

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 S4/1/05

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.
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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 or company shall be*
24 *authorized to write the coverages listed in subdivision (f)(1) of this*
25 *section, the policy form shall have prior approval of the commissioner, in*
26 *accordance with § 23-79-109, ~~and~~ the association shall have and thereafter*
27 *maintain a minimum surplus of fifty thousand dollars (\$50,000) to be*
28 *deposited with the commissioner in the form of securities eligible for*
29 *deposit under § 23-63-903, and the association shall have and thereafter*
30 *maintain with the commissioner a statutory deposit of not less than fifty*
31 *thousand dollars (\$50,000) in the form of securities eligible under § 23-63-*
32 *903.*

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

36 *(b)(1) If compliance with subdivision*



1 (f)(2)(A)(ii)(a) of this section would cause the association or company to
 2 become impaired or insolvent, the Insurance Commissioner may allow that
 3 domestic association or company to augment incrementally its unimpaired
 4 minimum surplus in order for the association or company to achieve compliance
 5 no later than December 31, 2010.

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

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

12 23-73-112. Qualifications for certificate of authority.

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

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

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

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

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

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

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

1 (ii) For good cause shown in writing by an
2 association or company, the commissioner may grant a one-time extension of
3 the deadline set for compliance in subdivision (2)(B)(i) of this section for
4 a period not to exceed one (1) year;

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

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

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

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

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

19
20 SECTION 3. Arkansas Code § 23-73-113 is amended to read as follows:

21 23-73-113. Continuance of certificate of authority.

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

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

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

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

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

1 authority.

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

4 (i) Be and remain the property of the State of
5 Arkansas;

6 (ii) Render any previous certificate of authority
7 null and void as of the effective date of the new certificate;

8 (iii) Remain in force and effect until it expires or
9 is suspended, revoked, or surrendered; and

10 (iv) Be continuous, subject to compliance with
11 annual fee and reporting requirements.

12 (B) The association or company shall promptly deliver the
13 certificate to the commissioner upon the certificate's expiration,
14 suspension, revocation, or surrender.

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

17 (a) May refuse to continue the certificate;
18 and

19 (b) Shall give either written or electronic
20 notice of the refusal to continue the certificate to the association or
21 company.

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

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

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

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

31 (3) Has refused to be examined or to produce its accounts,
32 records or files for examination when required by the commissioner or if any
33 of its officers, directors, or key personnel have refused to give information
34 with respect to the association's or company's affairs when required by the
35 commissioner;

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

1 (5) Has violated or failed to comply with any applicable
2 provision of the Arkansas Code or any lawful order or regulation of the
3 commissioner.

4
5 SECTION 4. Arkansas Code § 23-73-120 is amended to read as follows:
6 23-73-120. Dissolution.

7 (a)(1) Voluntary. An association or company may at any meeting of its
8 members, due notice of the time, place, and purpose of which shall have been
9 given to its members and the Insurance Commissioner, by a vote of two-thirds
10 (2/3) of the members present or represented by proxy at the meeting,
11 discontinue its operations and settle its affairs.

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

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

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

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

25 (i) Allow current policyholders to obtain similar
26 coverage with another licensed insurer or farmers' mutual aid association or
27 company; and

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

30 (4) After the commissioner has approved the dissolution plan,
31 the designated committee shall liquidate any assets and pay the debts and
32 expenses of the association or company.

33 ~~(4)(5) Upon final settlement of all the affairs of the~~
34 ~~association by the committee, it shall make a final report and accounting of~~
35 ~~the proceedings of the dissolutions which shall be signed by its members and~~
36 ~~filed with and approved by the commissioner.~~

1 ~~(5)~~(6) If the commissioner approves the final report, the
 2 commissioner shall transmit to the committee a certificate of approval and
 3 thereupon the association shall be deemed dissolved and shall cease to exist.
 4 The commissioner shall certify the dissolution to the Secretary of State.

5 ~~(6)~~(7) The committee shall have its necessary and reasonable
 6 expenses reimbursed in the dissolution of the association or company as
 7 approved by the commissioner.

8 (b) Involuntary. An association or company shall be statutorily
 9 dissolved in accordance with the provisions of §§ 23-68-101 – 23-68-113 and
 10 23-68-115 – 23-68-132.

11
 12 SECTION 5. Arkansas Code § 23-88-303 is amended to read as follows:

13 23-88-303. Arkansas Rural Risk Underwriting Association – Plan of
 14 property insurance.

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

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

21 (b) This association or company shall provide a plan of property
 22 insurance to insurable rural risk applicants. Rural risk applicants are those
 23 applicants seeking insurance on risks located in geographic areas to be
 24 determined "rural areas" by the governing board, subject to the approval of
 25 the Insurance Commissioner.

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

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

36 (2) If the bill is neither approved nor vetoed by the Governor,

1 the expiration of the period of time during which the Governor may veto the
2 bill; or

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

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