

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

HOUSE BILL 1456

4
5 By: Representative Glover
6
7

For An Act To Be Entitled

9 AN ACT TO COMPLY WITH THE PROVISIONS OF GRAMM-LEACH-
10 BLILEY ACT OF 1999, PUBLIC LAW 106-102, 113 STAT.
11 1338, REGARDING RECIPROCI TY AND UNI FORMI TY I N PRODUCER
12 LI CENSI NG BY ENACTI NG THE "PRODUCER LI CENSI NG MODEL
13 ACT"; TO AMEND SELE CTED SECTI ONS OF TI TLE 23, CHAPTE R
14 64, SUBCHAPTE RS 1 AND 2 TO CONFORM TO THE GRAMM-LEACH-
15 BLI LEY AND THE "PRODUCER LI CENSI NG MODEL ACT"; AND FOR
16 OTE R PURPOSES.
17

Subtitle

18
19 TO ENACT THE "PRODUCER LI CENSI NG MODEL
20 ACT".
21
22

23 BE I T ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code Title 23, Chapter 64, is amended to add an
26 additional subchapter to read as follows:

27 23-64-501. Title, Purpose, and Scope.

28 (a) This subchapter shall be known and may be cited as the "Producer
29 Licensing Model Act".

30 (b) This subchapter governs the qualifications and procedures for the
31 licensing of insurance producers. It simplifies and organizes some statutory
32 language to improve efficiency, permits the use of new technology and reduces
33 costs associated with issuing and renewing insurance licenses.

34 (c) This subchapter does not apply to excess and surplus lines agents
35 and brokers licensed pursuant to the Surplus Lines Insurance Law beginning at
36 § 23-65-301, except as provided in § 23-64-508 and § 23-64-516(b).

23-64-502. Definitions.

(a) For purposes of this subchapter:

(1) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity;

(2) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer;

(3) "Insurance" means any of the lines of authority defined in §§ 23-62-101 - 108;

(4) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance;

(5) "Insurer" means those entities defined in § 23-60-102;

(6) "License" means a document issued by this state's commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier;

(7) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance;

(8) "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy;

(9) "Limited lines insurance" means those lines of insurance for crop hail insurance, mobile home physical damage insurance, pre-paid legal insurance, and fire and marine insurance written in connection with credit transactions, or any other line of insurance that the commissioner deems necessary to recognize for the purposes of complying with § 23-64-508(e);

1 (10) "Limited lines producer" means a person authorized by the
2 commissioner to sell, solicit or negotiate limited lines insurance;

3 (11) "Negotiate" means the act of conferring directly with or
4 offering advice directly to a purchaser or prospective purchaser of a
5 particular contract of insurance concerning any of the substantive benefits,
6 terms or conditions of the contract, provided that the person engaged in that
7 act either sells insurance or obtains insurance from insurers for purchasers;

8 (12) "Person" means an individual or a business entity;

9 (13) "Sell" means to exchange a contract of insurance by any
10 means, for money or its equivalent, on behalf of an insurance company;

11 (14) "Solicit" means attempting to sell insurance or asking or
12 urging a person to apply for a particular kind of insurance from a particular
13 company;

14 (15) "Terminate" means the cancellation of the relationship
15 between an insurance producer and the insurer or the termination of a
16 producer's authority to transact insurance;

17 (16) "Uniform Business Entity Application" means the current
18 version of the NAIC Uniform Business Entity Application for resident and
19 nonresident business entities; and

20 (17) "Uniform Application" means the current version of the NAIC
21 Uniform Application for resident and nonresident producer licensing.

22
23 23-64-503. License Required.

24 A person shall not sell, solicit or negotiate insurance in this state
25 for any class or classes of insurance unless the person is licensed for that
26 line of authority in accordance with this subchapter.

27
28 23-64-504. Exceptions to Licensing.

29 (a) Nothing in this subchapter shall be construed to require an insurer
30 to obtain an insurance producer license. In this section, the term "insurer"
31 does not include an insurer's officers, directors, employees, subsidiaries or
32 affiliates.

33 (b) A license as an insurance producer shall not be required of the
34 following:

35 (1) An officer, director or employee of an insurer or of an
36 insurance producer, provided that the officer, director or employee does not

1 receive any commission on policies written or sold to insure risks residing,
2 located or to be performed in this state and:

3 (A) The officer, director or employee's activities are
4 executive, administrative, managerial, clerical or a combination of these, and
5 are only indirectly related to the sale, solicitation or negotiation of
6 insurance; or

7 (B) The officer, director or employee's function relates to
8 underwriting, loss control, inspection or the processing, adjusting,
9 investigating or settling of a claim on a contract of insurance; or

10 (C) The officer, director or employee is acting in the
11 capacity of a special agent or agency supervisor assisting insurance producers
12 where the person's activities are limited to providing technical advice and
13 assistance to licensed insurance producers and do not include the sale,
14 solicitation or negotiation of insurance;

15 (2) A person who does not receive any commission and:

16 (A) Secures and furnishes information for the purpose of
17 enrolling individuals under group life insurance, group property and casualty
18 insurance, group annuities, group or blanket accident and health insurance;

19 (B) Issues certificates under group life insurance, group
20 property and casualty insurance, group annuities, group or blanket accident
21 and health insurance or otherwise assists in administering plans; or

22 (C) Performs administrative services related to mass
23 marketed property and casualty insurance;

24 (3) An employer or association or its officers, directors,
25 employees, or the trustees of an employee trust plan, to the extent that the
26 employers, officers, employees, director or trustees are engaged in the
27 administration or operation of a program of employee benefits for the
28 employer's or association's own employees or the employees of its subsidiaries
29 or affiliates, which program involves the use of insurance issued by an
30 insurer, as long as the employers, associations, officers, directors,
31 employees or trustees are not in any manner compensated, directly or
32 indirectly, by the company issuing the contracts;

33 (4) Employees of insurers or organizations employed by insurers
34 who are engaging in the inspection, rating or classification of risks, or in
35 the supervision of the training of insurance producers and who are not
36 individually engaged in the sale, solicitation or negotiation of insurance;

1 (5) A person whose activities in this state are limited to
2 advertising without the intent to solicit insurance in this state through
3 communications in printed publications or other forms of electronic mass media
4 whose distribution is not limited to residents of the state, provided that the
5 person does not sell, solicit or negotiate insurance that would insure risks
6 residing, located or to be performed in this state;

7 (6) A person who is not a resident of this state who sells,
8 solicits or negotiates a contract of insurance for commercial property and
9 casualty risks to an insured with risks located in more than one state insured
10 under that contract, provided that that person is otherwise licensed as an
11 insurance producer to sell, solicit or negotiate that insurance in the state
12 where the insured maintains its principal place of business and the contract
13 of insurance insures risks located in that state; or

14 (7) A salaried full-time employee who counsels or advises his or
15 her employer relative to the insurance interests of the employer or of the
16 subsidiaries or business affiliates of the employer provided that the employee
17 does not sell or solicit insurance or receive a commission.

18 (8) Employees of an insurer or of an insurance producer who
19 respond to requests from existing policyholders on existing policies provided
20 that those employees are not directly compensated based on the volume of
21 premiums that may result from these services and provide those employees do
22 not sell, solicit or negotiate insurance.

23
24 23-64-505. Application for Examination.

25 (a) A resident individual applying for an insurance producer license
26 shall pass a written examination unless exempt pursuant to § 23-64-205. The
27 examination shall test the knowledge of the individual concerning the lines of
28 authority for which application is made, the duties and responsibilities of an
29 insurance producer and the insurance laws and regulations of this state.
30 Examinations required by this section shall be developed and conducted under
31 rules and regulations prescribed by the commissioner.

32 (b) The commissioner may make arrangements, including contracting with
33 an outside testing service, for administering examinations and collecting the
34 nonrefundable fee set forth in § 23-61-401 and any existing or future rule and
35 regulation.

36 (c) Each individual applying for an examination shall remit a

1 nonrefundable fee as prescribed by the commissioner as set forth in § 23-61-
2 401 and any existing or future rule and regulation.

3 (d) An individual who fails to appear for the examination as scheduled
4 or fails to pass the examination, shall reapply for an examination and remit
5 all required fees and forms before being rescheduled for another examination.

6

7 23-64-506. Application for License.

8 (a) A person applying for a resident insurance producer license shall
9 make application to the commissioner on the uniform application and declare
10 under penalty of refusal, suspension or revocation of the license that the
11 statements made in the application are true, correct and complete to the best
12 of the individual's knowledge and belief. Before approving the application,
13 the commissioner shall find that the individual:

14 (1) Is at least eighteen (18) years of age;

15 (2) Has not committed any act that is a ground for denial,
16 suspension or revocation set forth in § 23-64-512;

17 (3) Where required by the commissioner, has completed a pre-
18 licensing course of study for the lines of authority for which the person has
19 applied;

20 (4) Has paid the fees set forth in § 23-61-401 and any existing
21 or future rule and regulation; and

22 (5) Has successfully passed the examinations for the lines of
23 authority for which the person has applied.

24 (b) A business entity acting as an insurance producer is required to
25 obtain an insurance producer license. Application shall be made using the
26 Uniform Business Entity Application. Before approving the application, the
27 commissioner shall find that:

28 (1) The business entity has paid the fees set forth in § 23-61-
29 401 and any existing or future rule and regulation; and

30 (2) The business entity has designated a licensed producer
31 responsible for the business entity's compliance with the insurance laws,
32 rules and regulations of this state.

33 (c) The commissioner may require any documents reasonably necessary to
34 verify the information contained in an application.

35 (d) Each insurer that sells, solicits or negotiates any form of limited
36 line credit insurance shall provide to each individual whose duties will

1 include selling, soliciting or negotiating limited line credit insurance a
2 program of instruction that may be approved by the commissioner.

3
4 23-64-507. License.

5 (a) Unless denied licensure pursuant to § 23-64-512, persons who have
6 met the requirements of §§ 23-64-505 and 506 shall be issued an insurance
7 producer license. An insurance producer may receive qualification for a
8 license in one or more of the following lines of authority:

9 (1) Life insurance coverage on human lives including benefits of
10 endowment and annuities, and may include benefits in the event of death or
11 dismemberment by accident and benefits for disability income.

12 (2) Accident and health or sickness insurance coverage for
13 sickness, bodily injury or accidental death and may include benefits for
14 disability income.

15 (3) Property insurance coverage for the direct or consequential
16 loss or damage to property of every kind.

17 (4) Casualty insurance coverage against legal liability,
18 including that for death, injury or disability or damage to real or personal
19 property.

20 (5) Variable life and variable annuity products insurance
21 coverage provided under variable life insurance contracts and variable
22 annuities.

23 (6) Personal lines property and casualty insurance coverage sold
24 to individuals and families for primarily noncommercial purposes.

25 (7) Credit limited line credit insurance.

26 (8) Any other line of insurance permitted under state laws or
27 regulations.

28 (b) An insurance producer license shall remain in effect unless revoked
29 or suspended as long as the fee set forth in § 23-61-401 and any existing or
30 future rule and regulation is paid and education requirements for resident
31 individual producers are met by the due date.

32 (c) An individual insurance producer who allows his or her license to
33 lapse may, within twelve (12) months after the due date of the renewal fee,
34 reinstate the same license without the necessity of passing a written
35 examination. However, a penalty in the amount of double the unpaid renewal fee
36 shall be required for any renewal fee received after the due date.

1 (d) A licensed insurance producer who is unable to comply with license
 2 renewal procedures due to military service or some other extenuating
 3 circumstance, e.g. a long-term medical disability, may request a waiver of
 4 those procedures. The producer may also request a waiver of any examination
 5 requirement or any other fine or sanction imposed for failure to comply with
 6 renewal procedures.

7 (e) The license shall contain the licensee's name, address, personal
 8 identification number, and the date of issuance, the lines of authority, the
 9 expiration date and any other information the commissioner deems necessary.

10 (f) Licensees shall inform the commissioner by any means acceptable to
 11 the commissioner of a change of address within thirty (30) days of the change.
 12 Failure to timely inform the commissioner of a change in legal name or address
 13 shall result in a penalty pursuant to § 23-64-216.

14 (g) In order to assist in the performance of the commissioner's duties,
 15 the commissioner may contract with nongovernmental entities, including the
 16 National Association of Insurance Commissioners (NAIC) or any affiliates or
 17 subsidiaries that the NAIC oversees, to perform any ministerial functions,
 18 including the collection of fees, related to producer licensing that the
 19 commissioner and the non-governmental entity may deem appropriate.

20
 21 23-64-508. Nonresident Licensing.

22 (a) Unless denied licensure pursuant to § 23-64-512, a nonresident
 23 person shall receive a nonresident producer license if:

24 (1) The person is currently licensed as a resident and in good
 25 standing in his or her home state;

26 (2) The person has submitted the proper request for licensure and
 27 has paid the fees required by § 23-61-401 and any existing or future rule and
 28 regulation;

29 (3) The person has submitted or transmitted to the commissioner
 30 the application for licensure that the person submitted to his or her home
 31 state, or in lieu of the same, a completed uniform application; and

32 (4) The person's home state awards nonresident producer licenses
 33 to residents of this state on the same basis.

34 (b) The commissioner may verify the producer's licensing status through
 35 the producer database maintained by the National Association of Insurance
 36 Commissioners, its affiliates or subsidiaries.

1 (c) A nonresident producer who moves from one state to another state or
 2 a resident producer who moves from this state to another state shall file a
 3 change of address and provide certification from the new resident state within
 4 thirty (30) days after the change of legal residence. No fee or license
 5 application is required.

6 (d) Notwithstanding any other provision of this subchapter, a person
 7 licensed as a surplus lines producer in his or her home state shall receive a
 8 nonresident surplus lines producer license pursuant to subsection (a) of this
 9 section. Except as to subsection (a), nothing in this section otherwise amends
 10 or supercedes any provision of §§ 23-65-301 - 319.

11 (e) Notwithstanding any other provision of this subchapter, a person
 12 licensed as a limited line credit insurance or other type of limited lines
 13 producer in his or her home state shall receive a nonresident limited lines
 14 producer license, pursuant to subsection (a) of this section, granting the
 15 same scope of authority as granted under the license issued by the producer's
 16 home state. For the purposes of § 23-64-508(e), "limited line insurance" is
 17 any authority granted by the home state which restricts the authority of the
 18 license to less than the total authority prescribed in the associated major
 19 lines pursuant to § 23-64-507(a)(1) - (6).

20
 21 23-64-509. Exemption from Examination.

