

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 1871

4
5 By: Representative Glover
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE TITLE 23, CHAPTER 61,
10 TO ALLOW THE ARKANSAS INSURANCE COMMISSIONER TO HAVE
11 THE POWER TO ENACT ADDITIONAL RULES AND REGULATIONS;
12 AND TO ALLOW THE ARKANSAS INSURANCE COMMISSIONER TO
13 ENTER INTO REGULATORY COOPERATION AND COORDINATION
14 AGREEMENTS TO EFFICIENTLY AND EFFECTIVELY REGULATE
15 THE BUSINESS OF INSURANCE; AND FOR OTHER PURPOSES.

Subtitle

16
17
18 TO GRANT THE COMMISSIONER THE POWER TO
19 PROMULGATE ADDITIONAL RULES AND
20 REGULATIONS AND TO ENTER INTO REGULATORY
21 COOPERATION AND COORDINATION AGREEMENTS.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code 23-61-108 is amended to read as follows:

27 23-61-108. Rules and regulations.

28 (a) The commissioner may make reasonable rules and regulations
29 necessary for or as an aid to the effectuation of any provision of this code.

30 (1) No rule or regulation shall extend, modify, or conflict with
31 any law of this state or the reasonable implications thereof.

32 (2) Any rule or regulation affecting persons or matters other
33 than the personnel or the internal affairs of the commissioner's office shall
34 be made or amended only after a hearing thereon of which notice was given as
35 required by § 23-61-304.

36 (3) If reasonably possible, the commissioner shall set forth the

1 proposed rule or regulation or amendment in or with the notice of hearing.

2 (4) No rule or regulation as to which a hearing is required
3 under this subsection shall be effective until after it has been on file as a
4 public record in the commissioner's office, and otherwise as provided by law,
5 for at least ten (10) days.

6 (b)(1) The Commissioner shall have the authority to promulgate rules
7 and regulations necessary for the effective regulation of the business of
8 insurance or as required for this state to be in compliance with federal
9 laws.

10 (2) The commissioner shall have the authority to coordinate
11 regulatory activities and administration with other states and their
12 appropriate regulatory officials and with the federal government with respect
13 to the regulation of insurance.

14 ~~(b)(c)~~ In addition to any other penalty provided, willful violation of
15 any rule or regulation shall subject the violator to such denial, suspension,
16 or revocation of certificate of authority or license as may be applicable
17 under this code for violation of the provision to which the rule or
18 regulation relates.

19
20 SECTION 2. Arkansas Code 23-61-103 is amended to read as follows:

21 23-61-103. Insurance Commissioner - Powers and duties.

22 (a) The Insurance Commissioner shall enforce the provisions of this
23 code and shall execute the duties imposed upon him by this code.

24 (b) The commissioner shall have the powers and authority expressly
25 conferred upon him by or reasonably implied from the provisions of this code.

26 (c) The commissioner is authorized to enter into regulatory
27 cooperation and coordination agreements with other governmental regulatory
28 agencies within and outside of this state with respect to the regulation of
29 the business of insurance, including, but not limited to:

30 (1) Licensing of insurance companies;

31 (2) Licensing of producers;

32 (3) Regulation of premium rates and policy forms;

33 (4) Regulation of insurer solvency and insurance receiverships;

34 and

35 (5) Other matters relating to the effective regulation of the
36 business of insurance.

1 ~~(e)~~(d)(1) The commissioner may conduct such examinations and
2 investigations of insurance matters, in addition to examinations and
3 investigations expressly authorized, as he may deem proper to determine
4 whether any person has violated any provision of this code or to secure
5 information useful in the lawful administration of any such provision. The
6 cost of these additional examinations or investigations shall be borne by the
7 state.

8 (2) Notwithstanding any other provision of law, active
9 investigatory or examination files as maintained by the State Insurance
10 Department shall be deemed confidential and privileged and shall not be made
11 open to the public until:

12 (A) The matter under investigation or examination is
13 deemed closed by the commissioner; or

14 (B) Referred to any law enforcement authority and made
15 subject to public disclosure by such authority.

16 (3) At such time that any matter investigated or examined has
17 been set for an administrative hearing pursuant to § 23-61-304 or § 25-15-
18 208, investigation or examination information shall be made available as
19 provided in § 25-15-208.

20 (4) Unless otherwise exempted by ~~§ 23-61-103(c)(5)~~ § 23-61-
21 103(d)(5), actuarial formulas and assumptions certified by a qualified
22 actuary are confidential and privileged when submitted to comply with a rate
23 or form filing requirement of the department, including but not limited to
24 any actuarial report required, submitted, or attached to any filing made to
25 the department under § 23-67-211, for rate and form filings of an insurer, or
26 to those submitted under § 23-63-216 for annual statements of an insurer, or
27 any actuarial report submitted to the department to comply with any form and
28 rate filing requirement imposed by statute or rule upon licensed insurers,
29 health maintenance organizations, fraternal benefit societies, and hospital
30 and medical service corporations.

31 (5) Subdivisions (c)(2) and (c)(4) of this section do not
32 prohibit release by the commissioner of active investigatory or examination
33 files:

34 (A) At the discretion of the commissioner, to a person or
35 persons that the commissioner determines to be aggrieved or affected by the
36 examination or investigation; or

1 (B) To state, federal, or local law enforcement or
2 regulatory agencies or private organizations established for tracking or
3 preventing insurance violations, or to the National Association of Insurance
4 Commissioners.

5 (C) This section shall have no effect on or application to
6 any of the filings gathered or compiled in compliance with § 23-63-1201 et
7 seq.

8 (6) Release of active investigatory or examination files as
9 provided in subdivision (c)(4) of this section, does not abrogate or modify
10 the confidential nature of investigatory or examination files as provided in
11 subdivision (c)(2) of this section.

12 ~~(d)~~(e)(1) The commissioner may delegate to any assistant, deputy,
13 examiner, or employee of the department the exercise or discharge in the
14 commissioner's name of any power, duty, or function, whether ministerial,
15 discretionary, or of whatever character which may be vested by this code in
16 the commissioner.

17 (2) The commissioner shall be responsible for the official acts
18 of his deputy, assistant, examiner, or employee acting in the commissioner's
19 name and by his authority.

20
21 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
22 General Assembly that sweeping changes are occurring in financial services
23 both nationally and internationally; that Arkansas consumers should have
24 access to the most choices and the most sophisticated products in the modern
25 marketplace while being protected from mistreatment in the marketplace; that
26 this act shall be broadly construed to effect these purposes; and that this
27 act is immediately necessary to enhance the ability of this state to
28 efficiently and effectively regulate the business of insurance by authorizing
29 the State Insurance Commissioner to coordinate regulatory activities and
30 administration with other states and their appropriate regulatory officials
31 and with the federal government with respect to the regulation of insurance.
32 Therefore, an emergency is declared to exist and this act being immediately
33 necessary for the preservation of the public peace, health and safety shall
34 become effective on the date of its approval by the Governor. If the bill is
35 neither approved nor vetoed by the Governor, it shall become effective on the
36 expiration of the period of time during which the Governor may veto the bill.

1 If the bill is vetoed by the Governor and the veto is overridden, it shall
2 become effective on the date the last house overrides the veto.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36