his discretion, order the
12 immediate suspension of any license or registration issued by him pending
13 further proceedings under subdivision (4) of this section.

14 (4) The order shall contain a provision that within twenty (20)
15 days from receipt of the order, the person shall have an opportunity to be
16 heard in person or by counsel and to show cause why those acts, methods or
17 practices are not in violation of the Arkansas Insurance Code, and why the
18 commissioner should modify or set aside any order issued by him under this
19 section. Upon good cause shown, the commissioner shall permit any person to
20 intervene, appear, and be heard by counsel or in person at the hearing.

21 (b) Any person who violates or otherwise fails to comply with a cease
22 and desist order of the commissioner under this section while that order is in
23 effect may be subject, at the discretion of the commissioner, to any one (1)
24 or more of the following:

25 (1) A monetary penalty of not more than ten thousand dollars
26 (\$10,000); and

27 (2) Suspension or revocation of the person's license or
28 registration; and

29 (3) Upon the commissioner's petition filed in the Circuit or
30 Chancery Court of Pulaski County, and, upon good cause shown, that Court may
31 order injunctive relief.

32 (c) The following shall be applicable to hearings held by and orders
33 issued by the commissioner under this section:

34 (1) The provisions of §23-61-301, as to witnesses and evidence;

35 (2) The provisions of §§23-61-302 and 23-66-214, as to immunity

1 from prosecution;

2 (3) The provisions of §§23-61-303, 23-61-304, and 23-61-305, as
3 to hearings;

4 (4) The provisions of §§23-61-306 and 23-61-307, as to orders on
5 hearings and appeals of orders; and

6 (5) The provisions of §23-66-212, as to judicial review of cease
7 and desist orders.

8 (d) The commissioner may promulgate such reasonable rules and
9 regulations as are necessary to carry out the provisions of this section.

10 (e) The commissioner shall have the power to examine and investigate
11 into the affairs of every person suspected of engaging in activities which
12 are prohibited by this section or by the Arkansas Insurance Code.

13 (f) The powers vested in the commissioner by this section shall be
14 additional to any other powers to enforce any penalties, fines, or forfeitures
15 authorized by law or other provisions of the Arkansas Insurance Code with
16 respect to activities which are prohibited by this section or the Arkansas
17 Insurance Code.

18 (g) This section shall not apply to:

19 (1) Acceptance of service of process by the commissioner under
20 §23-65-203;

21 (2) Surplus lines insurance and other transactions as to which a
22 certificate of authority is not required of an insurer, as stated in
23 §23-63-201."

24

25 SECTION 3. Repealer. Arkansas Code 23-65-105 is hereby repealed.

26

27 SECTION 4. Arkansas Code 23-65-103 is hereby amended by adding new
28 Subsection (i), to read as follows:

29 "(i) The tax specified in subsection (c) shall not be due and payable
30 to this State in the event the unlicensed or unauthorized insurer reports and
31 pays premium tax to this State pursuant to Ark. Code §26-57-603 et seq. for
32 these independently procured coverages. Upon receipt of duplicate payment of
33 tax from the insured and the unlicensed or unauthorized insurer, this State
34 shall refund to the insured the amount of the duplicate payment."

35

1 SECTION 5. Arkansas Code 23-67-119, Subsection (3), is hereby
2 amended to read as follows:

3 "(3) (A) Every rate service organization and every insurer which makes
4 its own rates for workers' compensation and employers' insurance, within a
5 reasonable time after receiving written request therefor and upon payment of
6 such reasonable charge as it may make, shall furnish to any insured affected
7 by a rate made by it, or to the authorized representative of the insured, all
8 pertinent information as to the rate;

9 (B) Every rate service organization and every insurer which
10 makes its own rates shall provide within this state reasonable means whereby
11 any person aggrieved by the application of its rating system may be heard, in
12 person or by his authorized representative, on his written request to review
13 the manner in which the rating system has been applied in connection with the
14 insurance afforded him.

15 (i) If the rate service organization or insurer fails to
16 grant or rejects the request within thirty (30) days after it is made, the
17 applicant may proceed in the same manner as if his application had been
18 rejected.