22 (a) An individual who applies for an insurance producer license in this
 23 state who was previously licensed for the same lines of authority in another
 24 state shall not be required to complete any prelicensing education or
 25 examination. This exemption is only available if the person is currently
 26 licensed in that state or if the application is received within ninety (90)
 27 days after the cancellation of the applicant's previous license and if the
 28 prior state issues a certification that, at the time of cancellation, the
 29 applicant was in good standing in that state or the state's producer database
 30 records, maintained by the National Association of Insurance Commissioners,
 31 its affiliates or subsidiaries, and indicates that the producer is or was
 32 licensed in good standing for the line of authority requested.

33 (b) A person licensed as an insurance producer in another state who
 34 moves to this state shall make application within ninety (90) days after
 35 establishing legal residence to become a resident licensee pursuant to § 23-
 36 64-506. No prelicensing education or examination shall be required of that

1 person to obtain any line of authority previously held in the prior state
2 except where the commissioner determines otherwise by regulation.

3
4 23-64-510. Assumed Names.

5 An insurance producer doing business under any name other than the
6 producer's legal name is required to notify the commissioner prior to using
7 the assumed name.

8
9 23-64-511. Temporary Licensing.

10 (a) The commissioner may issue a temporary insurance producer license
11 for a period not to exceed one hundred eighty (180) days without requiring an
12 examination if the commissioner deems that the temporary license is necessary
13 for the servicing of an insurance business in the following cases:

14 (1) To the surviving spouse or court-appointed personal
15 representative of a licensed insurance producer who dies or becomes mentally
16 or physically disabled to allow adequate time for the sale of the insurance
17 business owned by the producer or for the recovery or return of the producer
18 to the business or to provide for the training and licensing of new personnel
19 to operate the producer's business;

20 (2) To a member or employee of a business entity licensed as an
21 insurance producer, upon the death or disability of an individual designated
22 in the business entity application or the license;

23 (3) To the designee of a licensed insurance producer entering
24 active service in the armed forces of the United States of America; or

25 (4) In any other circumstance where the commissioner deems that
26 the public interest will best be served by the issuance of this license.

27 (b) The commissioner may by order limit the authority of any temporary
28 licensee in any way deemed necessary to protect insureds and the public. The
29 commissioner may require the temporary licensee to have a suitable sponsor who
30 is a licensed producer or insurer and who assumes responsibility for all acts
31 of the temporary licensee and may impose other similar requirements designed
32 to protect insureds and the public. The commissioner may by order revoke a
33 temporary license if the interest of insureds or the public are endangered. A
34 temporary license may not continue after the owner or the personal
35 representative disposes of the business.

23-64-512. License Denial, Nonrenewal or Revocation.

(a) The commissioner may place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with § 23-64-216 or any combination of actions, for any one or more of the following causes:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's commissioner;

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) Having been convicted of a felony;

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) Improperly using notes or any other reference material to complete an examination for an insurance license;

(12) Knowingly accepting insurance business from an individual who is not licensed;

(13) Failing to provide a written response after receipt of a written inquiry from the commissioner or his representative as to transactions under the license within thirty (30) days after receipt thereof, unless the timely written response is knowingly waived in writing by the commissioner;

(14) Failing to comply with an administrative or court order

1 imposing a child support obligation; or

2 (15) Failing to pay state income tax or comply with any
3 administrative or court order directing payment of state income tax.

4 (b) In the event that the action by the commissioner is to nonrenew or
5 to deny an application for a license, the commissioner shall notify the
6 applicant or licensee and advise, in writing, the applicant or licensee of the
7 reason for the denial or nonrenewal of the applicant's or licensee's license.
8 The applicant or licensee may make written demand upon the commissioner within
9 thirty (30) days for a hearing before the commissioner to determine the
10 reasonableness of the commissioner's action. The hearing shall be held within
11 thirty (30) days and shall be held pursuant to § 23-64-217 and the Arkansas
12 Administrative Procedure Act, beginning at § 25-15-201.

13 (c) The license of a business entity may be suspended, revoked or
14 refused if the commissioner finds, after hearing, that an individual
15 licensee's violation was known or should have been known by one or more of the
16 partners, officers or managers acting on behalf of the partnership or
17 corporation and the violation was neither reported to the commissioner nor
18 corrective action taken.

19 (d) In addition to or in lieu of any applicable denial, suspension or
20 revocation of a license, a person may, after hearing, be subject to a civil
21 fine according to § 23-64-216.

22 (e) The commissioner shall retain the authority to enforce the
23 provisions of and impose any penalty or remedy authorized by this subchapter
24 and the Arkansas Insurance Code, beginning at § 23-60-101, against any person
25 who is under investigation for or charged with a violation of this subchapter
26 or the Arkansas Insurance Code, even if the person's license or registration
27 has been revoked, surrendered or has lapsed by operation of law.

28
29 23-64-513. Commissions.

30 (a) An insurance company or insurance producer shall not pay a
31 commission, service fee, brokerage or other valuable consideration to a person
32 for selling, soliciting or negotiating insurance in this state if that person
33 is required to be licensed under this subchapter and is not so licensed.

34 (b) A person shall not accept a commission, service fee, brokerage or
35 other valuable consideration for selling, soliciting or negotiating insurance
36 in this state if that person is required to be licensed under this subchapter

1 and is not so licensed.

2 (c) Renewal or other deferred commissions may be paid to a person for
 3 selling, soliciting or negotiating insurance in this state if the person was
 4 required to be licensed under this subchapter at the time of the sale,
 5 solicitation or negotiation and was so licensed at that time.

6 (d) An insurer or insurance producer may pay or assign commissions,
 7 service fees, brokerages or other valuable consideration to an insurance
 8 agency or to persons who do not sell, solicit or negotiate insurance in this
 9 state, unless the payment would violate Subchapter 2 or 3 of Chapter 66 of
 10 Title 23 so long as the payment is not allowed by any provisions of Gramm-
 11 Leach-Bliley Act of 1999, Public Law 106-102, 113 Stat. 1338.

12
 13 23-64-514. Appointments.

14 (a) An insurance producer shall not act as an agent of an insurer
 15 unless the insurance producer becomes an appointed agent of that insurer. An
 16 insurance producer who is not acting as an agent of an insurer is not required
 17 to become appointed.

18 (b) To appoint a producer as its agent, the appointing insurer shall
 19 file, in a format approved by the commissioner, a notice of appointment within
 20 fifteen (15) days after the date the agency contract is executed or the first
 21 insurance application is submitted. An insurer may also elect to appoint a
 22 producer to all or some insurers within the insurer's holding company system
 23 or group by the filing of a single appointment request.

24 (c) Upon receipt of the notice of appointment, the commissioner shall
 25 verify within a reasonable time not to exceed thirty (30) days that the
 26 insurance producer is eligible for appointment. If the insurance producer is
 27 determined to be ineligible for appointment, the commissioner shall notify the
 28 insurer within five (5) days after the commissioner's determination.

29 (d) An insurer shall pay an appointment fee, in the amount and method
 30 of payment set forth in § 23-61-401 and any existing or future rule and
 31 regulation, for each insurance producer appointed by the insurer.

32 (e) An insurer shall remit, in a manner prescribed by the commissioner,
 33 a renewal appointment fee in the amount set forth in § 23-61-401 and any
 34 existing or future rule and regulation.

35
 36 23-64-515. Notification to Insurance Commissioner of Termination.

1 (a) Termination for Cause. An insurer or authorized representative of
 2 the insurer that terminates the appointment, employment, contract or other
 3 insurance business relationship with a producer shall notify the commissioner
 4 within thirty (30) days following the effective date of the termination, using
 5 a format prescribed by the commissioner, if the reason for termination is one
 6 of the reasons set forth in § 23-64-512 or the insurer has knowledge the
 7 producer was found by a court, government body, or self-regulatory
 8 organization authorized by law to have engaged in any of the activities in §
 9 23-64-512. Upon the written request of the commissioner, the insurer shall
 10 provide additional information, documents, records or other data pertaining to
 11 the termination or activity of the producer.

12 (b) Termination Without Cause. An insurer or authorized representative
 13 of the insurer that terminates the appointment, employment, or contract with a
 14 producer for any reason not set forth in § 23-64-512, shall notify the
 15 commissioner within thirty (30) days following the effective date of the
 16 termination, using a format prescribed by the commissioner. Upon written
 17 request of the commissioner, the insurer shall provide additional information,
 18 documents, records or other data pertaining to the termination.

19 (c) Ongoing Notification Requirement. The insurer or the authorized
 20 representative of the insurer shall promptly notify the commissioner in a
 21 format acceptable to the commissioner if, upon further review or
 22 investigation, the insurer discovers additional information that would have
 23 been reportable to the commissioner in accordance with subsection (a) had the
 24 insurer then known of its existence.

25 (d) Copy of Notification to be Provided to Producer.

26 (1) Within fifteen (15) days after making the notification
 27 required by subsections (a), (b) and (c), the insurer shall mail a copy of the
 28 notification to the producer at his or her last known address. If the producer
 29 is terminated for cause for any of the reasons listed in § 23-64-512, the
 30 insurer shall provide a copy of the notification to the producer at his or her
 31 last known address by certified mail, return receipt requested, postage
 32 prepaid or by overnight delivery using a nationally recognized carrier.

33 (2) Within thirty (30) days after the producer has received the
 34 original or additional notification, the producer may file written comments
 35 concerning the substance of the notification with the commissioner. The
 36 producer shall, by the same means, simultaneously send a copy of the comments

1 to the reporting insurer, and the comments shall become a part of the
 2 commissioner's file and accompany every copy of a report distributed or
 3 disclosed for any reason about the producer as permitted under subsection (f).

4 (e) Immunities.

5 (1) In the absence of actual malice, an insurer, the authorized
 6 representative of the insurer, a producer, the commissioner, or an
 7 organization of which the commissioner is a member and that compiles the
 8 information and makes it available to other insurance commissioners or
 9 regulatory or law enforcement agencies shall not be subject to civil
 10 liability, and a civil cause of action of any nature shall not arise against
 11 these entities or their respective agents or employees, as a result of any
 12 statement or information required by or provided pursuant to this section or
 13 any information relating to any statement that may be requested in writing by
 14 the commissioner, from an insurer or producer; or a statement by a terminating
 15 insurer or producer to an insurer or producer limited solely and exclusively
 16 to whether a termination for cause under subsection (a) was reported to the
 17 commissioner, provided that the propriety of any termination for cause under
 18 subsection (a) is certified in writing by an officer or authorized
 19 representative of the insurer or producer terminating the relationship.

20 (2) In any action brought against a person that may have immunity
 21 under subdivision (e)(1) for making any statement required by this section or
 22 providing any information relating to any statement that may be requested by
 23 the commissioner, the party bringing the action shall plead specifically in
 24 any allegation that subdivision (e)(1) does not apply because the person
 25 making the statement or providing the information did so with actual malice.

26 (3) Subdivisions (e)(1) or (2) shall not abrogate or modify any
 27 existing statutory or common law privileges or immunities.

28 (f) Confidentiality.

29 (1) Any documents, materials or other information in the control
 30 or possession of the State Insurance Department that is furnished by an
 31 insurer, producer or an employee or agent thereof acting on behalf of the
 32 insurer or producer, or obtained by the commissioner in an investigation
 33 pursuant to this section shall be confidential by law and privileged, shall
 34 not be subject to the Arkansas Freedom of Information Act of 1967, beginning
 35 at § 25-19-101, shall not be subject to subpoena, and shall not be subject to
 36 discovery or admissible in evidence in any private civil action. However, the

1 commissioner is authorized to use the documents, materials or other
2 information in the furtherance of any regulatory or legal action brought as a
3 part of the commissioner's duties.

4 (2) Neither the commissioner nor any person who received
5 documents, materials or other information while acting under the authority of
6 the commissioner shall be permitted or required to testify in any private
7 civil action concerning any confidential documents, materials, or information
8 subject to subdivision (f)(1).

9 (3) In order to assist in the performance of the commissioner's
10 duties under this subchapter, the commissioner:

11 (A) May share documents, materials or other information,
12 including the confidential and privileged documents, materials or information
13 subject to subdivision (f)(1), with other state, federal, and international
14 regulatory agencies, with the National Association of Insurance Commissioners,
15 its affiliates or subsidiaries, and with state, federal, and international law
16 enforcement authorities, provided that the recipient agrees to maintain the
17 confidentiality and privileged status of the document, material or other
18 information;

19 (B) May receive documents, materials or information,
20 including otherwise confidential and privileged documents, materials or
21 information, from the National Association of Insurance Commissioners, its
22 affiliates or subsidiaries and from regulatory and law enforcement officials
23 of other foreign or domestic jurisdictions, and shall maintain as confidential
24 or privileged any document, material or information received with notice or
25 the understanding that it is confidential or privileged under the laws of the
26 jurisdiction that is the source of the document, material or information; and

27 (C) May enter into agreements governing sharing and use of
28 information consistent with this subsection.

29 (4) No waiver of any applicable privilege or claim of
30 confidentiality in the documents, materials, or information shall occur as a
31 result of disclosure to the commissioner under this section or as a result of
32 sharing as authorized in subdivision (f)(3).

33 (5) Nothing in this subchapter shall prohibit the commissioner
34 from releasing final, adjudicated actions including for cause terminations
35 that are open to public inspection to a database or other clearinghouse
36 service maintained by the National Association of Insurance Commissioners, its

1 affiliates or subsidiaries of the National Association of Insurance
 2 Commissioners.

3 (6) The commissioner shall release information required by § 23-
 4 61-103.

5 (g) Penalties for Failing to Report. An insurer, the authorized
 6 representative of the insurer, or producer that fails to report as required
 7 under the provisions of this section or that is found to have reported with
 8 actual malice by a court of competent jurisdiction may, after notice and
 9 hearing, have its license or certificate of authority suspended or revoked and
 10 may be fined in accordance with the Arkansas Insurance Code, beginning at §
 11 23-60-101.

12
 13 23-64-516. Reciprocity.

14 (a) The commissioner shall waive any requirements for a nonresident
 15 license applicant with a valid license from his or her home state, except the
 16 requirements imposed by § 23-64-508, if the applicant's home state awards
 17 nonresident licenses to residents of this state on the same basis.

18 (b) A nonresident producer's satisfaction of his or her home state's
 19 continuing education requirements for licensed insurance producers shall
 20 constitute satisfaction of this state's continuing education requirements if
 21 the nonresident producer's home state recognizes the satisfaction of its
 22 continuing education requirements imposed upon producers from this state on
 23 the same basis.

24
 25 23-64-517. Reporting of Actions.

26 (a) A producer shall report to the commissioner any administrative
 27 action taken against the producer in another jurisdiction or by another
 28 governmental agency in this state within thirty (30) days after the final
 29 disposition of the matter. This report shall include a copy of the order,
 30 consent to order or other relevant legal documents.

31 (b) Within thirty (30) days after the initial pretrial hearing date, a
 32 producer shall report to the commissioner any criminal prosecution of the
 33 producer taken in any jurisdiction. The report shall include a copy of the
 34 initial complaint filed, the order resulting from the hearing, and any other
 35 relevant legal documents.

