

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015

A Bill

SENATE BILL 769

4
5 By: Senator Rapert
6

7 For An Act To Be Entitled

8 AN ACT TO AMEND THE PROPERTY AND CASUALTY LAW; TO
9 REPEAL THE REQUIREMENT FOR ANNUAL DIRECT WRITING
10 REPORTS; TO CLARIFY FORM FILINGS BY AN INSURANCE
11 COMPANY; TO AMEND THE VALUED POLICY LAW TO REGULATE
12 TOTAL LOSS CLAIMS INVOLVING MORE THAN ONE INSURER; TO
13 PROVIDE EXCEPTIONS TO THE VALUED POLICY LAW; TO
14 CLARIFY THE CALCULATION OF PROPERTY DAMAGE CLAIM
15 PAYMENTS; TO CLARIFY THE DEPRECIATION APPLICABLE WHEN
16 DETERMINING THE ACTUAL CASH VALUE OF DAMAGED
17 PROPERTY; TO MODIFY THE FIRE LOSS REPORTING ACT OF
18 2003; TO CLARIFY THE DISCLOSURE REQUIRED FOR
19 RESIDENTIAL EARTHQUAKE COVERAGE; AND FOR OTHER
20 PURPOSES.
21
22

23 Subtitle

24 TO AMEND THE PROPERTY AND CASUALTY LAW.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 23-61-103(d)(5)(B), concerning the filings
30 by property and casualty insurers, is repealed.

31 ~~(B) This section shall have no effect on or application to~~
32 ~~any of the filings gathered or compiled in compliance with § 23-63-1201 et~~
33 ~~seq.~~
34

35 SECTION 2. Arkansas Code Title 23, Chapter 63, Subchapter 12, is
36 repealed.



~~Subchapter 12 — Annual Reports by Property and Casualty Insurers~~

~~23-63-1201. Regulations.~~

~~The Insurance Commissioner shall promulgate regulations which shall require each insurer licensed to write property and casualty insurance in this state to submit an annual report on a form furnished by the commissioner showing its direct writings in this state.~~

~~23-63-1202. Contents of report.~~

~~(a) The report required by this subchapter shall include, but not be limited to, the following types of insurance written by such insurer:~~

~~(1) Motor vehicle bodily injury liability insurance, including medical pay insurance;~~

~~(2) Products liability insurance;~~

~~(3) Medical malpractice insurance;~~

~~(4) Architects' and engineers' malpractice insurance;~~

~~(5) Attorneys' malpractice insurance;~~

~~(6) Motor vehicle personal injury protection insurance;~~

~~(7) Motor vehicle property liability insurance;~~

~~(8) Uninsured motorist insurance;~~

~~(9) Underinsured motorist insurance; and~~

~~(10) Workers' compensation insurance.~~

~~(b) The report shall include the following data for the previous year ending on December 31:~~

~~(1) Direct premiums written;~~

~~(2) Direct premiums earned;~~

~~(3) Net investment income, including net realized capital gains and losses, using appropriate estimates where necessary;~~

~~(4) Incurred claims developed as the sum of, and with figures provided for, the following:~~

~~(A) Dollar amount of claims paid current year or paid losses; plus~~

~~(B) Reserves for reported claims at the end of the current year; minus~~

~~(C) Reserves for reported claims at the end of the previous year; plus~~

~~(D) Reserves for incurred but not reported claims at the end of the current year; minus~~

~~(E) Reserves for incurred but not reported claims at the end of the previous year; plus~~

~~(F) Reserves for loss adjustment expense at the end of the current year reported split between allocated loss adjustment expenses and unallocated loss adjustment expenses; minus~~

~~(G) Reserves for loss adjustment expense at the end of the previous year reported split between allocated loss adjustment expenses and unallocated loss adjustment expenses;~~

~~(5) Actual incurred expenses allocated separately to loss adjustment, commissions, other acquisition costs, general office expenses, taxes, licenses, fees, and all other expenses;~~

~~(6) Net underwriting gain or loss;~~

~~(7) Net operation gain or loss, including net investment income;~~

~~(8) Net investment gain on surplus, allocated to the lines as a percentage of the previous year's incurred losses;~~

~~(9) Federal income taxes paid, allocated to the lines as a percentage of earned premium; and~~

~~(10) Return on surplus with surplus allocated to the lines based upon earned premiums.~~

~~23-63-1203. Due date.~~

~~The report shall be due by May 1 of each year.~~

~~23-63-1204. Compilation and review — Publication.~~

~~(a) It shall be the duty of the Insurance Commissioner to annually compile and review all reports submitted by insurers pursuant to this subchapter.~~

~~(b) The filings shall be published and made available to any interested insured or citizen.~~

~~23-63-1205. Failure to comply with content requirement.~~

~~Any failure to comply with the provisions of § 23-63-1202 shall be punished pursuant to the Trade Practices Act, § 23-66-201 et seq.~~

SECTION 3. Arkansas Code § 23-79-110(a)(1), concerning the disapproval of form filings by the Insurance Commissioner, is amended to read as follows:

(1) ~~Is in violation of~~ Violates or does not comply with ~~this code state law;~~

SECTION 4. Arkansas Code § 23-79-118 is amended to read as follows:
23-79-118. Noncomplying forms.

