

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

HOUSE BILL 1815

5 By: Representative Hyde  
6 By: Senator Teague  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE INSURANCE HOLDING COMPANY  
10 REGULATORY ACT; AND FOR OTHER PURPOSES.  
11

## Subtitle

14 TO AMEND THE INSURANCE HOLDING COMPANY  
15 REGULATORY ACT.  
16

17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 23-63-503 is amended to read as follows:

21 23-63-503. Definitions.

22 As used in this subchapter:

23 (1) ~~An "affiliate"~~ "Affiliate" of, or person "affiliated" with,  
24 a specific person, ~~is means~~ a person that ~~directly, or indirectly~~ through one  
25 (1) or more intermediaries;

26 (A) ~~controls~~ Controls the person named;

27 (B) ~~or is~~ Is controlled by the person named; or

28 (C) ~~is~~ Is under common control with, the person named;

29 (2) (A) ~~The term "control", "Control" or "controlling" including~~  
30 ~~the terms "controlling", "controlled by", and "under common control with"~~  
31 means ~~the possession, direct or indirect, of~~ to have the power to direct or  
32 cause the direction of the management and policies of a person, unless the  
33 power is due to an official position or corporate office ~~whether;~~

34 (i) ~~through~~ Through the ownership of voting  
35 securities,

36 (ii) ~~by~~ By contract other than a commercial contract



1 for goods or nonmanagement services, or

2 ~~(iii) otherwise, Otherwise unless the power is the~~  
 3 ~~result of an official position with or corporate office held by the person.~~

4 ~~(B) Control shall be is~~ presumed to exist if ~~any a~~ person,  
 5 ~~directly or indirectly,~~ owns, controls, holds with the power to vote, or  
 6 holds proxies representing ten percent (10%) or more of the voting securities  
 7 of ~~any other~~ another person. This presumption may be rebutted by a showing  
 8 that control does not exist in fact.

9 ~~(C) After furnishing notice to all the persons in interest~~  
 10 ~~notice and the~~ opportunity to be heard, the Insurance Commissioner may  
 11 determine that control exists in fact, notwithstanding the absence of a  
 12 presumption to that effect;

13 (3) An "insurance holding company system" consists of two (2) or  
 14 more affiliated persons, one (1) or more of which is an insurer. However, for  
 15 purposes of this subchapter, the term shall not be deemed to include a  
 16 domestic insurer or domestic holding company system authorized and doing  
 17 business solely in this state and which is not affiliated with a foreign or  
 18 alien insurer;

19 (4) "Insurer" ~~shall have the same meaning as set forth~~ means the  
 20 same as defined in § 23-60-102, ~~except that but~~ "insurer" ~~shall~~ does not  
 21 include:

22 (A) Agencies, authorities, or instrumentalities of the  
 23 United States, its possessions and territories, the Commonwealth of Puerto  
 24 Rico, the District of Columbia, or a state or political subdivision of a  
 25 state;

26 (B) Fraternal benefit societies; or

27 (C) Nonprofit ~~medical and hospital~~ and medical service  
 28 associations corporations;

29 (5)(A) ~~A "person" is~~ "Person" includes a corporation,  
 30 partnership, association, joint-stock company, business trust, unincorporated  
 31 organization, depository corporation, ~~or any a~~ similar entity, ~~or any a~~  
 32 combination of the foregoing of these entities acting in concert, ~~.~~

33 ~~(B) but a "person" shall~~ "Person" does not include ~~any a~~  
 34 securities broker performing no more than the usual and customary broker's  
 35 function.

36 ~~(D)(C) A "person" is also~~ "Person" includes an individual,

1 ~~only insofar as that term is used in § 23-63-506, and this subdivision (5)(B)~~  
 2 ~~is not intended to affect in any way the exemption of domestic insurers or~~  
 3 ~~domestic holding company systems under § 23-63-504;~~

4 (6) ~~A "subsidiary" of a specified person is an affiliate~~  
 5 ~~controlled by the person directly or indirectly through one (1) or more~~  
 6 ~~intermediaries;~~

7 ~~(7) A "security holder" of a specified person is one~~ "Security  
 8 holder" means a person who owns any a security of such a named person,  
 9 including:

10 (A) ~~common~~ Common stock;

11 (B) ~~preferred~~ Preferred stock;

12 (C) ~~debt~~ Debt obligations; and

13 (D) ~~any~~ Any other security convertible into or evidencing  
 14 the right to acquire ~~any of the foregoing~~ these securities; and

15 (7) "Subsidiary" means an affiliate of a named person controlled  
 16 by the person through one (1) or more intermediaries; and

17 (8) "Voting security" ~~shall include~~ includes any a security  
 18 convertible into or evidencing a right to acquire a voting security.

19  
 20 SECTION 2. Arkansas Code § 23-63-504 is repealed.

21 ~~23-63-504. Applicability.~~

22 ~~(a) It is found and declared that the provisions of this subchapter~~  
 23 ~~are unnecessary and undesirable insofar as domestic insurers or domestic~~  
 24 ~~holding company systems, authorized and doing business solely in this state~~  
 25 ~~and which are not affiliated with a foreign or alien insurer, are concerned.~~

26 ~~(b) Therefore, notwithstanding other provisions in this subchapter to~~  
 27 ~~the contrary, this subchapter shall not apply, in any manner, to any domestic~~  
 28 ~~insurer or domestic holding company system authorized and doing business~~  
 29 ~~solely in this state and which is not affiliated with a foreign or alien~~  
 30 ~~insurer. However, such domestic insurers or domestic holding company systems~~  
 31 ~~which subsequently become authorized or approved to do business in other~~  
 32 ~~states or jurisdictions shall, not later than sixty (60) days from the~~  
 33 ~~effective date of such authorization or approval, register with the Insurance~~  
 34 ~~Commissioner in compliance with § 23-63-514, and thereafter as provisions of~~  
 35 ~~this subchapter require.~~

1 SECTION 3. Arkansas Code § 23-63-514(a), concerning holding company  
 2 filings, is amended to read as follows:

3 (a) Registration.

4 (1) Every insurer ~~which~~ that is authorized to do business in  
 5 this state and ~~which~~ that is a member of an insurance holding company system  
 6 shall register with the Insurance Commissioner, except+

7 (A) Foreign insurers subject to disclosure requirements  
 8 and standards adopted by code, ~~or statute,~~ or regulation in the jurisdiction  
 9 of its domicile ~~which~~ that are substantially similar to those contained in  
 10 this section~~+, and~~

11 (B) Domestic insurers or domestic holding company systems  
 12 authorized and doing business solely within this state ~~and~~ which are is not  
 13 affiliated with a foreign or alien insurer, and reported less than seven  
 14 million dollars (\$7,000,000) in gross premium during the most recent annual  
 15 reporting period.

16 ~~(2) However, such domestic insurers or domestic holding company~~  
 17 ~~systems which subsequently become authorized or approved to do business in~~  
 18 ~~other states or jurisdictions shall register with the commissioner not later~~  
 19 ~~than sixty (60) days after admission or approval to transact business in such~~  
 20 ~~other states or jurisdictions, in compliance with this section, and~~  
 21 ~~thereafter as the provisions of this subchapter require.~~

23 SECTION 4. Arkansas Code § 23-63-514, concerning insurer  
 24 registrations, is amended to add an additional subsection to read as follows:

25 (1) Applicability. This section applies to domestic and foreign  
 26 insurers or insurance holding company systems consistent with the definitions  
 27 in § 23-63-503.