36

1 23-64-518. Regulations.

2 The commissioner may, in accordance with § 23-61-108, promulgate
3 reasonable regulations as are necessary or proper to carry out the purposes of
4 this subchapter.

5
6 23-64-519. Centralized Producer Licensing Registry.

7 (a) The commissioner may participate, in whole or in part, with the
8 National Association of Insurance Commissioners, or any of its affiliates or
9 subsidiaries, in a centralized producer license registry where insurance
10 producer licenses and appointments may be centrally or simultaneously effected
11 for all states that require an insurance producer license and participate in
12 such centralized producer license registry.

13 (b) If the commissioner finds that participation in such a centralized
14 producer license registry is in the public interest, the commissioner may
15 adopt by rule any uniform standards and procedures as are necessary to
16 participate in the registry. This includes the central collection of all fees
17 for licenses or appointments that are processed through the registry.

18
19 SECTION 2. Arkansas Code 23-61-708(d) is amended to read as follows:

20 (d) ~~On and after March 24, 1993, insurers~~ Insurers obligated to secure
21 or renew agent appointments using department forms one through forty-eight (1-
22 48) for their agent representatives on the licensing records of the State
23 Insurance Department pursuant to the provisions of ~~§ 23-64-201 et seq.~~ § 23-
24 64-514 on a new or biennial renewal basis shall no longer collect such
25 licensure expenses, directly or indirectly, from the agent licensee, or exact
26 any form of reimbursement for the statutory appointment fees, or pass such
27 costs along to the agent licensee, directly or indirectly, as any other type
28 of charge, notwithstanding the provision of any agency, brokerage, or
29 employment contract or agreement with such agent to the contrary.

30
31 SECTION 3. Arkansas Code 23-64-102 is amended to read as follows:

32 23-64-102. Definitions.

33 As used in this chapter, unless the context otherwise requires:

34 (1)(A) An "agent" is an individual, firm, limited liability company, or
35 corporation who is required by §§ 23-64-501 - 23-64-519 to be licensed as an
36 ~~agent~~ insurance producer by the Insurance Commissioner.

1 ~~(B) Acting as an agent without proper licensure is a violation of~~
2 ~~this chapter.~~

3 ~~(C) (i) An agent shall conduct business only after being~~
4 ~~appointed by an insurer to solicit applications for insurance or annuities or~~
5 ~~to negotiate insurance on its behalf.~~

6 ~~(ii) Exceptions to the appointment provision are~~
7 ~~specifically provided in this chapter.~~

8 ~~(iii) If authorized to do so by the insurer, an appointed~~
9 ~~agent may effectuate and countersign insurance contracts.~~

10 ~~(iv)(B) An agent shall be deemed to be the agent of the~~
11 ~~appointing insurer;~~

12 (2)(A)(i) A "resident agent" is an agent whose residence is in or who
13 may vote in this state or who is licensed as a resident ~~agent~~ insurance
14 producer by the commissioner in accordance with ~~subdivisions (2)(B), (C), and~~
15 ~~(D) of this section §§ 23-64-501 - 23-64-519.~~

16 (ii) Every reference herein to "an agent, a resident of
17 this state" and to "a licensed agent, a resident of this state" shall include
18 any duly licensed resident agent as defined in this section.

19 (B) By reciprocal arrangements with another state under which
20 residents of Arkansas may be licensed and operate as resident agents of the
21 other state, the commissioner may license, as resident agents of Arkansas,
22 residents of the other state who:

23 (i) In cities or towns through which passes the Arkansas
24 boundary, or border communities or border trade areas, maintain their
25 principal place of business in that city, town, community, or trade area; and

26 ~~(ii) Conduct all or a substantial portion of their~~
27 ~~insurance business in Arkansas;~~

28 ~~(iii) Are employed to sell insurance by Arkansas resident~~
29 ~~firms or corporations licensed as agents; and~~

30 ~~(iv)(ii) Are otherwise qualified for the license.~~

31 (C) The terms "border communities" or "border trade areas" shall
32 mean communities and trade areas situated within five (5) miles of the
33 Arkansas boundary.

34 (D) Firms and corporations of which all the members and persons
35 exercising the license power qualify individually as to residence under the
36 above definition may be licensed as resident agents;

1 (3) A "broker" is an individual, firm, limited liability company, or
 2 corporation who is required to be licensed as an insurance producer under §
 3 23-64-501 - § 23-64-519 ~~who for compensation as an independent contractor in~~
 4 ~~any manner solicits, negotiates, or procures insurance or the renewal or~~
 5 ~~continuance thereof on behalf of~~ represents insureds or prospective insureds
 6 other than himself and not on behalf of an insurer or agent, ~~who has posted~~
 7 ~~the required bond, and who may not effectuate or countersign insurance~~
 8 ~~contracts.~~ A broker shall be deemed to be the agent of the insured;

9 (4)(A) An "adjuster" is an individual, firm, limited liability company,
 10 or corporation who for compensation as an independent contractor or as the
 11 employee of an independent contractor or for fee or commission investigates
 12 and negotiates, on behalf of the insurer, settlement of claims arising under
 13 insurance contracts.

14 (B) A licensed attorney at law who is qualified to practice law
 15 in this state is not deemed to be an "adjuster" for the purposes of this
 16 chapter.

17 (C) A salaried employee of an insurer or of a managing general
 18 agent or of any adjustment bureau or association owned and maintained by
 19 insurers to adjust losses of member insurers is not deemed to be an "adjuster"
 20 for the purposes of this chapter.

21 (D) A resident agent or marine average adjuster or an agent or
 22 broker who adjusts or assists in adjustment of losses arising under policies
 23 procured through the broker or issued by the insurer represented by the agent
 24 that is appointed by the insurer shall not be deemed to be an "adjuster" for
 25 the purposes of this chapter.

26 (E)(i) The commissioner may issue "limited adjusters' licenses"
 27 to persons who are sponsored and are employees of self-insured, self-funded,
 28 entities for purposes of the adjustment of claims for or on the behalf of that
 29 self-insured sponsoring entity.

30 (ii) The limited license shall be valid only while the
 31 employee is employed by the sponsoring self-insured entity.

32 (iii) Qualifications, fees, and other aspects of licensure
 33 for "limited adjusters' licenses" shall be as established by regulation;

34 (5)(A) An "insurance consultant" is an individual, firm, limited
 35 liability company, or corporation which, for a fee, in any manner advises or
 36 counsels anyone as to his or her insurance needs and coverages under any

1 insurance policy or contract.

2 (B) The term "insurance consultant" shall not be deemed to
3 include licensed attorneys, actuaries, certified public accountants, medical
4 bill analysts, or any other person who gives or offers incidental advice to
5 the public in the normal course of a business or professional activity other
6 than insurance consulting; and

7 (6) For purposes of the commissioner's reciprocal arrangements or
8 agreements with the insurance supervisory officials of other states for
9 licensure of nonresident insurance applicants as permitted in §§ 23-64-203 and
10 23-64-211 or other applicable laws, the term "insurance producer" means
11 "agent" or "broker", or both, as applicable, as defined in this section.
12

13 SECTION 4. Arkansas Code 23-64-103 is amended to read as follows:
14 23-64-103. Exceptions to definitions.

15 The definitions contained in § 23-64-102 shall not be deemed to include
16 the attorney-in-fact of a reciprocal insurer.;

17 ~~(1) Individuals employed by agents, brokers, consultants, adjusters, or~~
18 ~~insurers solely for the performance of clerical, stenographic, secretarial,~~
19 ~~and similar office duties;~~

20 ~~(2) Individuals who work in the office of an agent, agency, or insurer~~
21 ~~under the direction and supervision of a licensed agent or broker within the~~
22 ~~scope of the insurance license and who devote full time to clerical,~~
23 ~~stenographic, secretarial, and similar office duties, including the incidental~~
24 ~~taking of information from customers and quoting and receiving premiums in the~~
25 ~~office of the agent, broker, agency, or insurer, if his or her compensation~~
26 ~~does not include in whole or in part any commissions, fees, or other sums on~~
27 ~~such business; or~~

28 ~~(3) The attorney in fact of a reciprocal insurer.~~
29

30 SECTION 5. Arkansas Code 23-64-201 is amended to read as follows:
31 23-64-201. License required for adjusters and insurance consultants.

32 ~~(a) No person shall in this state act as or hold himself out to be an~~
33 ~~agent, broker, consultant, or adjuster, as to subjects of insurance located,~~
34 ~~resident, or to be performed in this state unless then licensed for that~~
35 ~~purpose pursuant to this chapter.~~

36 ~~(b) No agent or broker shall solicit or take application for, procure,~~

1 ~~or place for others any kind of insurance as to which he is not then licensed.~~

2 ~~(c) Except as specifically excepted in this chapter, no agent shall~~
3 ~~place any business with any insurer as to which he does not then hold an~~
4 ~~appointment as agent.~~

5 ~~(d)~~ (a) No agent, insurer, broker, insurance consultant, or adjuster
6 shall permit any person not so properly licensed as provided in §§ 23-64-501 -
7 23-64-519 ~~this chapter~~ to solicit, engage, consult, or adjust in the business
8 of insurance on its behalf.

9 ~~(e)~~ (b) Unless they have complied with §§ 23-64-501 - 23-64-519, No a
10 person shall not consult, counsel, or advise others on matters of insurance
11 needs or coverages under any insurance policy or contract of insurance unless
12 licensed under this ~~chapter~~ section. Licensure of a salaried employee of the
13 entity or entities for which they may consult or counsel on matters of
14 insurance to that entity or entities shall not be required.

15 ~~(f)~~ (c) No person may adjust claims as an adjuster without licensure
16 under this chapter.

17 ~~(g)~~ (d) Any license issued by the Insurance Commissioner, under this
18 section, may be immediately suspended as per § 9-14-239 for failure to pay
19 child support.

20 ~~(h)~~ (e) All licensees or applicants for licensure, under this section,
21 must notify the commissioner in writing within ~~ten (10)~~ thirty (30) days of
22 any filing of a criminal charge or conviction or plea of a criminal charge or
23 the filing of any bankruptcy proceeding by or against them. Failure to so
24 notify the commissioner may result in the immediate suspension of the license.

25
26 SECTION 6. Arkansas Code 23-64-202 is amended to read as follows:

27 23-64-202. General qualifications for licensure - Exemptions.

28 (a) For the protection of the people of this state, the Insurance
29 Commissioner shall not, at or before completion of application processing,
30 issue, continue, or permit to exist any license as to insurance unless the
31 licensee is in compliance with this chapter and other applicable laws of this
32 state, and as to any individual who does not also meet the following
33 qualifications:

34 (1) To obtain a license as an agent or broker, they shall have
35 complied with §§ 23-64-501 - 23-64-519 and subsection (b) of this section;

36 (2) To obtain a license as an adjuster or insurance consultant,

1 they:

2 ~~(1)~~ (A) Must be of legal age of majority, or must have had
 3 disabilities of minority removed for all general purposes and provide evidence
 4 of same;_

5 ~~(2)(A)~~ (B)(i) Must be a resident of this state, or of a city or
 6 town through which passes the boundary of this state, qualified as to
 7 residence under § 23-64-102(2)(B) and must have been a resident for not less
 8 than the thirty (30) days immediately prior to date of application for the
 9 license;_

10 ~~(B)~~ (ii) However, the commissioner may, in his discretion,
 11 upon written request by the applicant waive the thirty-day residence
 12 requirement as to any applicant for license who is a bona fide resident of
 13 this state, and who furnishes proof satisfactory to the commissioner that he
 14 is, and intends to be, a permanent resident of Arkansas; and

15 ~~(3)~~ (C) Must be deemed by the commissioner to be competent,
 16 trustworthy, financially responsible, and of good personal and business
 17 reputation, and these qualifications must continue in order to remain
 18 licensed;_

19 (b) All applicants for a license as an agent, broker, adjuster or
 20 insurance consultant shall:

21 ~~(4)(1)~~ Must pass Pass a written examination for the license if
 22 required under this ~~subchapter~~ chapter and attest that he or she is familiar
 23 with the insurance laws of this state and will keep himself or herself
 24 familiar despite changes in the law; and

25 ~~(5)(A)(i)~~ (2)(A)(i) ~~shall, before~~ Before licensure or
 26 examination, if examination is required, complete specific courses of
 27 instruction in the field of insurance as the commissioner shall by regulation
 28 prescribe for the license.

29 (ii) Proof of completion must be presented before
 30 testing is administered.

31 (iii) The courses of instruction shall in the
 32 aggregate consist of not less than thirty-six (36) hours of classroom
 33 instruction administered by or under the supervision of persons qualifying
 34 with and approved by the commissioner for that purpose.

35 (iv) Successful completion of the courses of
 36 instruction shall be certified to the commissioner, on forms prescribed by

1 him, by the person under whose supervision the instruction was administered.

2 (v) The courses of instruction shall provide the
3 applicant with basic knowledge of the broad principles of insurance, licensing
4 and regulatory laws of this state, and the obligations and duties of an agent,
5 broker, or consultant.

6 (vi) Programs of instruction may be provided by any
7 authorized insurer, agents' association, or trade association recognized by
8 the commissioner or by any university, college, or any other institution in
9 this state having a comprehensive course of instruction approved and certified
10 by the commissioner.

11 (vii) The commissioner shall issue appropriate
12 regulations to implement the educational requirements and standards prescribed
13 in this subdivision and to prescribe the general curriculum of courses of
14 instruction.

15 (viii) The curriculum shall include not less than
16 five (5) hours of instruction relative to the licensing of agents and
17 insurance regulatory laws of this state, criteria for approval of the
18 providers of the courses of instruction, and certifications contemplated
19 hereunder.

20 (B) None of the provisions of this ~~subdivision (a)(5)~~ subsection
21 (b) shall apply to, and no examination or educational requirements contained
22 in this ~~subdivision~~ subsection shall be required of, any applicant for a
23 license presently exempted by law from an examination. ~~This subdivision shall~~
24 ~~also not apply and no educational requirements shall be required as to any~~
25 ~~person licensed as of March 18, 1983, as an insurance agent, broker, or~~
26 ~~consultant under the laws of this state.~~

27 (C) The provisions of ~~subdivision (a)(5)(A)~~ subdivision (b)(2)(A)
28 of this section shall not apply to persons making application for license as
29 an agent or broker for crop hail insurance, mobile home physical damage
30 insurance, mortgagor's decreasing term life and disability insurance, prepaid
31 legal insurance, and fire and marine insurance written in connection with
32 credit transactions, or any line exempted by law, for which only a limited
33 license is issued, nor any other insurance for which only a limited license
34 may be issued and the commissioner, by order or regulation, exempts from the
35 educational requirements of subdivision ~~(a)(5)(A)~~ (b)(2)(A) of this section.