19 (ii) Any party affected by the action of the rate service
20 organization or the insurer on the request may, within thirty (30) days after
21 written notice of the action, appeal to the commissioner.

22 (iii) The commissioner shall be furnished a written
23 transcript of the proceedings before the rate service organization or the
24 insurer including a written memorandum of decision. The commissioner shall,
25 within thirty (30) days after submission of the transcript and memorandum of
26 decision, render his decision on the appeal, which decision shall be based on
27 the transcript and memorandum of decision submitted. The commissioner shall
28 promptly notify the appellant and the rate service organization or insurer in
29 writing of his decision on the appeal."

30

31 SECTION 6. Arkansas Code 23-71-110 is hereby amended to read as
32 follows:

33 "23-71-110. Guaranty fund deposit.

34 (a) (1) Every insurer shall have deposited and maintain on deposit with
35 the commissioner cash or acceptable securities in amounts based upon the

1 amount of the insurer's admitted assets as of December 31st of the preceding
 2 calendar year as follows:

- 3 (A) \$000,001 to \$250,000 - \$25,000 minimum deposit;
- 4 (B) \$250,001 to \$500,000 - \$50,000 minimum deposit;
- 5 (C) \$500,001 to \$1,000,000 - \$75,000 minimum deposit;
- 6 (D) Over \$1,000,000 - \$100,000 minimum deposit.

7 The commissioner shall have the discretion to require deposits in excess of
 8 those enumerated if such a deposit is in the best interest of the public and
 9 the insurer's policyholders.

10 (2) This deposit shall be known as the 'guaranty fund' and shall
 11 be held for the purpose of guaranteeing the payment of any final judgment
 12 rendered against the insurer on any claim arising under any of its contracts
 13 of insurance.

14 (3) If the insurer fails to pay the judgment, the commissioner
 15 shall pay the judgment from the insurer's deposit and for that purpose may
 16 liquidate at current market value any securities so deposited.

17 (b) Upon applying the deposit or any part thereof necessary to pay any
 18 judgment, the commissioner shall so notify the insurer, requiring the insurer
 19 to fully replenish and restore the deposit to the amount previously required
 20 as well as any additional amounts the commissioner may require within sixty
 21 (60) days after date of notice. If the deposit is not so restored within
 22 sixty (60) days, the commissioner shall revoke the certificate of authority
 23 until the insurer is fully in compliance with this chapter.

24 (c) The guaranty fund deposit may be either a part of the insurer's
 25 capital stock or part of its surplus or undivided profits and shall be
 26 considered an asset and a part of the insurance fund of the insurer.

27 (d) (1) When an insurer desires to relinquish its business in this
 28 state, the commissioner shall, on application of the insurer under oath of
 29 its president or principal officer and secretary or actuary, publish notice
 30 of such intention at least once a week for four (4) consecutive weeks in a
 31 newspaper of general circulation published at the state capital.

32 (2) If, after the publication, the commissioner is satisfied that
 33 all debts and liabilities of every kind of the insurer are paid or provided
 34 for, the commissioner shall deliver up to the insurer the securities or funds
 35 held by the commissioner belonging to the insurer."

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SECTION 7. Effective Date. Compliance with provisions of Section 6 of this Act shall be required from and after September 30, 1991.

SECTION 8. Arkansas Code 23-73-105(e) hereby amended to read as follows:

"(e) (1) The associations may also write burglary and theft, glass, leakage, and fire extinguisher equipment, livestock, miscellaneous coverage, liability, and disability insurance, provided those coverages are written as a supplement, or package commonly referred to as a homeowner or farmowner policy, to a fire insurance policy, if the liability portions or obligations under the policy are reinsured to the extent of one hundred percent (100%) by an insurer duly authorized to do business in this state.

(2) Before any association shall be authorized to write these coverages, the policy form shall have prior approval of the commissioner 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. The deposit shall be conditioned for the payment of creditors and the prompt payment of all claims arising and accruing to any person in this state. The deposit shall be further subject to the conditions specified in 23-63-909.