~~Any~~ An insurance policy, rider, or endorsement issued and otherwise valid ~~which that~~ contains any condition or provision not in compliance with ~~the requirements of this code state law shall not be thereby~~ is not rendered invalid but shall be construed and applied ~~in accordance with such~~ according to the conditions and provisions ~~as that~~ would have applied had the policy, rider, or endorsement been in full compliance with ~~this code state law.~~

SECTION 5. Arkansas Code § 23-88-101 is amended to read as follows:
23-88-101. Valued policy law.

(a)(1) ~~In~~ Except as provided in subsection (b) of this section, in case of a total loss by fire or natural disaster of the property insured, a property insurance policy other than for flood and earthquake insurance shall be held and considered to be a liquidated demand against the company taking the risk for the full amount stated in the property insurance policy or the full amount upon which the company charges, collects, or receives a premium.

(2) For property covered under a commercial insurance policy, the amount paid under subdivision (a)(1) of this section shall be reduced by the amount of retention or deductible provided by the commercial insurance policy.

(b) This section does not apply:

(1) If a total loss by fire or a natural disaster other than a flood or an earthquake:

(A) Is caused by a criminal act of the insured or someone acting on behalf of or in collusion with the insured; or

(B)(i) Is covered by two (2) or more property insurance policies that insure the same property.

(ii) If two (2) or more property insurance policies insure the same property:

1 (a) The insured shall recover the lesser of:

2 (1) The face amount of the property
3 insurance policy with the highest limit of coverage; or

4 (2) The insured's interest in the
5 property; and

6 (b) Each insurer shall pay the proportionate
7 share that its property insurance policy bears to the amount the insured is
8 entitled to recover under subdivision (b)(1)(B)(ii)(a) of this section;

9 (2) If the completed value of a building, structure, mobile
10 home, or manufactured building is insured under a builder's risk insurance
11 policy;

12 (3)(A) If the claim is for the total loss of a building that is
13 insured under a blanket insurance policy for a stated amount that covers two
14 (2) or more buildings.

15 (B) A claim for the total loss to a building that is
16 insured by a blanket insurance policy for a stated amount that covers two (2)
17 or more buildings shall be settled for the actual replacement cost or actual
18 cash value of the building under the terms of the blanket insurance policy
19 based upon the specific value assigned for the purpose of rating the policy
20 to each building or other property before the loss; or

21 (4) ~~However, the provisions of this section shall not apply to~~
22 ~~To~~ personal property or detached or appurtenant structures.

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24 SECTION 6. Arkansas Code Title 23, Chapter 88, Subchapter 1, is
25 amended to add an additional section to read as follows:

26 23-88-106. Depreciation applicable when determining the value of
27 damaged property in property policies.

28 (a) As used in this section, "damaged property" means a dwelling or
29 structure that is covered under the terms of an insurance policy.

30 (b) Insurance policies covering damaged property may allow for the
31 depreciation of the cost of all goods, materials, labor, services, fees,
32 permits, and taxes necessary to replace, repair, or rebuild damaged property.

33 (c) A policy shall provide notice within the policy that such
34 depreciation may be deducted, and the policy form containing the notice must
35 be approved by the commissioner.

36 (d) If depreciation is applied to a loss to damaged property, the

1 insurer shall provide evidence in writing as to how the depreciation was
2 calculated.

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4 SECTION 7. Arkansas Code § 23-88-402 is repealed.

5 ~~23-88-402. Annual information concerning fire-related losses.~~

6 ~~(a) Any insurance company licensed to write property insurance in~~
7 ~~Arkansas shall file annually with the Insurance Commissioner a statement of~~
8 ~~its losses related to fire on a county-by-county basis in a form and manner~~
9 ~~prescribed by the commissioner.~~

10 ~~(b) The commissioner shall annually compile the loss information under~~
11 ~~subsection (a) of this section in an aggregate form by county for~~
12 ~~dissemination to the General Assembly, state agencies, counties, and the~~
13 ~~public.~~

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15 SECTION 8. Arkansas Code § 23-88-403 is repealed.

16 ~~23-88-403. Proprietary information.~~

17 ~~Information filed under this subchapter by an insurance company with~~
18 ~~the Insurance Commissioner shall be treated as proprietary information and is~~
19 ~~exempt from public disclosure except in an aggregate form.~~

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21 SECTION 9. Arkansas Code § 23-102-114(b), concerning the disclosure
22 required for residential earthquake coverage, is amended to read as follows:

23 (b) New Policyholders.

24 (1) Insurers writing homeowner, farmowner, and fire and allied
25 lines, excluding commercial policies and crop hail, shall advise new
26 applicants for these types of coverage of the availability of residential
27 earthquake insurance through the program or the authority, if coverage is
28 unavailable from the insurer.

29 (2) ~~If~~ At the time of application, if an applicant chooses not
30 to purchase residential earthquake coverage through an insurer, including
31 program participants or the authority, the applicant shall reject this
32 coverage in writing on the application or any addendum thereto.

33 (3) Insurers shall maintain the application and any addendum
34 thereto containing the rejection as part of ~~their~~ the insurers' files.