36 ~~(b)(1) The commissioner shall not issue, permit to continue, or renew~~

1 any license to any lending institution, or to any subsidiary or affiliate of
 2 any lending institution, or any officer or any employee of any of the
 3 foregoing, with the following exceptions:

4 (A) The licenses may be issued, continued, and renewed to
 5 lending institutions, their affiliates, branches, and subsidiaries, and
 6 officers and employees of either, if the persons or entities are located or
 7 reside in places which have a population which does not exceed five thousand
 8 (5,000) according to the latest federal decennial census.

9 (B) If an application or licensee is permitted to be
 10 licensed or continued by any other provision of this section.

11 (2)(A)(i) Notwithstanding any other provision of subdivision
 12 (b)(1) of this section and with the exception of the effect of population
 13 growth upon the licenses of lending institutions, their affiliates,
 14 subsidiaries, offices, and employees, the commissioner shall permit to
 15 continue and shall renew the licenses of licensees who may operate in part at
 16 or through nonqualifying locations and who do not meet the foregoing
 17 requirements, if the licensees are actively conducting insurance activities
 18 under its licenses at the locations on March 16, 1993, and for so long as the
 19 licensees continue to function in the manner it was constituted on that date.

20 (ii) Provided, however, that if any ownership
 21 interest in or any right to participate in the profits of a licensee operating
 22 through what might otherwise be nonqualifying locations is transferred to a
 23 new or different lending institution or to an affiliate or subsidiary of the
 24 new or different lending institution, the commissioner shall not allow the
 25 licenses of the licensees to be continued or renewed.

26 (B) However, a lending institution, an officer or employee
 27 of a lending institution, a subsidiary or affiliate of a lending institution,
 28 or an officer or employee of a subsidiary or affiliate of a lending
 29 institution, otherwise qualified therefor, may be issued a license to sell
 30 mortgagor's decreasing term life insurance, mortgagor's accident and health
 31 and sickness insurance, credit life insurance, credit accident, credit
 32 property, and credit health and accident insurance and to sell fixed or
 33 variable annuities.

34 (3) The commissioner may renew or continue a license issued to a
 35 lending institution, an officer or employee of a lending institution, a
 36 subsidiary or affiliate of a lending institution, or an officer or employee of

1 a subsidiary or affiliate of a lending institution, where the license was
 2 lawfully outstanding on March 25, 1975; and where the licensee was on that
 3 date, and continues to be at the time of renewal or continuance of the
 4 license, actively engaged in conducting insurance activities authorized under
 5 the license.

6 (A)(i) The commissioner may issue to and renew or continue
 7 licenses of successors who are otherwise qualified therefor, who are
 8 associated with or employed by licensees whose licenses are renewed or
 9 continued pursuant to this subdivision (b)(3) for so long as the licensee
 10 renewed or continued pursuant to this subdivision (b)(3) continues to function
 11 as it was constituted on March 25, 1975.

12 (ii) The successor licensees may be employed or
 13 controlled directly or indirectly only by the licensee whose license is
 14 renewed or continued pursuant to this subdivision.

15 (iii) The term "successor", as used in this
 16 subdivision (b)(3)(A), means individuals who replace in an identical capacity
 17 other individuals who have left or ceased to be employed by or associated with
 18 a lending institution agency or its subsidiary or affiliate.

19 (B)(i) The subsequent transfer of ownership or control of a
 20 licensee whose license is renewed or continued pursuant to this subdivision
 21 (b)(3) to other subsidiaries or affiliates of the licensee with which the
 22 licensee was associated on March 25, 1975, shall not prohibit the commissioner
 23 from granting renewals of or licenses to successor licensees.

24 (ii) However, the restrictions of this subsection
 25 shall attach, and the commissioner shall not issue, renew, or continue any
 26 license of a lending institution or of any subsidiary or affiliate of a
 27 lending institution or to any officer or employee of either of the above if
 28 any ownership interest in or any right to participate directly or indirectly
 29 in the profits of the licensee whose license has been continued pursuant to
 30 subdivision (b)(3) of this section is transferred to a new or different
 31 lending institution or to an affiliate or subsidiary of the new or different
 32 lending institution.

33 (C) No provision of this section shall in any way affect
 34 any business activities of a broker-dealer licensed by the State of Arkansas
 35 or its affiliates or subsidiaries nor affect any contracts or agreements that
 36 the broker-dealer or its affiliates or subsidiaries may have with any entity.

1 ~~(4) For purposes of this section:~~

2 ~~(A) "Lending institution" means any entity which has a~~
3 ~~place of business in this state at which it accepts deposits of money from the~~
4 ~~public and lends money, including banks and savings and loan associations;~~

5 ~~(B) "Subsidiary" means any person or entity which is~~
6 ~~controlled by a lending institution or its affiliate;~~

7 ~~(C) "Affiliate" means any person or entity which controls~~
8 ~~or is under common control with a lending institution; and~~

9 ~~(D) "Control" means the power to exercise a deciding~~
10 ~~influence over the management of a lending institution, unless the power is~~
11 ~~solely the result of an official position with the lending institution.~~

12 ~~(5) The commissioner is authorized to promulgate regulations, in~~
13 ~~order to effectuate the purposes of this subsection, which are to help~~
14 ~~maintain the separation between lending institutions and the insurance~~
15 ~~business and to minimize the possibilities of unfair competitive and deceptive~~
16 ~~practices by lending institutions or their subsidiaries or affiliates~~
17 ~~affecting agents, brokers, or the public, and to maintain parity between~~
18 ~~federally chartered lending institutions and state chartered lending~~
19 ~~institutions with respect to the sale of insurance.~~

20 ~~(6)(A) The provisions of this subsection (b) shall apply only to~~
21 ~~transfers of any ownership interest in, or control of, or any right to~~
22 ~~participate or share directly or indirectly in, the profits of any licensee~~
23 ~~that occur on or after January 1, 1993.~~

24 ~~(B) The transfers effected prior to January 1, 1993, shall~~
25 ~~be governed by the law in effect when the transfer was made.~~

26 ~~(c) Notwithstanding the requirements contained in subsections (a) or~~
27 ~~(b) of this section, the commissioner may renew or continue the licenses of~~
28 ~~persons who, as of immediately prior to January 1, 1960, were lawfully~~
29 ~~licensed as agents or solicitors under laws then in force. All the licenses~~
30 ~~shall, however, be subject to the other applicable provisions of this code.~~

31 (c) No written examination shall be required for:

32 (1) Any applicant for a license as a limited line credit
33 insurance producer as defined in § 23-64-502(h);

34 (2) Automobile dealers or automobile finance companies or their
35 employees applying for licenses covering auto physical damage or the vendor's
36 single interest on motor vehicles only;

1 (3) Transportation ticket agents of common carriers applying for
2 licenses to solicit and sell only accident insurance ticket policies or
3 insurance of personal effects while being carried as baggage on the common
4 carrier, as incidental to their duties as transportation ticket agents;

5 (4) Applicants for licenses as nonresident agents or nonresident
6 brokers, but subject to reciprocal arrangements as provided for in this
7 chapter;

8 (5) Any applicant for a temporary license under this chapter;

9 (6) Applicants for licenses to sell credit property insurance;

10 (7) Applicants for licenses to sell funeral expense insurance
11 exclusively. "Funeral expense insurance" shall be defined in rules adopted by
12 the commissioner;

13 (8) Applicants for licenses to sell mortgagor's decreasing term
14 life or mortgagor's decreasing term disability insurance to debtors of the
15 applicants or of their employers; or

16 (9) Applicants for licenses to sell for farmers' mutual aid
17 associations.

18 (d)(1) The commissioner may issue to a rental company that has complied
19 with the requirements of this subsection a limited license authorizing the
20 limited licensee to offer or sell insurance in connection with the rental of
21 vehicles.

22 (2) As used in this subsection:

23 (A) "Limited license" means the authority of a person or
24 entity authorized to sell certain coverages relating to the rental of vehicles
25 pursuant to the provisions of this subsection;

26 (B) "Renter" means any person obtaining the use of a
27 vehicle from a rental company under the terms of a rental agreement for a
28 period not to exceed ninety (90) days;

29 (C) "Rental agreement" means any written agreement setting
30 forth the terms and conditions governing the use of a vehicle provided by the
31 rental company for rental or lease;

32 (D) "Rental company" means any person or entity in the
33 business of providing primarily private passenger vehicles to the public under
34 a rental agreement for a period not to exceed ninety (90) days;

35 (E) "Rental period" means the term of the rental agreement;
36 and

1 (F) "Vehicle" or "rental vehicle" means a motor vehicle of
2 the private passenger type, including passenger vans, mini vans, and sport
3 utility vehicles and of the cargo type, including cargo vans, pickup trucks,
4 and trucks with a gross vehicle weight of less than twenty-six thousand pounds
5 (26,000 lbs.) and which do not require the operator to possess a commercial
6 driver's license.

7 (3) As a prerequisite for issuance of a limited license under
8 this subsection, there shall be filed with the commissioner a written
9 application for a limited license signed by an officer of the applicant, in
10 such form or forms and supplements thereto, and containing such information as
11 the commissioner may prescribe.

12 (4) In the event that any provision of this subsection is
13 violated by a limited licensee, the commissioner may:

14 (A) After notice and a hearing, revoke or suspend a limited
15 license issued under this subsection in accordance with the provisions of law;
16 or

17 (B) After notice and hearing, impose other penalties,
18 including suspending the transaction of insurance at specific rental locations
19 where violations of this subsection have occurred, as the commissioner deems
20 to be necessary or convenient to carry out the purposes of this subsection.

21 (5) The rental company licensed pursuant to this subsection may
22 offer or sell insurance underwritten by a licensed insurer or authorized
23 surplus lines carrier only in connection with and incidental to the rental of
24 vehicles, whether at the rental office or by preselection coverage in a
25 master, corporate, group rental, or individual agreement in any of the
26 following general categories:

27 (A) Personal accident insurance covering the risks of
28 travel, including but not limited to accident and health insurance that
29 provides coverage, as applicable, to renters and other rental vehicle
30 occupants for accidental death or dismemberment and reimbursement for medical
31 expenses resulting from an accident that occurs during the rental period;

32 (B) Liability insurance which at the exclusive option of
33 the rental company may include uninsured and underinsured motorist coverage
34 whether offered separately or in combination with other liability insurance
35 that provides coverage, as applicable, to renters and other authorized drivers
36 of rental vehicles for liability arising from the operation of the rental

1 vehicle;

2 (C) Personal effects insurance that provides coverage, as
3 applicable, to renters and other vehicle occupants for the loss of or damage
4 to personal effects that occurs during the rental period;

5 (D) Roadside assistance and emergency sickness protection
6 programs; and

7 (E) Any other travel or auto-related coverage that a rental
8 company offers in connection with and incidental to the rental of vehicles.

9 (6) No insurance may be issued by a limited licensee pursuant to
10 this subsection unless:

11 (A) The rental period of the rental agreement does not
12 exceed ninety (90) consecutive days;

13 (B) At every rental location where rental agreements are
14 executed, brochures or other written materials are readily available to the
15 prospective renter that:

16 (i) Summarize clearly and correctly the material
17 terms of coverage offered to renters, including the identity of the insurer;

18 (ii) Disclose that the coverage offered by the rental
19 company may provide a duplication of coverage already provided by a renter's
20 personal automobile insurance policy, homeowner's insurance policy, personal
21 liability insurance policy, or other source of coverage;

22 (iii) State that the purchase by the renter of the
23 kinds of coverage specified in this subsection is not required in order to
24 rent a vehicle; and

25 (iv) Describe the process for filing a claim in the
26 event the renter elects to purchase coverage and in the event of a claim; and

27 (C) Evidence of coverage is disclosed within the rental
28 agreement provided to every renter who elects to purchase such coverage.

29 (7) Any limited license issued under this subsection shall also
30 authorize any employee of the limited licensee to act individually on behalf
31 of and under the supervision of the limited licensee with respect to the kinds
32 of coverage specified in this subsection.

33 (8) Each rental company licensed pursuant to this subsection
34 shall conduct a training program in which employees being trained shall
35 receive basic instruction about the kinds of coverage specified in this
36 subsection and offered for purchase by prospective renters of rental vehicles.

1 (9) Notwithstanding any other provision of this subsection or any
2 rule adopted by the commissioner, a limited licensee pursuant to this
3 subsection shall not be required to treat moneys collected from renters
4 purchasing such insurance when renting vehicles as funds received in a
5 fiduciary capacity, provided that the charges for coverages shall be itemized
6 and be ancillary to a rental transaction. The sale of insurance not in
7 conjunction with a rental transaction shall not be permitted.

8 (10) No limited licensee under this subsection shall advertise,
9 represent, or otherwise hold itself or any of its employees out as licensed
10 insurers, insurance agents, or insurance brokers.

11
12 SECTION 7. Arkansas Code 23-64-203 is amended to read as follows:

13 ~~23-64-203. Specific qualifications for license as an agent, broker, or~~
14 ~~consultant—Exemptions Testing, emergency suspension and records.~~

15 ~~(a) For the protection of the people of this state, the commissioner~~
16 ~~shall not at or before completion of the application process issue, continue,~~
17 ~~or permit to exist any agent's or broker's or consultant's license as to~~
18 ~~insurance except in compliance with this chapter or other applicable laws or~~
19 ~~as to any individual not qualified therefor as follows:—~~

20 ~~(1) Must be a resident of this state or of another state if, by~~
21 ~~reciprocal arrangements made by the commissioner with the other state, similar~~
22 ~~privileges therein are granted to residents of this state or per this chapter;—~~

23 ~~(2) Must have been appointed an agent by an authorized insurer~~
24 ~~before solicitation or sale of any product, if licensed as an agent;—~~

25 ~~(3) Must pass the written examination as shall be required by the~~
26 ~~commissioner;—~~

27 ~~(4)(A) Shall, before licensure or examination if examination is~~
28 ~~required, complete specific courses of instruction in the field of insurance~~
29 ~~as the commissioner shall by regulation prescribe for the license.—~~

30 ~~(B) Proof of completion must be presented before testing is~~
31 ~~administered.—~~

32 ~~(C) The courses of instruction shall in the aggregate~~
33 ~~consist of not less than thirty six (36) hours of classroom instruction~~
34 ~~administered by or under the supervision of persons qualifying with and~~
35 ~~approved by the commissioner for such purpose and successful completion of~~
36 ~~which shall be certified to the commissioner, on forms prescribed by him, by~~

1 the person under whose supervision the instruction was administered.—

2 (D) ~~The courses of instruction shall provide the applicant~~
3 ~~with basic knowledge of the broad principles of insurance, licensing, and~~
4 ~~regulatory laws of this state and the obligations and duties of an agent,~~
5 ~~broker, or consultant licensed as such to transact insurance.—~~

6 (E) ~~Programs of instruction may be provided by any~~
7 ~~authorized insurer, agents' association, or trade association recognized by~~
8 ~~the commissioner, or by any university, college, or any other educational~~
9 ~~institution in this state having a comprehensive course of instruction~~
10 ~~approved and certified by the commissioner.—~~

11 (F) ~~The commissioner shall issue appropriate regulations to~~
12 ~~implement the educational requirements and standards prescribed in this~~
13 ~~subdivision and to prescribe the general curriculum of courses of instruction.—~~

14 (G) ~~The curriculum shall include not less than five (5)~~
15 ~~hours of instruction relative to the licensing of agents and insurance~~
16 ~~regulatory laws of this state, criteria for approval of the providers of the~~
17 ~~courses of instruction, and certifications contemplated pursuant to this~~
18 ~~subdivision; and—~~

19 (5) ~~None of the provisions of this subdivision (a)(3)(2) shall~~
20 ~~apply to, and no examination shall be required of, any applicant for a license~~
21 ~~presently exempted by law from an examination. Subdivision (a) (3)(2) shall~~
22 ~~also not apply as to any person licensed as of March 18, 1983, as an insurance~~
23 ~~agent or broker under the laws of this state.—~~

24 (a) The commissioner shall prescribe the form and content of all
25 examination required by this chapter and shall include therein questions
26 calculated to determine the applicant's knowledge of the laws of this state
27 and the regulations of the commissioner relative to those areas of licensure.