(3) Premiums received on policies sold containing these coverages shall be subject to the provisions of §§26-57-601 and following relating to premium taxes."

SECTION 9. Arkansas Code 23-75-119 is hereby amended to read as follows:

"23-75-119. Privilege tax.

(a) The officers of every foreign or alien corporation, and beginning the reporting year 1992 the officers of every domestic corporation, transacting business under this chapter shall, at the time of making its annual statement, file with the commissioner a sworn statement of its gross receipts collected for the year ending December 31 next preceding from subscribers residing in this state and shall pay into the State Treasury a tax of one percent (1%) of the gross receipts, as a tax for the privilege of

1 transacting business in this state.

2 (b) No certificate of authority shall be renewed for any corporation
3 until the tax is paid.

4 (c)(1) The tax shall be in lieu of other taxes, district or state,
5 county or municipal, based on gross receipts.

6 (2) No subdivision of this state may impose any license fee for
7 the privilege of conducting business in any portion thereof.

8 (d) In determining gross receipts, the corporation shall not take
9 credit for any expenditures."

10

11 SECTION 10. Arkansas Code 23-77-108 is hereby amended to read as
12 follows:

13 "23-77-108. Agent or representative license required - Application and
14 issuance.

15 (a) Before any agent or representative shall or may represent any
16 automobile club or association in this state, he or she shall first apply to
17 the Insurance Commissioner for a license and the commissioner shall have full
18 power and authority to issue the license upon proof satisfactory to him that
19 the person is capable of soliciting automobile club or association memberships
20 and is of good moral character and recommended by the club or association in
21 behalf of which the membership solicitations are to be made.

22 (b) No license shall be issued by the commissioner until the applicant
23 has paid to him ten dollars (\$10.00) as an annual license fee.

24 (c) The commissioner may reject the application of any person who does
25 not meet the requirements set out in this section."

26

27 SECTION 11. Arkansas Code 23-79-109, Subsection (f), is hereby amended
28 to read as follows:

29 "(f) No policy or contract form providing coverage for personal
30 automobile liability which provides for a policy term of less than six (6)
31 months shall be approved by the commissioner or issued for delivery in this
32 state and used by insurers on and after January 1, 1992; provided, however,
33 the provisions of this subsection shall not restrict premium payment options
34 offered by insurers."

35

1 SECTION 12. Arkansas Code 23-79-302 is hereby amended to read as
2 follows:

3 "23-79-302. Definition. For purposes of this subchapter, a _claims-made
4 policy_ as referenced in 23-79-306, means a policy which provides coverage
5 if a claim for damages is first made during the policy period."
6

7 SECTION 13. Arkansas Code 23-79-306 is hereby amended to read as
8 follows:

9 "23-79-306. Requirements. The following requirements are applicable only
10 as to claims-made policies as defined in 23-79-302:

11 (a) The policy application and the initial page of each claims-made
12 policy must include a conspicuous notice at the top indicating that the
13 contract is a claims-made policy.

14 (b) The insurer must provide at no additional charge an automatic
15 sixty-day extended reporting period upon cancellation or termination of the
16 policy by either the insured or insurer.

17 (c) At the expiration of the automatic sixty (60) day extended
18 reporting period as required by subsection (b), the insurer must offer an
19 extended reporting period endorsement. Any notice of termination of a
20 claims-made policy must include a disclosure advising the insured and his
21 agent of the availability of and premium for an extended reporting period
22 endorsement and the importance of purchasing the coverage.

23 (d) The premium for any extended reporting period endorsement shall be
24 based upon the rates and rating rules in effect at the inception date of the
25 last policy period of the claims-made policy.

26 (e) Form or rate/rule filings restricting the risks to be covered by an
27 extended reporting period endorsement shall not be approved or accepted for
28 use by the commissioner.

29 (f) The limit of liability in the policy aggregate for the optional
30 extended reporting period endorsement offered by the insurer shall be no less
31 than the greater of the amount of coverage remaining in the expiring policy
32 aggregate or fifty percent (50%) of the aggregate at policy inception. The
33 insurer may offer to increase the original amount of the aggregate limit of
34 liability applicable during the period of the extended reporting period
35 endorsement.

