

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/7/07
A Bill

SENATE BILL 439

5 By: Senator Horn
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For An Act To Be Entitled

9 AN ACT TO PERMIT WAIVERS OF THE THREE-YEARS'
10 PRIOR SUCCESSFUL OPERATIONS IN THE DOMICILE STATE
11 OR PORT OF ENTRY ("SEASONING") ADMISSION
12 REQUIREMENT FOR FOREIGN INSURERS SEEKING TO DO
13 BUSINESS IN ARKANSAS; TO APPLY THE CHANGE OF
14 DOMICILE STATUTE TO HEALTH MAINTENANCE
15 ORGANIZATIONS; TO ALLOW HEALTH MAINTENANCE
16 ORGANIZATIONS DOMICILED IN THIS STATE TO ELECT TO
17 BE COVERED BY THE INSURANCE HOLDING COMPANY
18 REGULATORY ACT; AND FOR OTHER PURPOSES.

Subtitle

20
21 TO PERMIT WAIVERS OF CERTAIN ADMISSION
22 REQUIREMENTS OF FOREIGN INSURERS AND TO
23 ALLOW HEALTH MAINTENANCE ORGANIZATIONS
24 TO ELECT TO BE COVERED BY THE INSURANCE
25 HOLDING COMPANY REGULATORY ACT.
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28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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30 SECTION 1. Arkansas Code § 23-63-202(1)(A), concerning the authority
31 of a foreign insurer to do business in Arkansas, is amended to read as
32 follows:

33 (A) ~~Has~~ Unless waived by the Insurance Commissioner, has
34 not furnished the ~~Insurance Commissioner~~ commissioner with evidence that it
35 has been organized and actively engaged in the insurance business in the
36 state of its incorporation for a period of three (3) years prior to the date



1 of its application to be admitted and authorized to do business in the State
2 of Arkansas. However, this subdivision (1)(A) shall not apply to a foreign
3 insurance company which is:

4 (i) The wholly owned subsidiary of an insurance
5 company admitted and authorized to do business in the State of Arkansas; or

6 (ii) The continuing corporation resulting from a
7 merger or consolidation of insurance companies, at least one (1) of which has
8 been organized and actively engaged in the insurance business in the state of
9 its organization for at least three (3) years prior to the date of the
10 application of the corporation to be admitted and authorized to do business
11 in the State of Arkansas; and

12
13 SECTION 2. Arkansas Code § 23-76-104 is amended to read as follows:

14 23-76-104. Arkansas Insurance Code sections applicable to health
15 maintenance organizations.

16 (a) Except to the extent that the Insurance Commissioner determines
17 that the nature of health maintenance organizations, health care plans, and
18 evidences of coverage render such sections clearly inappropriate, the
19 following sections are applicable to health maintenance organizations:

20 (1) Section 23-60-101 - 23-60-108 and 23-60-110, referring to
21 scope of the Arkansas Insurance Code;

22 (2) Sections 23-61-101 et seq., § 23-61-201 et seq., and § 23-
23 61-301 et seq., referring to the Insurance Commissioner;

24 (3) Sections 23-63-102 - 23-63-104, ~~23-63-201~~ ~~23-63-216~~ § 23-
25 63-201 et seq., general provisions, and § 23-63-301 et seq., referring to
26 service of process, a registered agent as process agent, serving legal
27 process, and time to plead;

28 (4) Section 23-63-601 et seq., referring to assets and
29 liabilities, and §§ 23-63-901 ~~—23-63-912~~ et seq., referring to
30 administration of deposits;

31 (5) Section 23-63-1501 et seq., referring to risk-based capital
32 requirements;

33 (6) Section 23-64-101 et seq. and § 23-64-201 et seq., referring
34 to agents, brokers, solicitors, and adjusters;

35 (7) Section 23-66-201 et seq., §§ 23-66-301 - 23-66-306, and §§
36 23-66-308 - 23-66-314, referring to trade practices and frauds;