28 ~~(b) As to licenses existing immediately prior to January 1, 1960, the~~
29 ~~commissioner shall not issue any license as to banks, trust companies, and~~
30 ~~other financial institutions and persons prohibited from being licensed as to~~
31 ~~other kinds of insurance under § 23-64-202(b), but subject to § 23-64-202(c).—~~

32 ~~(c)(1) No person shall be a licensed agent, broker, or consultant until~~
33 ~~that person shall take, if so required, and pass, to the satisfaction of the~~
34 ~~commissioner, a written examination to determine the competency of the person~~
35 ~~to be an insurance agent, broker, or consultant within that insurance area of~~
36 ~~expertise desired to be licensed, in addition to other requirements determined~~

1 by the commissioner. The commissioner shall prescribe the form and content of
 2 the examination and shall include therein questions calculated to determine
 3 the applicant's knowledge of the laws of this state and the regulations of the
 4 commissioner relative to those areas of licensure.

5 ~~(2)(A)~~ If the employment or appointment of any insurance agent is
 6 terminated by an insurance company because of the licensee's misrepresentation
 7 of insurance policies to any person, for acts of fraud, or for any other
 8 reason of dishonesty or inappropriate action, or because of the discovery of
 9 information found in an appointment review of the agent, the insurance company
 10 shall notify the commissioner within ten (10) working days of the dismissal
 11 and the reasons therefor.

12 ~~(B)~~ The notice shall be a privileged communication and
 13 shall not be admissible in evidence in any action or proceeding other than
 14 those brought by the commissioner.

15 ~~(C)~~ For purposes of this communication only, the insurance
 16 company shall be deemed to be the commissioner's authorized representative and
 17 shall have available the immunity afforded per § 23-61-208.

18 ~~(D)~~ Failure by any insurance company to notify the
 19 commissioner of such acts shall be deemed to be a refusal to give information
 20 per § 23-63-213(2).

21 ~~(E)(b)~~ Upon receipt of the notice from any insurance company pursuant
 22 to § 23-64-515(a), the commissioner shall, if he determines after
 23 investigation that the dismissal was because of misrepresentation of any
 24 insurance policy or for fraud for any of the reasons described in § 23-64-512,
 25 ~~or for violation of any of the laws of this state,~~ immediately suspend the
 26 license of the licensee pending a hearing on the matter.

27 ~~(3)(A)(c)(1)~~ The commissioner shall maintain information on each
 28 licensee in this state. A complete record of all information furnished the
 29 commissioner regarding the conduct of any licensee in this state shall be
 30 maintained for a reasonable period of time as determined by the commissioner.

31 ~~(B)(2)~~ If the commissioner receives information from any
 32 insurance company or from any other person about acts of fraud by a licensee,
 33 or about misrepresentations of the terms and provisions of any insurance
 34 policy by the licensee, the commissioner shall transmit that information plus
 35 any other information discovered in an investigation by the commissioner to
 36 the proper authorities for legal action against the agent as authorized by the

1 laws of this state.

2 ~~(4)(d)~~ The provisions of this subsection shall be supplemental to and
3 shall not repeal any existing laws on the same subject.

4

5 SECTION 8. Arkansas Code 23-64-204 is amended to read as follows:

6 23-64-204. Application for ~~agent's, broker's, or~~ an insurance
7 consultant's license.

8 (a) Application for an ~~agent's, broker's, or~~ and insurance consultant's
9 license shall be made to the Insurance Commissioner by the applicant and be
10 signed and sworn to by the applicant along with a nonrefundable application
11 fee as prescribed by regulation.

12 (b) The form of application shall require full answers to such
13 questions as may reasonably be necessary to determine the applicant's
14 identity, residence, personal history, business record, experience in
15 insurance, and other facts, such as, but not limited to, criminal convictions,
16 pleas, pending charges, bankruptcies, or filings for bankruptcy or any other
17 items, as required by the commissioner to determine whether the applicant
18 meets the applicable qualifications mandated.

19 (c) The application shall state the kinds of insurance proposed to be
20 transacted.

21 (d) If the applicant for license is a firm, limited liability company,
22 or corporation, the application shall show the names of all members, managers,
23 officers, and directors and shall designate each individual who is to exercise
24 the powers to be conferred by the license. Each individual so designated shall
25 furnish information with respect to himself or herself, as part of the
26 application, as though licensed as an individual licensee.

27 (e) The application shall also show whether the applicant or individual
28 designee under the license was ever previously licensed to transact any kind
29 of insurance in this state or elsewhere, whether the license was ever refused,
30 suspended, or revoked, and whether any insurer or insurance licensee claims an
31 applicant is indebted to it, and if so, the details thereof.

32 (f)(1) If the application is approved and if the nonrefundable
33 application fee is paid, an examination permit will be issued to the
34 applicant.

35 (2) The permit will be valid for a period of ninety (90) days
36 from the date of issuance.

1 (3) If the applicant does not schedule and appear for examination
2 within that ninety-day period, the permit shall expire and the applicant may
3 be required to file a new application and shall pay another nonrefundable
4 application fee before issuance of another examination permit to the
5 applicant.

6 (4) If an applicant appears for examination but fails to pass the
7 examination, he shall be required to pay a nonrefundable reexamination fee
8 before reexamination.

9 ~~(g)(1) As to any application or request for appointment by an insurer
10 or company to be added to the license obtained by an individual agent who has
11 had no previous appointments on his Arkansas license prior to this request,
12 the commissioner shall require that the insurer has conducted or secured at
13 its expense an investigation as to the applicant's identity, residence,
14 experience, or instruction as to the kinds of insurance to be transacted, and
15 as to the agent's character, financial condition, and financial history. This
16 requirement shall not be applied to any individual requesting a renewal
17 license or requesting his second or subsequent insurer appointments added
18 after the first time license or appointment.~~

19 ~~(2) The investigation shall include, at a minimum, the following
20 information disclosed by such investigation:~~

21 ~~(A) Whether the applicant has been convicted of a felony,
22 and, if so, the date and nature of the conviction, the name and location of
23 the court, and the penalty imposed or other disposition of the case, for
24 review in compliance with the provisions of § 23-66-502(c) and other
25 applicable state or federal laws;~~

26 ~~(B) Whether, at the time of the application, the agent or
27 applicant is a named party in any lawsuit, and, if so, the style of the
28 lawsuit, a brief description of the litigation, and the name and location of
29 the court;~~

30 ~~(C) Whether a judgment for monetary damages has been
31 entered against the applicant within the last five (5) years, and, if so, the
32 date of the judgment, the amount of the judgment, whether the judgment has
33 been paid or otherwise satisfied, the name and location of the court, and the
34 style of the case; and~~

35 ~~(D) Such other information as the commissioner shall
36 require.~~

1 ~~(3) The forms and the requirements of this subsection shall not~~
2 ~~apply to:~~

3 ~~(A) Any limited or restricted license referenced in § 23-~~
4 ~~64-205(f), any limited or restricted license which the commissioner may~~
5 ~~exempt, or any temporary license the commissioner may issue; and-~~

6 ~~(B) Corporations, partnerships, limited liability~~
7 ~~companies, and partnerships licensed as insurance agencies under this chapter.~~

8 ~~(h) The requirements for broker background checks of subdivisions~~
9 ~~(g)(1) and (2) of this section shall apply to each first time original license~~
10 ~~applicant for a broker's license in this state. However, those requirements~~
11 ~~shall not be required for any renewal broker's license, and all filings shall~~
12 ~~exclude appointment forms for first or renewal licenses for brokers.~~

13
14 SECTION 9. Arkansas Code 23-64-205 is amended to read as follows:

15 23-64-205. Written examination.

16 (a) Within a reasonable time and in a location to be determined by the
17 Insurance Commissioner, after filing of application and payment of the
18 applicable fees, the commissioner shall subject each applicant for license as
19 ~~agent, broker, or an insurance consultant, unless exempted therefrom under~~
20 ~~subsection (f) of this section,~~ to a written examination.

21 (b) If the applicant is a firm, limited liability company, or
22 corporation, the examination shall be taken by each individual who is to be
23 named in the license as having authority to act for the applicant in its
24 insurance transactions under the license.

25 ~~(c) Examination of an applicant for an agent's license shall cover only~~
26 ~~the kinds of insurance or subdivisions thereof defined in this code for which~~
27 ~~the agent desires to be licensed.~~

28 ~~(d)~~(c) Examination of an applicant for ~~a broker's or~~ an insurance
29 consultant's license shall cover the kinds of insurance as to which the
30 applicant is to be licensed.

31 ~~(e)~~(d)(1) The commissioner may give, conduct, and grade all
32 examinations, or he may arrange to have examinations administered and graded
33 by an independent testing service as specified by contract, in a fair and
34 impartial manner, and without unfair discrimination as between individuals
35 examined.

36 (2) Any written examination may be substituted by an oral

1 examination of the applicant if so deemed necessary under any applicable
2 statute, including, but not limited to, the Americans with Disabilities Act.

3 (3) The commissioner shall require a waiting period of four (4)
4 weeks before reexamination of an applicant who thrice failed to pass previous
5 similar examinations. This waiting period applies after every third
6 unsuccessful attempt.

7 ~~(f) This section shall not apply to, and no examination shall be
8 required of:~~

9 ~~(1) Applicants for licenses to sell credit life or credit
10 disability insurance;~~

11 ~~(2) Automobile dealers or automobile finance companies or their
12 employees applying for licenses covering auto physical damage or the vendor's
13 single interest on motor vehicles only;~~

14 ~~(3) Transportation ticket agents of common carriers applying for
15 licenses to solicit and sell only accident insurance ticket policies or
16 insurance of personal effects while being carried as baggage on the common
17 carrier, as incidental to their duties as transportation ticket agents;~~

18 ~~(4) Applicants for licenses as nonresident agents or nonresident
19 brokers, but subject to reciprocal arrangements as provided for in this
20 chapter;~~

21 ~~(5) Any applicant for a temporary license under this chapter;~~

22 ~~(6) Applicants for licenses to sell credit property insurance;~~

23 ~~(7) Applicants for licenses to sell funeral expense insurance
24 exclusively. "Funeral expense insurance" shall be defined in rules adopted by
25 the commissioner;~~

26 ~~(8) Applicants for licenses to sell mortgagor's decreasing term
27 life or mortgagor's decreasing term disability insurance to debtors of the
28 applicants or of their employers; or~~

29 ~~(9) Applicants for licenses to sell for farmers' mutual aid
30 associations.~~

31 ~~(g)(1) The commissioner may issue to a rental company that has complied
32 with the requirements of this subsection a limited license authorizing the
33 limited licensee to offer or sell insurance in connection with the rental of
34 vehicles.~~

35 ~~(2) As used in this subsection:~~

36 ~~(A) "Limited license" means the authority of a person or~~

1 ~~entity authorized to sell certain coverages relating to the rental of vehicles~~
 2 ~~pursuant to the provisions of this subsection;~~

3 ~~(B) "Rental agreement" means any written agreement setting~~
 4 ~~forth the terms and conditions governing the use of a vehicle provided by the~~
 5 ~~rental company for rental or lease;~~

6 ~~(C) "Rental company" means any person or entity in the~~
 7 ~~business of providing primarily private passenger vehicles to the public under~~
 8 ~~a rental agreement for a period not to exceed ninety (90) days;~~

9 ~~(D) "Renter" means any person obtaining the use of a~~
 10 ~~vehicle from a rental company under the terms of a rental agreement for a~~
 11 ~~period not to exceed ninety (90) days;~~

12 ~~(E) "Vehicle" or "rental vehicle" means a motor vehicle of~~
 13 ~~the private passenger type, including passenger vans, mini vans, and sport~~
 14 ~~utility vehicles and of the cargo type, including cargo vans, pickup trucks,~~
 15 ~~and trucks with a gross vehicle weight of less than twenty six thousand pounds~~
 16 ~~(26,000 lbs.) and which do not require the operator to possess a commercial~~
 17 ~~driver's license; and~~

18 ~~(F) "Rental period" means the term of the rental agreement.~~

19 ~~(3) As a prerequisite for issuance of a limited license under~~
 20 ~~this subsection, there shall be filed with the commissioner a written~~
 21 ~~application for a limited license signed by an officer of the applicant, in~~
 22 ~~such form or forms and supplements thereto, and containing such information as~~
 23 ~~the commissioner may prescribe.~~

24 ~~(4) In the event that any provision of this subsection is~~
 25 ~~violated by a limited licensee, the commissioner may:~~

26 ~~(A) After notice and a hearing, revoke or suspend a limited~~
 27 ~~license issued under this subsection in accordance with the provisions of law;~~
 28 ~~or~~

29 ~~(B) After notice and hearing, impose other penalties,~~
 30 ~~including suspending the transaction of insurance at specific rental locations~~
 31 ~~where violations of this subsection have occurred, as the commissioner deems~~
 32 ~~to be necessary or convenient to carry out the purposes of this subsection.~~

33 ~~(5) The rental company licensed pursuant to this subsection may~~
 34 ~~offer or sell insurance underwritten by a licensed insurer or authorized~~
 35 ~~surplus lines carrier only in connection with and incidental to the rental of~~
 36 ~~vehicles, whether at the rental office or by pre-selection coverage in a~~