1 (g) (1) A retroactive date may only be advanced with the written consent
2 of the first named insured and upon one (1) or more of the following
3 conditions:

4 (A) If there is a change in insurer other than another
5 insurer within the same insurance holding company or group;

6 (B) If there is a substantial change in the insured's
7 operations which would have been a material factor in the insurer's acceptance
8 or declination of the risk; or

9 (C) At the request of the first named insured.

10 (2) Prior to advancement of the retroactive date under
11 subdivisions (1) (A), (B), or (C) of this subsection, the insured must receive
12 a disclosure form for his signature which acknowledges that he has been
13 advised of his right to purchase an extended reporting period endorsement.

14 (h) The insurer must provide the following loss information to the
15 named insured within thirty (30) days of the insured's request and within
16 fifteen (15) days after notice of cancellation or nonrenewal is issued:

17 (1) Description of closed claims including the date and
18 description of occurrence, amount of payments, if any;

19 (2) Description of open claims including the date and description
20 of occurrence, amount of payment, if any, and an estimate of reserves, if any;
21 and

22 (3) Information on notices of occurrence including the date and
23 an estimate of reserves, if any."

24

25 SECTION 14. Arkansas Code 23-79-307(3) is hereby amended to read as
26 follows:

27 "(3) Forms or endorsements issued after the policy inception date not at
28 the request of the named insured which reduce, restrict, or modify the
29 original policy coverage must be accepted and signed by the named insured."

30

31 SECTION 15. Arkansas Code 23-79-307(5) is hereby amended to read as
32 follows:

33 "(5) Policies containing provisions which would reduce the limit of
34 liability available for judgments or settlements by the amount of payment made
35 for defense cost or claim expenses shall not be approved by the commissioner

1 unless a separate limit for defense costs equal to one hundred percent (100%)
 2 of the annual aggregate limit of liability stated in the policy for judgments
 3 or settlements is offered for defense costs or claims expenses to the insured.
 4 However, no policy covering automobile liability insurance may contain the
 5 defense within the limits concept. This subsection shall not apply to
 6 policies or contracts which the commissioner may exempt by order upon a
 7 finding that this subsection may not practically be applied or that its
 8 application is not necessary or desirable for the protection of the public."

9
 10 SECTION 16. Arkansas Code 23-93-103 is hereby amended to read as
 11 follows:

12 "23-93-103. Definitions. As used in this chapter, unless the context
 13 otherwise requires:

14 (1) Commissioner means the Insurance Commissioner of this state;

15 (2) Continuing care means the furnishing of independent living units
 16 to and either:

17 (A) Furnishing nursing care or personal care services pursuant to
 18 an agreement, whether the nursing care or personal care services are provided
 19 in the facility or in another setting designated by the agreement for
 20 continuing care, to; or

21 (B) Requiring the payment of an entrance fee by an individual not
 22 related by consanguinity or affinity to the provider furnishing the living
 23 unit. Payments may be made by an entrance fee alone, an entrance fee and
 24 periodic payments, or by payment of fees for services. Agreements to provide
 25 continuing care shall include agreements to provide care for any duration
 26 including agreements that are terminable by either party;

27 (3) Department means the Insurance Department of this state;

28 (4) Entrance fee means an initial or deferred transfer to a provider
 29 of a sum of money or other property made or promised to be made as full or
 30 partial consideration for acceptance of a specified individual as a resident
 31 in a facility which exceeds six (6) months rental of the living unit. An
 32 accommodation fee, admission fee, or other fee of similar form and application
 33 shall be considered to be an entrance fee;

34 (5) Facility means a place which provides continuing care;

35 (6) Living unit means a room, apartment, cottage, or other area

1 within a facility set aside for the exclusive use or control of one (1) or
2 more identified individuals;

