

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 357

5 By: Senator Dees
6 By: Representative Maddox
7

For An Act To Be Entitled

9 AN ACT TO ENACT THE STATE INSURANCE DEPARTMENT'S
10 GENERAL OMNIBUS BILL; TO AMEND THE LAW CONCERNING
11 EXAMINATIONS BY THE INSURANCE COMMISSIONER; TO
12 CLARIFY REQUIREMENTS FOR A MARKET CONDUCT ANNUAL
13 STATEMENT; TO MODIFY THE VALUATION OF ASSETS OF A
14 REPORTING ENTITY BY THE INSURANCE COMMISSIONER; TO
15 AMEND THE LAW CONCERNING CAPTIVE INSURERS; TO MODIFY
16 THE EXAMINATION REQUIREMENTS OF CAPTIVE INSURERS; TO
17 REGULATE THE MAINTENANCE OF AN INSURER'S HOME OFFICE
18 AND RECORDS; TO AMEND THE LAW CONCERNING THE
19 FORMATION OF RECIPROCAL INSURERS; TO MODIFY THE LAW
20 CONCERNING THE LICENSURE OF HEALTH MAINTENANCE
21 ORGANIZATIONS; TO CHANGE THE DUE DATE OF ANNUAL
22 REPORTS OF AUTOMOBILE CLUBS OR ASSOCIATIONS THAT ARE
23 REQUIRED BY THE INSURANCE COMMISSIONER; TO MODIFY THE
24 STANDARD VALUATION LAW FOR LIFE INSURANCE AND
25 ANNUITIES; TO REPEAL THE SMALL COMPANY EXEMPTION FROM
26 THE STANDARD VALUATION LAW FOR LIFE INSURANCE AND
27 ANNUITIES; AND FOR OTHER PURPOSES.

Subtitle

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30 TO ENACT THE STATE INSURANCE DEPARTMENT'S
31 GENERAL OMNIBUS BILL.
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35 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
36



1 SECTION 1. Arkansas Code § 23-61-205(a)(2), concerning the verified
2 reports of an examination by the Insurance Commissioner, is amended to read
3 as follows:

4 (2)(A) No later than sixty (60) days following completion of the
5 examination, the examiner in charge shall file with the State Insurance
6 Department a verified written report of the examination under oath.

7 (B) Upon receipt of the verified report, the department
8 shall transmit the report to the company examined, together with a notice
9 which shall afford the company examined ~~a reasonable opportunity of not more~~
10 ~~than thirty (30)~~ twenty (20) days to make a written submission or rebuttal
11 with respect to any matters contained in the examination report.

12 (C) For good cause shown, the commissioner may grant an
13 extension of time to the company to review the verified report.
14

15 SECTION 2. Arkansas Code § 23-61-206(b)(3), concerning payment of
16 examination expenses, is amended to read as follows:

17 (3)(A) Per diem charges of examiners and others assisting in the
18 examination shall be computed beginning at the time of reporting for duty at
19 the office of the company to be examined and terminating upon completion of
20 the examination or the examiner's active participation therein and to include
21 actual days for travel as certified by the Insurance Commissioner.

22 (B) If air travel is used, only one (1) day's travel time
23 will be authorized.

24 (C) If an automobile is used, travel time allowed shall be
25 computed at the rate of not less than four hundred (400) miles per day as
26 determined by the Rand McNally Road Atlas, with the actual mileage traveled
27 compensated at the most current rate per mile ~~approved for state employees~~
28 according to the examination guidance section in the most current edition of
29 the Financial Condition Examiner's Handbook published by the National
30 Association of Insurance Commissioners.
31

32 SECTION 3. Arkansas Code § 23-63-216(b), concerning market conduct
33 annual statements, is amended to add an additional subdivision to read as
34 follows:

35 (4)(A) If the commissioner determines that an authorized insurer
36 has violated subdivisions (b)(1)(A) or (b)(1)(B) of this section, then the

1 commissioner may order payment of a monetary penalty of one thousand dollars
2 (\$1,000) for failure to timely file the market conduct annual statement.

3 (B) The monetary penalty described in subdivision
4 (b)(4)(A) shall not exceed twelve thousand dollars (\$12,000) for each
5 authorized insurer in any twelve-month period.

