

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 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S3/23/05

A Bill

SENATE BILL 1087

5 By: Senator Horn
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7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS LAWS CONCERNING FARMERS'
10 MUTUAL AID ASSOCIATIONS OR COMPANIES; AND FOR
11 OTHER PURPOSES.
12

Subtitle

14 TO AMEND VARIOUS LAWS CONCERNING
15 FARMERS' MUTUAL AID ASSOCIATIONS.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

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

23 *(A)(i) Before any association shall be authorized to write*
24 *the coverages listed in subdivision (f)(1) of this section, the policy form*
25 *shall have prior approval of the commissioner, in accordance with § 23-79-*
26 *109, and the association shall have and thereafter maintain a minimum surplus*
27 *of fifty thousand dollars (\$50,000) to be deposited with the commissioner in*
28 *the form of securities eligible for deposit under § 23-63-903 and the*
29 *association shall have and thereafter maintain with the commissioner a*
30 *statutory deposit of not less than fifty thousand dollars (\$50,000) in the*
31 *form of securities eligible under § 23-63-903.*

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

35 *(b)(1) If compliance with subdivision*
36 *(f)(2)(A)(ii)(a) of this section would cause the association or company to*



1 become impaired or insolvent, the Insurance Commissioner may allow that
 2 domestic association or company to augment incrementally its unimpaired
 3 minimum surplus in order for the association or company to achieve compliance
 4 no later than December 31, 2010.

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

9
 10 SECTION 2. Arkansas Code § 23-73-112 is amended to read as follows:

11 23-73-112. Qualifications for certificate of authority.

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

14 (1)(A) Have at least ~~fifty (50)~~ two hundred fifty (250) members
 15 who hold policies or certificates upon at least ~~fifty (50)~~ two hundred fifty
 16 (250) separate risks.

17 (B) An association whose membership falls below ~~fifty (50)~~
 18 two hundred fifty (250) members shall notify the Insurance Commissioner
 19 immediately and shall have ninety (90) days from that date to bring its
 20 membership level back up to the requisite number of ~~fifty (50)~~ two hundred
 21 fifty (250) members.

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

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

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

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

36 (ii) For good cause shown in writing by an

1 association or company, the commissioner may grant a one-time extension of
2 the deadline set for compliance in subdivision (2)(B)(i) of this section for
3 a period not to exceed one (1) year;

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

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

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

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

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

18
19 SECTION 3. Arkansas Code § 23-73-113 is amended to read as follows:
20 23-73-113. Continuance of certificate of authority.

21 (a) For continuance of an original certificate of authority, a
22 farmers' mutual aid company or association shall file with the Insurance
23 Commissioner:

24 (1) A concise statement of its financial condition, management,
25 and affairs on a form satisfactory to the commissioner;

26 (2) Other documents or stipulations as the commissioner may
27 reasonably require to evidence compliance with the provisions of this
28 chapter; and

29 (3) Pay any fees required by the Arkansas Insurance Code to be
30 paid for filing the accompanying documents and for the certificate of
31 authority if granted.

32 (b)(1) After September 1, 2005, the commissioner shall prepare and
33 send to each qualified farmers' mutual aid association or company a
34 substitute Arkansas certificate of authority evidencing full licensure from
35 the original date when the association or company was issued a certificate of
36 authority.

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

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

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

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

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

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

14 (a) May refuse to continue the certificate;
15 and

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

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

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

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

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

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

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

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

36

1 SECTION 4. Arkansas Code § 23-73-120 is amended to read as follows:
2 23-73-120. Dissolution.

3 (a)(1) Voluntary. An association or company may at any meeting of its
4 members, due notice of the time, place, and purpose of which shall have been
5 given to its members and the Insurance Commissioner, by a vote of two-thirds
6 (2/3) of the members present or represented by proxy at the meeting,
7 discontinue its operations and settle its affairs.

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

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

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

20 (B) The dissolution plan must include provisions that:

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

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

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

28 ~~(4)(5)~~ Upon final settlement of all the affairs of the
29 association by the committee, it shall make a final report and accounting of
30 the proceedings of the dissolutions which shall be signed by its members and
31 filed with and approved by the commissioner.

32 ~~(5)(6)~~ If the commissioner approves the final report, the
33 commissioner shall transmit to the committee a certificate of approval and
34 thereupon the association shall be deemed dissolved and shall cease to exist.
35 The commissioner shall certify the dissolution to the Secretary of State.

36 ~~(6)(7)~~ The committee shall have its necessary and reasonable

1 expenses reimbursed in the dissolution of the association or company as
2 approved by the commissioner.

3 (b) Involuntary. An association or company shall be statutorily
4 dissolved in accordance with the provisions of §§ 23-68-101 – 23-68-113 and
5 23-68-115 – 23-68-132.

6
7 SECTION 5. Arkansas Code § 23-88-303 is amended to read as follows:
8 23-88-303. Arkansas Rural Risk Underwriting Association – Plan of
9 property insurance.

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

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

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

21
22 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that the laws of this state as to
24 regulation of farmers' mutual aid associations or companies are inadequate
25 for the protection of the public and that this act is immediately necessary
26 in order to provide for the adequate protection of the public. Therefore, an
27 emergency is declared to exist and this act being immediately necessary for
28 the preservation of the public peace, health, and safety shall become
29 effective on:

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

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

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

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/s/ Horn