3 (7) Nursing care means those services pertaining to the curative,
4 restorative, and preventive aspects of nursing services that are performed by
5 or under the supervision of a registered or licensed nurse. Nursing care does
6 not include general health service such as nutritional counseling, exercise
7 programs, or other preventive medicine techniques;

8 (8) Personal care services means assistance with meals, dressing,
9 movement, bathing, or other personal needs of maintenance or other direct
10 supervision and oversight of the physical and mental well being of a person.
11 Personal care services does not include general health services such as
12 nutritional counseling, exercise programs, or other preventive medicine
13 techniques;

14 (9) Provider means the owner or operator, whether a natural person,
15 partnership, or other incorporated association, trust, or corporation whose
16 owner or operator undertakes to provide continuing care for a fee, whether
17 fixed or variable, for the period of care. The fee may be payable in lump sum
18 or lump sum and monthly maintenance charges or in installments;

19 (10) Refund reserve means the actuarially determined annual refund
20 amount required to be maintained by a continuing care provider for service of
21 its refund amounts during the next fiscal year of the facility;

22 (11) Resident means an individual entitled to receive continuing care
23 in a facility;

24 (12) Solicit means all actions of a provider in seeking to have
25 individuals residing in this state pay an application fee and enter into a
26 continuing care agreement by any means such as, but not limited to, personal,
27 telephone, or mail communication or any other communication directed to and
28 received by any individual in this state and any advertisements in any media
29 distributed or communicated by any means to individuals in this state."
30

31 SECTION 17. Arkansas Code 23-94-202 is hereby amended to read as
32 follows:

33 "23-94-202. Information to be furnished.

34 (a) Risk retention groups organized and formed under the laws of
35 states other than this state and seeking to do business as a risk retention

1 group in this state must apply for and obtain a certificate of registration
 2 from the Insurance Commissioner of this state using the forms prescribed by
 3 the Arkansas Insurance Department. Each such applicant for the certificate of
 4 registration must submit the following information on prescribed forms to the
 5 commissioner before offering insurance in this state:

6 (1) A statement identifying the state or states in which the risk
 7 retention group is chartered and licensed as a casualty insurance company,
 8 date of chartering, its principal place of business, and such other
 9 information, including information on its membership as the commissioner of
 10 this state may require to verify that the risk retention group is eligible for
 11 a certificate of registration in this state; and

12 (2) A copy of its plan of operations and revisions of that plan
 13 submitted to its state of domicile, containing the information as required
 14 under 23-94-201(c)(1). However, the provision relating to the submission of a
 15 plan of operation shall not apply with respect to any line or classification
 16 of liability insurance which:

17 (A) Was defined in the Product Liability Risk Retention Act
 18 of 1981 before October 27, 1986; and

19 (B) Was offered before that date by any risk retention
 20 group which had been chartered and operating for not less than three (3) years
 21 before that date;

22 (3) An appointment of the commissioner and his successors in
 23 office, on a form furnished by the commissioner, as its agent to receive
 24 service of legal process issued against it in this state. The appointment
 25 shall be irrevocable, shall bind the risk retention group and any successor in
 26 interest, and shall remain in effect as long as there is outstanding in
 27 Arkansas any obligation or liability of the risk retention group resulting
 28 from its transactions therein. The risk retention group shall also file
 29 designation of the name and address of the person to whom process against it
 30 served upon the commissioner is to be forwarded and any subsequent amendments
 31 to that name and address with the commissioner; and

32 (4) Any other document or information which the commissioner may
 33 reasonably request.

34 (b) The commissioner shall issue a certificate of registration to risk
 35 retention groups organized and formed under the laws of other states when the

1 commissioner is satisfied that the applicant groups have fully complied with
2 the provisions of this chapter."

3

4 SECTION 18. Arkansas Code 26-51-303(6) is hereby amended as follows:

5 "26-51-303. Exempt organizations.

6 (6) Farmers or other mutual hail, cyclone, or fire insurance companies,
7 or other domestic insurance companies writing lines of insurance other than
8 those specified in (1) and (2) of this subsection, mutual ditch or irrigation
9 companies, mutual or cooperative telephone companies, or like organizations of
10 a purely local character, but only if eighty-five percent (85)% or more of the
11 income of the organization consists solely of assessments, dues, and fees
12 collected from members for the sole purpose of meeting losses and expenses."