1 ~~master, corporate, group rental, or individual agreement in any of the~~
 2 ~~following general categories:—~~

3 ~~(A) Personal accident insurance covering the risks of~~
 4 ~~travel, including but not limited to accident and health insurance that~~
 5 ~~provides coverage, as applicable, to renters and other rental vehicle~~
 6 ~~occupants for accidental death or dismemberment and reimbursement for medical~~
 7 ~~expenses resulting from an accident that occurs during the rental period;—~~

8 ~~(B) Liability insurance which at the exclusive option of~~
 9 ~~the rental company may include uninsured and underinsured motorist coverage~~
 10 ~~whether offered separately or in combination with other liability insurance~~
 11 ~~that provides coverage, as applicable, to renters and other authorized drivers~~
 12 ~~of rental vehicles for liability arising from the operation of the rental~~
 13 ~~vehicle;—~~

14 ~~(C) Personal effects insurance that provides coverage, as~~
 15 ~~applicable, to renters and other vehicle occupants for the loss of or damage~~
 16 ~~to personal effects that occurs during the rental period;—~~

17 ~~(D) Roadside assistance and emergency sickness protection~~
 18 ~~programs; and—~~

19 ~~(E) Any other travel or auto-related coverage that a rental~~
 20 ~~company offers in connection with and incidental to the rental of vehicles.—~~

21 ~~(6) No insurance may be issued by a limited licensee pursuant to~~
 22 ~~this subsection unless:—~~

23 ~~(A) The rental period of the rental agreement does not~~
 24 ~~exceed ninety (90) consecutive days;—~~

25 ~~(B) At every rental location where rental agreements are~~
 26 ~~executed, brochures or other written materials are readily available to the~~
 27 ~~prospective renter that:—~~

28 ~~(i) Summarize clearly and correctly the material~~
 29 ~~terms of coverage offered to renters, including the identity of the insurer;—~~

30 ~~(ii) Disclose that the coverage offered by the rental~~
 31 ~~company may provide a duplication of coverage already provided by a renter's~~
 32 ~~personal automobile insurance policy, homeowner's insurance policy, personal~~
 33 ~~liability insurance policy, or other source of coverage;—~~

34 ~~(iii) State that the purchase by the renter of the~~
 35 ~~kinds of coverage specified in this subsection is not required in order to~~
 36 ~~rent a vehicle; and~~

1 (iv) Describe the process for filing a claim in the
2 event the renter elects to purchase coverage and in the event of a claim; and

3 (C) Evidence of coverage is disclosed within the rental
4 agreement provided to every renter who elects to purchase such coverage.

5 (7) Any limited license issued under this subsection shall also
6 authorize any employee of the limited licensee to act individually on behalf
7 of and under the supervision of the limited licensee with respect to the kinds
8 of coverage specified in this subsection.

9 (8) Each rental company licensed pursuant to this subsection
10 shall conduct a training program in which employees being trained shall
11 receive basic instruction about the kinds of coverage specified in this
12 subsection and offered for purchase by prospective renters of rental vehicles.

13 (9) Notwithstanding any other provision of this subsection or any
14 rule adopted by the commissioner, a limited licensee pursuant to this
15 subsection shall not be required to treat moneys collected from renters
16 purchasing such insurance when renting vehicles as funds received in a
17 fiduciary capacity, provided that the charges for coverages shall be itemized
18 and be ancillary to a rental transaction. The sale of insurance not in
19 conjunction with a rental transaction shall not be permitted.

20 (10) No limited licensee under this subsection shall advertise,
21 represent, or otherwise hold itself or any of its employees out as licensed
22 insurers, insurance agents, or insurance brokers.

23
24 SECTION 10. Arkansas Code 23-64-206 is repealed:

25 ~~23-64-206. Appointments for agents representing insurers.~~

26 (a) ~~Qualified agents shall have one (1) appointment for each insurer to
27 be so represented as agent. No agent shall place any business with any insurer
28 as to which that agent does not then hold an appointment as an agent, except
29 as specifically provided in this chapter.~~

30 (b) ~~Appointment of an agent shall be effectuated as specified per
31 regulation by the commissioner.~~

32
33 SECTION 11. Arkansas Code 23-64-207 is amended to read as follows:

34 23-64-207. Scope of broker's license and authority and an insurance
35 consultant's license.

36 (a) (1) ~~A license as a broker shall cover property, casualty, surety,~~

1 and marine insurance, and the The Insurance Commissioner shall not issue a
2 broker's license limited to particular lines of insurance.

3 ~~(2) However, a broker's license shall not include life or~~
4 ~~disability insurance.~~

5 ~~(3) A license as a consultant may cover:~~

6 ~~(A) Life and disability; or~~

7 ~~(B) Property and casualty which includes surety and marine;~~

8 ~~or~~

9 ~~(C) Both (A) and (B).~~

10 (b)(1) A broker, as such, is not an agent or other representative of an
11 insurer and does not have power by his own acts to obligate the insurer upon
12 any risk or with reference to any insurance transaction unless, and to the
13 extent, he has received refunded premiums from the insurer on behalf of the
14 insured.

15 (2) An insurer or agent shall have the right to pay to a broker
16 licensed under this chapter the customary commissions upon insurance placed
17 through the broker.

18 ~~(3)(c)~~ A license as a consultant may cover:

19 ~~(A)(1)~~ Life and disability; or

20 ~~(B)(2)~~ Property and casualty which includes surety and marine; or

21 ~~(C)(3)~~ Both ~~(A)~~ (1) and ~~(B)~~ (2).

22

23 SECTION 12. Arkansas Code 23-64-208 is repealed.

24 ~~23-64-208. Broker's surety bond.~~

25 ~~(a) Every applicant for a broker's license and for a renewal license~~
26 ~~shall file with the application and shall thereafter maintain in force while~~
27 ~~so licensed a bond in favor of the people of the State of Arkansas executed by~~
28 ~~an authorized surety insurer.~~

29 ~~(1) The bond may be continuous in form, and total aggregate~~
30 ~~liability on the bond may be limited to payment of twenty five thousand~~
31 ~~dollars (\$25,000).~~

32 ~~(2) The bond shall be conditioned upon full accounting and due~~
33 ~~payment to the person entitled thereto of funds coming into the broker's~~
34 ~~possession through insurance transactions under the license.~~

35 ~~(b) The bond shall remain in force until released by the commissioner~~
36 ~~or until cancelled by the surety. Without prejudice to any liability~~

1 ~~previously incurred thereunder, the surety may cancel the bond on thirty (30)~~
 2 ~~days' advance written notice to both the broker and the commissioner.~~

3
 4 SECTION 13. Arkansas Code 23-64-210 is amended to read as follows:

5 23-64-210. Licensing of adjuster and insurance consulting firms
 6 partnerships, limited partnerships, joint ventures, limited liability
 7 companies, and corporations.

8 (a)(1) A An adjusting or insurance consulting firm partnership, limited
 9 partnership, joint venture, limited liability company, or corporation may be
 10 licensed only as a licensee. If a firm partnership, limited partnership or
 11 joint venture, each general partner and each other individual to act for the
 12 firm it under the license, and if a limited liability company or a
 13 corporation, each individual to act for ~~the limited liability company or~~
 14 ~~corporation~~ it under the license, shall be named in the license and shall
 15 qualify for the license as though an individual licensee.

16 (2) The Insurance Commissioner shall charge, and the licensee
 17 shall pay, a full additional license fee as to each respective individual so
 18 named in the license in excess of one (1) licensee.

19 (b)(1) The commissioner, in his discretion, may issue a license to a
 20 firm partnership, limited partnership or joint venture, limited liability
 21 company, or corporation organized under the laws of another state if the firm
 22 partnership, limited partnership or joint venture, limited liability company,
 23 or corporation is licensed as a resident licensee under the laws of its state
 24 of domicile.

25 (2)(A) ~~If a firm, each general partner and each other individual~~
 26 ~~authorized to act on behalf of the firm under the license, and if a limited~~
 27 ~~liability company or corporation, each~~ Each individual authorized to act on
 28 behalf of a partnership, limited partnership, joint venture, the limited
 29 liability company or corporation under the license shall be named in the
 30 license and shall qualify therefor as though an individual licensee under the
 31 provisions of this code.

32 (B) The commissioner shall charge, and the licensee shall
 33 pay, a full additional license fee as to each respective individual licensee
 34 in the license in excess of one (1), in the amounts stated in § 23-61-401 and
 35 any existing or future rule and regulation.

36 (3) The nonresident licensee shall promptly notify the

1 commissioner of all changes among its members, partners, directors, managers,
2 and officers, and all other individuals designated in the license.

3 ~~(4) As a part of the application for the license of agent, the~~
4 ~~commissioner shall require the applicant to file a written agreement executed~~
5 ~~by a member, partner, or officer authorized to act for the firm, limited~~
6 ~~liability company, or corporation acknowledging under oath that its agents~~
7 ~~will not during the period of the license directly or indirectly place~~
8 ~~insurance upon subjects resident, located, or to be performed in this state~~
9 ~~except by policies or contracts in insurers authorized to transact insurance~~
10 ~~in this state.~~

11 ~~(5) Application for and acceptance of a firm's, limited liability~~
12 ~~company's, or corporation's license as a nonresident licensee shall be deemed~~
13 ~~to constitute irrevocable appointment of the commissioner as the attorney of~~
14 ~~the licensee for the acceptance of service of process issued in this state.~~
15 ~~The licensee shall comply with the further provisions of this chapter.~~

16 (c) Within ten (10) days, each licensee shall notify the commissioner
17 of all changes among its members, directors, officers, and all other
18 individuals designated in the license.

19 (d)(1) Every firm, limited liability company, or corporation licensed
20 and every applicant for a license shall file with the commissioner the true
21 name of the firm, limited liability company, or corporation and also all
22 fictitious names under which it conducts or intends to conduct its business
23 and, after licensing, shall file with the commissioner any change in or
24 discontinuance of those names.

25 (2) The commissioner may disapprove in writing the use of any
26 name on any of the following grounds:

27 (A) The name is identical to or is similar to that of
28 another licensee so as to confuse or otherwise mislead the public; or

29 (B) The name includes words or phrases that may mislead the
30 public as to activities not authorized under the license or which are in
31 violation of any insurance law or insurance regulation; or

32 (C) The name states, infers, or implies that the firm,
33 limited liability company, or corporation is an insurer, motor club, or
34 hospital service plan or entitled to engage in insurance activities not
35 permitted under the license applied for or held; or

36 (D) Other reasonable grounds as the commissioner may

1 determine.

2 (3) The grounds specified in subdivisions (d)(2)(B) and (d)(2)(D)
3 of this section shall not be applicable to the true name of any firm or
4 corporation which on March 21, 1985, held a license issued under this
5 subchapter.

6 ~~(e) The provisions of subsections (a) and (b) of this section shall not~~
7 ~~apply to those partners who are partners in the firm for investment purposes~~
8 ~~only and who do not act for the firm or take any other active role in the~~
9 ~~operations of the firm.~~

10 ~~(f)(e)~~ In the event an insurer does not wish to provide for the
11 authority of all such agents authorized under the license of a ~~firm~~
12 partnership, limited partnership, joint venture, limited liability company, or
13 corporation to act on their behalf, that insurer may appoint specific agents
14 individually within ~~the firm, limited liability company, or corporation,~~ and
15 ~~the firm, limited liability company, or corporation~~ it, and they may act on
16 the behalf of the insurer, but only ~~through those agents individually~~
17 ~~appointed by the insurer~~ while acting on the behalf of the ~~firm,~~ partnership,
18 limited partnership, joint venture, limited liability company, or corporation
19 and only if among those specific agents individually appointed, there is one
20 general partner, one officer of the corporation, or one manager of the limited
21 liability company or joint venture.

22 (f) Every partnership, limited partnership, joint venture, limited
23 liability company, or corporation receiving a license pursuant to this
24 section, shall designate and continuously maintain in the state:

25 (1) A registered office that may be the same as any of its places
26 of business; and

27 (2) A registered agent, who may be:

28 (A) An individual who resides in this state and whose
29 business office is identical with the registered office;

30 (B) A state bank, domestic corporation or not-for-profit
31 corporation whose business office is identical with the registered office; or

32 (C) A foreign corporation or foreign not-for-profit
33 corporation authorized to transact business in this state whose business
34 office is identical with the registered office.

35 (g)(1) The partnership, limited partnership, joint venture, limited
36 liability company, or corporation may change its registered office or

1 registered agent by delivering to the commissioner for filing a statement of
 2 change that sets forth:

3 (A) Its name;

4 (B) The street address of its current registered office;

5 (C) If the current registered office is to be changed, the
 6 street address of its new registered office;

7 (D) The name of its current registered agent;

8 (E) If the current registered agent is to be changed, the
 9 name of its new registered agent with the new agent's written consent to the
 10 appointment, either on the statement or attached to it; and

11 (F) That after the change or changes are made, the street
 12 addresses of its registered office and the business office of its reciprocal
 13 agent will be identical.

14 (2) If a registered agent changes the street address of his
 15 business office, he may change the street address of the registered office of
 16 any foreign insurer holding a certificate of authority to transact business in
 17 Arkansas or any domestic reciprocal insurer for which he is the registered
 18 agent by notifying the insurer in writing of the change and signing, either
 19 manually or in facsimile, and delivering to the commissioner for filing a
 20 statement of change that complies with the requirements of subsection (a) of
 21 this section and recites that the insurer has been notified of the change.

22 (h)(1) The registered agent of a partnership, limited partnership,
 23 joint venture, limited liability company or corporation, holding a license
 24 under this section, may resign his agency appointment by signing and
 25 delivering to the commissioner for filing the original and two (2) exact or
 26 conformed copies of a statement of resignation. The statement of resignation
 27 may include a statement that the registered office is also discontinued.

28 (2) After filing the statement, the commissioner shall attach the
 29 filing receipt to one (1) copy and mail the copy and receipt to the registered
 30 office if not discontinued. The commissioner shall mail the other copy to the
 31 partnership, limited partnership, joint venture, limited liability company or
 32 corporation at its principal office address shown in its most recent annual
 33 report.

34 (3) The agency appointment is terminated, and the registered
 35 office discontinued if so provided, on the thirty-first day after the date on
 36 which the statement was filed.

1 (i)(1) The registered agent of a partnership, limited partnership,
2 joint venture, limited liability company or corporation holding a license
3 issued pursuant to this section in Arkansas is the insurer's agent for service
4 of process, notice, or demand required or permitted by law to be served on the
5 it.

6 (2) A partnership, limited partnership, joint venture, limited
7 liability company or corporation may be served by registered or certified
8 mail, return receipt requested, addressed to its managing partner, manager,
9 president or secretary at its principal office shown in its application for a
10 license if:

11 (A) Has no registered agent or its registered agent cannot
12 with reasonable diligence be served;

13 (B) Has withdrawn from transacting business in this state;
14 or

15 (C) Has had its license revoked under this subchapter.