1 (8) Section 23-68-101 et seq., referring to rehabilitation and
2 liquidation;

3 (9) Section 23-69-134, referring to home office and records and
4 the penalty for unlawful removal of records;

5 (10) Section 23-69-156, referring to extinguishing unused
6 corporate charters;

7 (11) Sections 23-75-104 - 23-75-105, and 23-75-116, referring to
8 hospital and medical service corporations;

9 (12) Sections 23-79-101 - 23-79-107, 23-79-109 - 23-79-128, 23-
10 79-131 - 23-79-134, and 23-79-202 - 23-79-210, referring to insurance
11 contracts;

12 (13) Sections 23-85-101 - 23-85-132, 23-85-134, and 23-85-136,
13 referring to individual accident and health insurance;

14 (14) Sections 23-86-101 - 23-86-104, 23-86-106, 23-86-108 - 23-
15 86-111, 23-86-113 - 23-86-117, 23-86-119, 23-86-120, § 23-86-201 et seq., §
16 23-86-301 et seq., and § 23-86-401 et seq., referring to blanket and group
17 accident and health insurance; and

18 (15) ~~Sections~~ Section 23-99-201 et seq., § 23-99-301 et seq., §
19 23-99-401 et seq., § 23-99-501 et seq., § 23-99-601 et seq., and § 23-99-701
20 et seq., referring to health care providers.

21 (b)(1) A health maintenance organization domiciled or applying to be
22 domiciled in this state may elect to be subject to the Insurance Holding
23 Company Regulatory Act, § 23-63-501 et seq., by:

24 (A) Written notice in its application at the time the
25 health maintenance organization applies to be domiciled in Arkansas; or

26 (B) Providing thirty (30) days' prior written notice to
27 the commissioner if the health maintenance organization was domiciled in
28 Arkansas on the effective date of this act.

29 (2) An election under this subsection:

30 (A) Shall not be revoked;

31 (B) Requires that if a modification is required to be
32 reported or filed under the Insurance Holding Company Regulatory Act, § 23-
33 63-501 et seq., the health maintenance organization shall comply with the
34 provisions concerning notice of major modifications to the operation of the
35 health maintenance organization under the Insurance Holding Company
36 Regulatory Act, § 23-63-501 et seq., instead of the provisions concerning

1 notice of major modifications to the operation of the health maintenance
2 organization under § 23-76-107(d); and

3 (C) Does not affect the duty of a health maintenance
4 organization to make any other filing required under § 23-76-107(d) that is
5 not required by the Insurance Holding Company Regulatory Act, § 23-63-501 et
6 seq.

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8 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly of the State of Arkansas that the failure of state law to
10 permit a waiver of admission requirements based upon evidence of a foreign
11 insurer's prior successful operations before licensure and failure to permit
12 health maintenance organizations to be governed by the Insurance Holding
13 Company Regulatory Act hampers the ability of the state to attract additional
14 health plans to base their operations in Arkansas, to promote economic
15 growth, and to enhance consumer choices for health care coverage; that many
16 states apply their insurance holding company laws to a foreign health
17 maintenance organization doing business in the state if the health
18 maintenance organization's state of domicile does not have substantially
19 similar laws, thus potentially subjecting a health maintenance organization
20 domiciled in Arkansas and licensed in other states to multiple holding
21 company filings and inconsistent approval processes; and that this act is
22 immediately necessary to attract insurers to the state by permitting the
23 waiver of admission requirements when appropriate and the allowance of health
24 maintenance organizations to elect to be subject to the Insurance Holding
25 Company Regulatory Act and thus avoid duplicative and potentially
26 inconsistent regulation in other states. Therefore, an emergency is declared
27 to exist and this act being immediately necessary for the preservation of the
28 public peace, health, and safety shall become effective on:

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

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

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

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/s/ Horn