13

14 SECTION 19. Arkansas Code 23-63-218(a) is hereby amended to read as
15 follows:

16 "(a) Any insurer which is organized under the laws of any other state
17 and is admitted to do business in this state for the purpose of writing
18 insurance may become a domestic insurer by complying with all of the
19 requirements of law relative to the organization and licensing of a domestic
20 insurer of the same type and by designating its principal place of business
21 at a place in this state. The domestic insurer will be entitled to like
22 certificates and licenses to transact business in this state and shall be
23 subject to the authority and jurisdiction of this state. An insurer which
24 changes its status from foreign to domestic shall have all the rights, titles,
25 and interests in the assets of the original corporation, as well as all of its
26 liabilities and obligations. The insurer shall be recognized as an insurer
27 formed under the laws of this state as of the date of its incorporation in its
28 original domiciliary state."

29

30 SECTION 20. Arkansas Code 23-63-824(a) is hereby amended to read as
31 follows:

32 "(a) An insurer may make investments, in aggregate amounts not
33 exceeding five percent (5%) or, with prior approval of the commissioner, ten
34 percent (10%) of its assets, and not over three percent (3%) of its assets in
35 any one investment, in securities of or in a foreign country possessing

1 characteristics and of a quality similar to the investment required pursuant
2 to §§ 23-63-801, 23-63-833 and 23-63-835 for investments in the United States
3 of America."
4

5 SECTION 21. Subsection (g) of Arkansas Code 23-64-206 is hereby amended
6 by adding new subdivision (10) to read as follows:

7 "(10) Applicants for licenses to sell mortgagors' decreasing term life
8 or mortgagors' decreasing term disability insurance to debtors of the
9 applicant or of his employer."
10

11 SECTION 22. Arkansas Code 23-89-209(a) as amended by Act 209 of 1991 is
12 hereby amended to read as follows:

13 "(a) Every insurer writing automobile liability insurance covering
14 liability arising out of the ownership, maintenance, or use of any motor
15 vehicles in this state shall provide underinsured motorist coverage unless
16 rejected in writing by a named insured. The notice to policyholders regarding
17 the right to reject the coverage required in this section applies to policies
18 issued after February 21, 1991 or the first renewal after February 21, 1991 of
19 an existing policy unless the coverage has been rejected in writing prior to
20 February 21, 1991 by a named insured of an existing policy. After a named
21 insured or applicant for insurance rejects underinsured motorists coverage,
22 the insurer or any of its affiliates shall not be required to notify any
23 insured in any renewal, reinstatement, substitute, amended or replacement
24 policy as to the availability of such coverage. The coverage shall enable the
25 insured or the insured's legal representative to recover from the insurer the
26 amount of damages for bodily injury or death to which the insured is legally
27 entitled from the owner or operator of another motor vehicle. Underinsured
28 motorist coverage shall be at least equal to the limits prescribed for bodily
29 injury or death under Arkansas Code 27-19-605. Coverage of the insured
30 pursuant to underinsured motorist coverage shall not be reduced by the
31 tortfeasor's insurance coverage except to the extent that the injured party
32 would receive compensation in excess of his damages."
33

34 SECTION 23. Provisions of this Act of a general and permanent nature
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

2

3 SECTION 24. All laws and parts of laws in conflict with the Act are
4 hereby repealed.

5

6 SECTION 25. Emergency. It is hereby found and determined by the
7 General Assembly that the laws of this State concerning the insurance matters
8 covered in the subject of this Act are inadequate for the protection of the
9 public. Therefore, an emergency is hereby declared to exist and this Act
10 being necessary for the preservation of the public peace, health and safety
11 *all provisions of this Act other than Section 22 shall be in full force and*
12 *effect from and after July 1, 1991 and Section 22 shall be in full force and*
13 *effect from and after the passage and approval of this Act.*

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/s/ Bobby Newman et al