16 (3) Service is perfected at the earliest of:

17 (A) The date the insurer receives the mail;

18 (B) The date shown on the return receipt, if signed on
19 behalf of the insurer; or

20 (C) Five (5) days after its deposit in the United States
21 mail, as evidence by the postmark, if mailed postpaid and correctly addressed.

22 (4) This section does not prescribe the only means, or
23 necessarily the required means, of serving a partnership, limited partnership,
24 joint venture, limited liability company or corporation holding a license
25 under this section.

26
27 SECTION 14. Arkansas Code 23-64-211 is repealed.

28 ~~23-64-211. Nonresident agents or brokers—License.~~

29 ~~(a)(1) The Insurance Commissioner may license as an agent or a broker a~~
30 ~~person who is a licensed agent or broker of another state, and who is~~
31 ~~otherwise qualified therefor under this chapter except as to residence, if~~
32 ~~under the laws of the state of his domicile a similar privilege is granted to~~
33 ~~persons resident or domiciled in Arkansas.~~

34 ~~(2) By reciprocal arrangements with the insurance supervisory~~
35 ~~official in such other state, the commissioner may waive written examination~~
36 ~~of an applicant for license as nonresident broker or agent, if the official~~

1 certifies that the applicant is licensed as a resident agent or broker of such
 2 state and has complied with its qualification standards therefor.

3 (3) ~~As part of the application for any such license, the~~
 4 ~~commissioner shall require the applicant to file his written agreement,~~
 5 ~~acknowledged under the oath of the applicant, that he will not during the~~
 6 ~~period of the license directly or indirectly place insurance upon subjects~~
 7 ~~resident, located, or to be performed in this state, except by policies or~~
 8 ~~contracts in insurers authorized to transact insurance in this state.~~

9 (4) ~~The fee for any such license shall be as stated in § 23-61-~~
 10 ~~401.~~

11 (5) ~~A nonresident agent shall have one (1) appointment for each~~
 12 ~~insurer to be so represented.~~

13 (b)(1)(A)(i) ~~Upon the licensed nonresident broker's or nonresident~~
 14 ~~agent's change of domicile to the State of Arkansas, each licensee shall apply~~
 15 ~~for and obtain a resident agent's or broker's license within ninety (90) days~~
 16 ~~of such change of domicile to this state.~~

17 (ii) ~~The nonresident broker or nonresident agent~~
 18 ~~license of such person shall cease to be valid ninety (90) days after such~~
 19 ~~change of domicile to this state.~~

20 (B)(i) ~~Such nonresidents shall apply on forms prescribed by~~
 21 ~~the commissioner.~~

22 (ii) ~~Such nonresidents shall not be required to~~
 23 ~~secure pre-licensing education or pass an Arkansas examination to qualify for~~
 24 ~~a resident license after a change of domicile to Arkansas, if the former home~~
 25 ~~state will grant similar waivers to Arkansas resident agents.~~

26 (iii) ~~For nonresidents from states which will not~~
 27 ~~reciprocate on waivers for Arkansas agents, the nonresident licensed in the~~
 28 ~~former state for less than one (1) year shall complete Arkansas prelicensing~~
 29 ~~education and pass the appropriate examination under the provisions of §§ 23-~~
 30 ~~64-201 — 23-64-230.~~

31 (iv) ~~Nonresidents licensed in the nonwaiver home~~
 32 ~~state for one (1) or more years shall pass the Arkansas examination, but may~~
 33 ~~apply for a waiver of prelicensing education.~~

34 (2) ~~If any nonresident broker or nonresident agent fails to~~
 35 ~~obtain a resident agent's or broker's license within this time period, the~~
 36 ~~commissioner in his discretion may refuse to issue a resident agent's or~~

1 broker's license to the person or, upon issuance of the license, may suspend
 2 the license for up to twelve (12) months and may impose an administrative
 3 penalty upon the person in the amount of three hundred dollars (\$300) or, if
 4 the commissioner has found willful misconduct or willful violation on the part
 5 of the person, one thousand dollars (\$1,000). This administrative penalty may,
 6 in the commissioner's discretion, be augmented by an amount equal to any
 7 commissions received by or accruing to the credit of the person with regard to
 8 any transactions occurring after the expiration of the ninety day period as
 9 provided in subdivision (b)(1) of this section.

10 (c) ~~A nonresident broker's license or a nonresident agent's license may~~
 11 ~~be suspended or revoked for violation of the agreement referred to in~~
 12 ~~subdivision (a)(3) of this section or for any other cause for which the~~
 13 ~~license of a resident agent or broker may be revoked.~~

14
 15 SECTION 15. Arkansas Code 23-64-212 is repealed.

16 ~~23-64-212. Temporary licenses.~~

17 (a) ~~The Insurance Commissioner may issue a temporary license as~~
 18 ~~resident agent or resident broker, as the case may be, to or with respect to~~
 19 ~~an individual qualified therefor as to age and character and without requiring~~
 20 ~~the individual to take an examination, in the following cases:~~

21 (1) ~~To the surviving spouse or next of kin or to the~~
 22 ~~administrator or executor, or the employee of the administrator or executor,~~
 23 ~~of a licensed agent or broker becoming deceased;~~

24 (2) ~~To the spouse, next of kin, employee, or legal guardian of a~~
 25 ~~licensed agent or broker disabled by sickness, injury, or insanity;~~

26 (3) ~~With respect to an employee of a firm, or officer or employee~~
 27 ~~of a corporation, or manager or employee of a limited liability company,~~
 28 ~~licensed as agent or broker, upon the death or disability of an individual~~
 29 ~~designated in the license to exercise the powers thereof;~~

30 (4) ~~To a salaried employee of an authorized insurer sent to this~~
 31 ~~state by the insurer to take the place of a licensed agent of the insurer;~~

32 (5) ~~To the designee of a licensed agent or broker entering upon~~
 33 ~~active service in the armed force of the United States; or~~

34 (6) ~~To an applicant for a license as agent or broker, who is~~
 35 ~~otherwise qualified for the license, pending the availability and taking, by~~
 36 ~~the applicant, of any written examination required under this chapter.~~

1 ~~(b) The temporary license shall be issued upon application filed with~~
2 ~~the commissioner in such form and containing such information as the~~
3 ~~commissioner may reasonably require and upon payment of the applicable fee as~~
4 ~~stated in § 23-61-401.~~

5 ~~(c) The temporary license shall be for a period of not over one hundred~~
6 ~~eighty (180) days, subject to extension by the commissioner in his discretion~~
7 ~~for an additional one hundred eighty day period. However, a license issued~~
8 ~~pursuant to subdivision (a)(1) of this section may be continued without~~
9 ~~payment of additional fee until the executor or administrator disposes of the~~
10 ~~insurance business but not to exceed a period of fifteen (15) months. A~~
11 ~~temporary license issued to the next of kin under subdivision (a)(1) of this~~
12 ~~section shall not be extended for additional terms after appointment and~~
13 ~~qualification of an administrator or executor.~~

14
15 SECTION 16. Arkansas Code 23-64-213 is repealed.

16 ~~23-64-213. Rights and limitations on temporary licenses.~~

17 ~~(a) The Insurance Commissioner shall not issue more than one (1)~~
18 ~~temporary license, to or with respect to the same individual to be so~~
19 ~~licensed, within any twelve month period.~~

20 ~~(b) The temporary license may cover the same kinds of insurance for~~
21 ~~which the agent or broker thereby being replaced was licensed.~~

22 ~~(c) As to a temporary agent's license issued on account of the death or~~
23 ~~disability of an agent, the licensee may so represent all of the insurers last~~
24 ~~represented by the deceased or disabled agent without the making of a new~~
25 ~~appointment of the licensee by the insurers. However, the licensee shall not~~
26 ~~be appointed as to any additional insurer or additional kind of insurance~~
27 ~~under a temporary license. This provision shall not be deemed to prohibit~~
28 ~~termination of its appointment by an insurer.~~

29 ~~(d) A temporary licensee shall have the same license powers and duties~~
30 ~~as though under a permanent license.~~

31 ~~(e) The fee paid for temporary license may be applied upon the fee for~~
32 ~~a like permanent license issued to the licensee before expiration of the~~
33 ~~temporary license.~~

34
35 SECTION 17. Arkansas Code 23-64-214 is amended to read as follows:

36 23-64-214. Issuance of license - Form and content of license.

1 (a) The Insurance Commissioner ~~may~~ shall promptly issue adjuster or
2 insurance consultant's licenses applied for to persons qualified therefor in
3 accordance with this chapter.

4 (b) The license shall state the name and address of the licensee, the
5 date of issue, general conditions relative to expiration or termination, kind
6 or kinds of insurance covered, the license number as determined and assigned
7 by the commissioner, and the other conditions of the license.

8 (c) If the licensee is other than an individual, the license shall also
9 state the name of each individual authorized thereunder to exercise the
10 license powers.

11 ~~(d) Every licensee shall notify the commissioner, in writing, of any~~
12 ~~change in his mailing or residence address within ten (10) days of the change.~~

14 SECTION 18. Arkansas Code 23-64-215 is amended to read as follows:

15 23-64-215. Continuance of license.

16 (a) ~~(1)~~ All ~~agent, broker,~~ insurance consultant consultants, or adjuster
17 licenses shall continue in force unless nonrenewed, expired, suspended,
18 revoked, or terminated, but shall be subject at all times to annual payment to
19 the Insurance Commissioner of the applicable continuation fee as stated in
20 23-61-401, accompanied by a written request for the continuation:

21 ~~(A)(1)~~ On or before the licensee's birthday if an
22 individual; or

23 ~~(B)(2)~~ The annual period from the date of issue if a firm,
24 limited liability company, or corporation.

25 ~~(2) Failure to pay the annual continuation fee on or before the~~
26 ~~date required shall result in the following actions:~~

27 ~~(A) If more than thirty (30) days have elapsed since the~~
28 ~~due date, the payment shall be double the annual continuation fee;~~

29 ~~(B) If more than sixty (60) days have elapsed since the due~~
30 ~~date, the payment shall be triple the annual continuation fee;~~

31 ~~(C) If more than ninety (90) days have elapsed since the~~
32 ~~due date, the agent's license may be summarily suspended with all appointing~~
33 ~~companies being notified. Reinstatement of the license shall require payment~~
34 ~~in an amount triple the annual continuation fee; and~~

35 (b) A licensee who allows his or her license to lapse may, within
36 twelve (12) months after the due date of the renewal fee, reinstate the same

1 license without the necessity of passing a written examination. However, a
2 penalty in the amount of double the unpaid renewal fee shall be required for
3 any renewal fee received after the due date.

4 ~~(D) If more than ninety (90) days have elapsed since the~~
5 ~~date of the suspension, the commissioner may automatically cancel or revoke~~
6 ~~the license without further hearing or notice.~~

7 ~~(b)(1) During the period that an agent has no company appointments, the~~
8 ~~licensee shall not transact the business of insurance in this state.~~

9 ~~(2) Subject to the terms of the insurer's contract with the~~
10 ~~licensee, an agent who has no active appointments may continue to receive~~
11 ~~commissions or other compensation relative to business written while actively~~
12 ~~appointed by such licensee.~~

13 ~~(3) Any licensed resident agent who has no insurance company~~
14 ~~appointments must continue to comply with 23-64-301 as to continuing~~
15 ~~education, pay all applicable license fees, and shall be subject at all times~~
16 ~~to the provisions and sanctions of the Arkansas Insurance Code.~~

17
18 SECTION 19. Arkansas Code 23-64-216 is amended to read as follows:
19 23-64-216. Suspension or revocation.

20 (a) The Insurance Commissioner may suspend for up to thirty-six (36)
21 months, or may revoke or refuse to continue, any license issued by him if,
22 after notice to the licensee and after hearing, he finds any one (1) or more
23 of the following causes exist:

24 ~~(1) Any cause for which issuance of the license could have been~~
25 ~~refused had it then existed and been known to the commissioner;~~

26 ~~(2) Violation of or noncompliance with any applicable provision of~~
27 ~~the laws of this state, this code, or of any lawful rule, regulation, or order~~
28 ~~of the commissioner;~~

29 ~~(3) Obtaining or attempting to obtain any such license through~~
30 ~~misrepresentation or fraud;~~

31 ~~(4) Misappropriation or conversion to the licensee's own use of~~
32 ~~benefit or illegal withholding of moneys belonging to policyholders, insurers,~~
33 ~~beneficiaries, or others and received in conduct of business under the~~
34 ~~license;~~

35 ~~(5) Conviction of or the pleading of guilty or nolo contendere to~~
36 ~~a felony;~~

1 ~~(6) If, in the conduct of the licensee's affairs, the licensee has~~
2 ~~used fraudulent or dishonest practices or trade practices prohibited by the~~
3 ~~laws or regulations of this state;~~

4 ~~(7) Failing to provide a written response after receipt of a~~
5 ~~written inquiry from the commissioner or his representative as to transactions~~
6 ~~under the license within thirty (30) days after receipt thereof, unless the~~
7 ~~timely written response is knowingly waived in writing by the commissioner;~~

8 ~~(8) Having an insurance license suspended or revoked in any other~~
9 ~~state, province, district, or territory;~~

10 ~~(9) The licensee no longer meets the qualifications required for a~~
11 ~~license as described in the Arkansas Insurance Code, 23-60-101 et seq.; or~~

12 ~~(10) Refusing to be examined or to produce any of his accounts,~~
13 ~~records, and files for examination or failure to cooperate with the~~
14 ~~commissioner in an investigation when required by the commissioner.~~

15 (1) In the case of an agent or broker licensed as an insurance
16 producer, for any of the causes under § 23-64-512.

17 (2) In the case of an adjuster or insurance consultant licensed
18 under this subchapter:

19 (A) Providing incorrect, misleading, incomplete or
20 materially untrue information in the license application;

21 (B) Violating any insurance laws, or violating any
22 regulation, subpoena or order of the insurance commissioner or of another
23 state's insurance commissioner;

24 (C) Obtaining or attempting to obtain a license through
25 misrepresentation or fraud;

26 (D) Improperly withholding, misappropriating or converting
27 any monies or properties received in the course of doing insurance business;

28 (E) Intentionally misrepresenting the terms of an actual or
29 proposed insurance contract or application for insurance;

30 (F) Having been convicted of a felony;

31 (G) Having admitted or been found to have committed any
32 insurance unfair trade practice or fraud;

33 (H) Using fraudulent, coercive, or dishonest practices, or
34 demonstrating incompetence, untrustworthiness or financial irresponsibility in
35 the conduct of business in this state or elsewhere;

36 (I) Having an insurance producer, insurance consultant, or

1 adjuster license, or its equivalent, denied, suspended or revoked in any other
2 state, province, district or territory;

3 (J) Forging another's name to an application for insurance
4 or to any document related to an insurance transaction;

5 (K) Improperly using notes or any other reference material
6 to complete an examination for an insurance license;

7 (L) Knowingly accepting insurance business from an
8 individual who is not licensed;

9 (M) Failing to comply with an administrative or court order
10 imposing a child support obligation; or

11 (N) Failing to pay state income tax or comply with any
12 administrative or court order directing payment of state income tax.

13 (b) For purposes of this section, licenses also include permits,
14 registrations, or certificates of authority.

15 (c) The license of a firm, limited liability company, or corporation
16 may be suspended, revoked, or refused also for any of such causes as relate to
17 any individual designated in the license to exercise its powers.

18 (d) If the commissioner finds that one (1) or more grounds exist for
19 the suspension or revocation of any license, the commissioner in his
20 discretion may impose upon the licensee an administrative penalty in the
21 amount of up to one thousand (\$1,000) dollars per violation or, if the
22 commissioner has found willful misconduct or willful violation on the part of
23 the licensee, up to five thousand dollars (\$5,000) per violation. The
24 administrative penalty may, in the commissioner's discretion, be augmented by
25 an amount equal to any commissions received by or accruing to the credit of
26 the licensee for any transaction related to the proceeding against the
27 licensee. The commissioner may also order restitution of actual losses to
28 affected persons.

29 (e) If the commissioner determines that the public health, safety, or
30 welfare imperatively requires emergency action, and incorporates a finding to
31 that effect in his order, a summary suspension of any license issued by him
32 may be ordered pending an administrative hearing before the commissioner,
33 which hearing shall be promptly instituted.

34 (f)(1) If the commissioner finds upon notice and hearing that the
35 licensee has violated a provision of the insurance laws of this state or any
36 rule, regulation, or order of the commissioner and that the licensee

1 previously has been found to have violated provisions of the insurance laws of
2 this state or any rule, regulation, or order of the commissioner, by an order
3 of the commissioner after hearing or by an order entered with the consent and
4 agreement of the parties, the commissioner may take judicial notice of the
5 previous orders against the licensee and, within his discretion, may enhance
6 or increase the penalties ordered in the current proceeding as to the
7 licensee, and the commissioner shall incorporate a finding to that effect in
8 his order.

9 (2) Statutory or regulatory violations for which an order has
10 been entered as to the licensee by the insurance department or equivalent
11 regulatory body in any other jurisdiction may be taken into consideration and
12 included in assessing the enhanced or increased penalties provided in
13 subdivision (f)(1) of this section.

14 (g) The penalties recited in this section may be imposed by the
15 commissioner for violations of this code or other applicable laws, or rules or
16 orders of the commissioner, committed by any resident agent whose license is
17 on inactive or retired status.

18

19 SECTION 20. Arkansas Code Title 23, Chapter 66, Subchapter 5, is amended
20 to add an additional section to read as follows:

21 23-66-513. Initial appointment investigation.

22 (a)(1) Prior to the approval of any application or request for
23 appointment by an insurer or company to be added to the license obtained by an
24 individual agent who has had no previous appointments on his Arkansas license
25 prior to this request, the insurer shall conduct or secure at its expense an
26 investigation as to the applicant's identity, residence, experience, or
27 instruction as to the kinds of insurance to be transacted, and as to the
28 agent's character, financial condition, and financial history.

29 (2) The investigation shall include, at a minimum, the following
30 information disclosed by such investigation:

31 (A) Whether the applicant has been convicted of a felony,
32 and, if so, the date and nature of the conviction, the name and location of
33 the court, and the penalty imposed or other disposition of the case, for
34 review in compliance with the provisions of § 23-66-502(c) and other
35 applicable state or federal laws;

36 (B) Whether, at the time of the application, the agent or

1 applicant is a named party in any lawsuit, and, if so, the style of the
2 lawsuit, a brief description of the litigation, and the name and location of
3 the court;

4 (C) Whether a judgment for monetary damages has been
5 entered against the applicant within the last five (5) years, and, if so, the
6 date of the judgment, the amount of the judgment, whether the judgment has
7 been paid or otherwise satisfied, the name and location of the court, and the
8 style of the case; and

9 (D) Such other information as the commissioner shall
10 require.

11 (3) The forms and the requirements of this subsection shall not
12 apply to:

13 (A) Any limited or restricted license as defined in § 23-
14 64-502(g) or (i), any limited or restricted license which the commissioner may
15 exempt, or any temporary license the commissioner may issue;

16 (B) Corporations, partnerships, limited liability
17 companies, and partnerships licensed as insurance agencies under this chapter;
18 and

19 (C) Any individual requesting a renewal license or
20 requesting his second or subsequent insurer appointments added after the
21 first-time license or appointment.

22 (b) The requirements for broker background checks of subdivisions
23 (a)(1) and (2) of this section shall apply to each first-time original license
24 applicant for a broker's license in this state. However, those requirements
25 shall not be required for any renewal broker's license, and all filings shall
26 exclude appointment forms for first or renewal licenses for brokers.

27
28 SECTION 21. Arkansas Code 23-75-102(5) is amended to read as follows:

29 (5) Sections ~~23-64-204 - 23-64-229~~, § § 23-64-204 - 23-64-229 and
30 § 23-64-506 referring to insurance producers, agents, brokers, solicitors, and
31 adjusters;

32
33 SECTION 22. Arkansas Code 23-79-105(3) is amended to read as follows:

34 (3) The application for accident insurance procured through a
35 vending machine licensed under ~~§ 23-64-223~~ § 23-64-221 must be signed by the
36 individual to be so insured or, if the individual to be so insured does not

1 have legal capacity to contract, the application must be signed by the
2 individual's parent, guardian, or other legally constituted representative;

3

4 SECTION 23. Arkansas Code 23-91-219(a) is amended to read as follows:

5 (a) Agents shall be licensed in accordance with such provisions as the
6 Insurance Commissioner in his discretion deems applicable under ~~§§ 23-64-101 -~~
7 ~~23-64-103~~ §§ 23-64-101 - 23-64-103, and ~~23-64-201 - 23-64-227~~ §§ 23-64-201 -
8 23-64-229 and §§ 23-64-501 - 23-64-519.

9

10 SECTION 24. Arkansas Code 23-94-213 is amended to read as follows:

11 23-94-213. Duty of agents or brokers to obtain license.

12 A. Risk Retention Group Agents. Any person acting, or offering to act,
13 as an agent or broker for a registered risk retention group which solicits
14 members, sells insurance coverage, or otherwise does business in this state
15 shall, before commencing any such activity, obtain a resident or nonresident
16 risk retention group agent license from the commissioner upon completion of
17 the licensing provisions as to resident and nonresident agents or brokers
18 under ~~§ 23-64-101 et seq. and § 23-64-201 et seq.,~~ §§ 23-64-101 - 23-64-103,
19 §§ 23-64-201 - 23-64-229 and §§ 23-64-501 - 23-64-519, except as they conflict
20 with the provisions of the Federal Liability Risk Retention Act of 1986.

21 B. Purchasing Group Brokers.

22 (1) Any person acting, or offering to act, as an agent or broker
23 for a registered purchasing group which solicits members, sells insurance
24 coverage, purchases coverage for its members located within the state, or
25 otherwise doing business in this state shall, before commencing any such
26 activity, obtain a resident or nonresident purchasing group broker license
27 from the commissioner upon completion of the licensing provisions as to
28 resident and nonresident agents or brokers under ~~§ 23-64-101 et seq. and § 23-~~
29 ~~64-201 et seq.,~~ §§ 23-64-101 - 23-64-103, §§ 23-64-201 - 23-64-229 and §§ 23-
30 64-501 - 23-64-519, except as they conflict with the provisions of the Federal
31 Liability Risk Retention Act of 1986, before securing the purchasing group's
32 coverage with an authorized insurer or a registered risk retention group. This
33 requirement shall not be applicable to property and casualty agents or brokers
34 duly licensed by this state as to the authorized insurer or risk retention
35 group issuing the purchasing group's coverage, so long as these licenses
36 comply with other provisions of this chapter.

1 (2) Any person acting, or offering to act, as an agent or broker
2 for a purchasing group registered in Arkansas and procuring insurance from an
3 approved non-admitted surplus line insurer shall either:

4 (a) First obtain a property and casualty agent or broker's
5 license or purchasing group broker's license from this state, prior to placing
6 the group's coverage through a surplus line broker duly licensed by the State
7 of Arkansas, or

8 (b) First obtain a resident Arkansas surplus line broker's
9 license, or a nonresident Arkansas surplus line broker's license restricted to
10 registered purchasing groups only, prior to placing the group's coverage with
11 the surplus line insurer.

12 (3) The provisions of this section shall be in conformity with
13 the provisions of this subchapter, ~~§ 23-64-101 et seq., § 23-64-201 et seq.,~~
14 §§ 23-64-101 - 23-64-103, §§ 23-64-201 - 23-64-229 and §§ 23-64-501 - 23-64-
15 519, and the surplus line laws of this state, § 23-65-301 et seq., except as
16 they conflict with the provisions of the Federal Liability Risk Retention Act
17 of 1986.

18
19 SECTION 25. Arkansas Code 23-101-101 is amended to read as follows:
20 23-101-101. Purpose.

21 The purposes of this chapter are to promote the public welfare by
22 regulating creditor-placed insurance, create a legal framework within which
23 creditor-placed insurance may be written in this state, ~~maintain the~~
24 ~~separation between creditors and insurers,~~ and minimize unfair competitive
25 practices in the sale of creditor-placed insurance.

26
27 SECTION 26. Arkansas Code 23-101-103(16) is amended to read as follows:

28 (16) "Producer" means ~~a person who receives a commission for~~
29 ~~insurance placed or written or who, on behalf of an insurer or creditor,~~
30 ~~solicits, negotiates, effects, procures, delivers, renews, continues, or binds~~
31 ~~policies of insurance to which this chapter applies, except a regular salaried~~
32 ~~officer, employee, or other representative of an insurer who devotes~~
33 ~~substantially all working time to activities other than those specified here~~
34 ~~and who receives no compensation that is directly dependent on the amount of~~
35 ~~insurance business written, and except a regular salaried officer or employee~~
36 ~~of a creditor who receives no compensation that is directly dependent on the~~

1 ~~amount of insurance effected or procured~~ an insurance producer as defined in §
2 23-64-50; and

3
4 SECTION 27. Arkansas Code 23-101-112 is amended to read as follows:
5 23-101-112. Remittance of premiums and payment of compensation.

6 (a)(1) The entire amount of the premium due from a creditor shall be
7 remitted to the insurer or its producer in accordance with the insurer's
8 requirements.

9 (2) No commissions may be paid to, or retained by, a person or
10 entity not licensed and appointed in accordance with ~~§ 23-64-201 et seq. §§~~
11 23-64-501 - 23-64-519. ~~nor to a lender or any subsidiary or affiliate of a~~
12 ~~lender.~~

13 (b) The retention by the creditor of unearned premiums upon
14 cancellation of the insurance without crediting to the debtor's account the
15 amount of unearned insurance charges is prohibited.

16 (c) ~~Rebates~~ Unless allowed by § 23-64-513, rebates to the creditor of
17 a portion of the premium charged to the debtor are prohibited as are other
18 inducements provided to the creditor by an insurer or producer. The listing of
19 the following activities as prohibited rebates or inducements is not intended
20 to be restrictive, and the Insurance Commissioner may identify an activity as
21 prohibited by rule, regulation, or order:

- 22 (1) Allowing insurers or producers to purchase certificates of
23 deposit from the creditor or to maintain accounts with the creditor at less
24 than the market interest rates and charges that the creditor applies to other
25 customers for deposit accounts of similar amounts and duration;
- 26 (2) Paying a commission to a person, including a creditor, who is
27 not appropriately licensed as a producer in this state;
- 28 (3) Purchasing or offering to purchase certificates of deposit
29 from, or maintaining or offering to maintain deposit accounts or investment
30 accounts with a creditor as part of a creditor-placed insurance solicitation.

31 (d) Prohibited rebates or inducements do not include the providing of
32 insurance tracking and other services incidental to the creditor-placed
33 insurance program.

34 (e) Nothing contained in this section shall prohibit or restrict an
35 insurer or producer from maintaining a demand, premium deposit or other
36 account or accounts with a creditor for which the insurer or producer provides

1 insurance if the accounts pay the market interest rate and charges that the
2 creditor applies to other customers for deposit accounts of similar amounts
3 and duration.

4
5 SECTION 28. Arkansas Code 23-102-109(e) is amended to read as follows:

6 (e) Notwithstanding any provision in ~~§ 23-64-201 et seq.~~ § 23-64-514
7 regarding agent appointments, all licensed property and casualty agents shall
8 be authorized to access and place coverage through a ~~program~~ Market Assistance
9 Program insurer.

10
11 SECTION 29. Effective date. [The Arkansas Code Revision Commission is
12 not required to codify this section]

13 The effective date of the provisions of this act is July 1, 2002.
14 However, the commissioner may extend the effective date to a subsequent date,
15 but no later than October 31, 2002, if he finds that implementation of the act
16 is not possible by July 1, 2002.

17
18 SECTION 30. EMERGENCY. It is hereby found and determined by the
19 Eighty-third General Assembly of the State of Arkansas that the present laws
20 on licensure of Arkansas surplus line brokers do not meet compliance with the
21 Gramm-Leach-Bliley Act of 1999, Public Law 106-102, 113 Stat. 1338, and that
22 other insurance laws are inadequate to protect the public; that in pertinent
23 part, the changes to the insurance code are needed to assure compliance with
24 the provisions of that new federal law which do not allow discrimination in
25 licensure of resident and nonresident applicants for insurance by state
26 insurance regulators; that Arkansas must achieve compliance with this new
27 Federal law which was enacted in 1999 and which has a November 12, 2002
28 compliance deadline in regard to the Arkansas Insurance Department's
29 regulation of agents, brokers, surplus line brokers, and other applicants for
30 individual and corporate licenses; and that implementation after the effective
31 date of this act will require significant time on the part of the industry and
32 the Arkansas Insurance Department to come into compliance by the November 12,
33 2002, deadline. Therefore, an emergency is hereby declared to exist and this
34 act being necessary for the immediate preservation of the public peace, health
35 and safety shall be in full force and effect from and after the date of its
36 passage and approval. If the bill is neither approved nor vetoed by the

1 Governor, it shall become effective on the expiration of the period of time
2 during which the Governor may veto the bill. If the bill is vetoed by the
3 Governor and the veto is overridden, it shall become effective on the date the
4 last house overrides the veto.

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