6
7 SECTION 4. Arkansas Code § 23-63-611(3), concerning asset valuation of
8 other assets of a reporting entity by the Insurance Commissioner, is amended
9 to read as follows:

10 (3) Other assets shall be valued as specified by the Insurance
11 Commissioner in a rule, ~~in accordance with the provisions of~~ according to §
12 23-63-601(2), which method of valuation is not inconsistent with the National
13 Association of Insurance Commissioners’ publication as it existed on ~~January~~
14 ~~1, 2001~~ January 1, 2023, entitled the “Valuation of Securities Manual”,
15 prepared by the ~~Securities Valuation Office~~ Capital Markets and Investment
16 Analysis Office.

17
18 SECTION 5. Arkansas Code § 23-63-1608(a), concerning examinations of
19 captive insurers, is amended to read as follows:

20 (a)(1) At least one (1) time every ~~three (3)~~ five (5) years, or
21 whenever the Insurance Commissioner determines it to be prudent, the
22 commissioner or a person appointed by the commissioner shall visit each
23 captive insurance company and thoroughly inspect and examine its affairs to
24 ascertain its financial condition, its ability to fulfill its obligations,
25 and whether or not it has complied with this subchapter.

26 (2) ~~Upon application, the commissioner may enlarge the three-~~
27 ~~year period to a five-year period, if a captive insurance company is subject~~
28 ~~during that period to a comprehensive annual audit by independent auditors~~
29 ~~approved by the commissioner of a scope satisfactory to the commissioner.~~

30 ~~(3)~~ The expenses and charges of the examination ~~must~~ shall be
31 paid to the state by the company or companies examined, ~~in accordance with~~
32 according to the Arkansas Insurance Code.

33
34 SECTION 6. Arkansas Code § 23-63-1620(g)(3), concerning the
35 requirements of sponsored captive insurers, is amended to read as follows:

36 (3) An incorporated protected cell shall have its own distinct

1 name or designation, which shall include the words "Incorporated Cell" or the
2 acronym "IC".

3
4 SECTION 7. Arkansas Code § 23-69-134(d)(3), concerning the maintenance
5 of a home office and records of an insurer, is amended to read as follows:

6 (3) Maintaining its home office, records, and assets in another
7 state, ~~provided if~~:

8 (A) The insurer ~~shall keep~~ keeps in its home office
9 complete records of its assets, transactions, and affairs ~~in accordance with~~
10 ~~such~~ according to the methods and systems as are customary or suitable as to
11 the kinds of insurance transacted;

12 (B) ~~The insurer was maintaining its home office in another~~
13 ~~state upon January 1, 1960;~~

14 ~~(C)~~ All records and assets of the insurer are made readily
15 available at the home office for examination by the commissioner at his or
16 her request; and

17 ~~(D)~~(C) The insurer ~~shall maintain a principal~~ maintains a
18 place of business in this state where service of process may be made ~~as~~
19 ~~provided in under~~ §§ 23-79-204 and 23-79-205.

20
21 SECTION 8. Arkansas Code § 23-70-106(a), concerning the formation of
22 reciprocal insurers, is amended to read as follows:

23 (a) Twenty-five (25) or more persons ~~domiciled in this state~~ may
24 organize a domestic reciprocal insurer and make application to the Insurance
25 Commissioner for a certificate of authority to transact insurance.

26
27 SECTION 9. Arkansas Code § 23-76-108(b)(10), concerning the deposits
28 required for licensure of health maintenance organizations, is repealed.

29 ~~(10) Any deposit of cash or securities, in an amount determined~~
30 ~~to be appropriate by the commissioner pursuant to § 23-76-118 [repealed], is~~
31 ~~sufficient to guarantee that the obligations to provide the promised benefits~~
32 ~~will be performed; and~~

33
34 SECTION 10. Arkansas Code § 23-76-122(a) and (b), concerning the
35 examination of a health maintenance organization by the Insurance
36 Commissioner, is amended to read as follows:

1 (a) The Insurance Commissioner may make an examination of the affairs
 2 of any health maintenance organization as often as he or she deems it
 3 necessary for the protection of the interests of the people of this state but
 4 not less frequently than one (1) time every ~~three (3)~~ five (5) years.

5 (b) The commissioner may make an examination concerning the quality of
 6 healthcare services of any health maintenance organization as often as he or
 7 she deems it necessary for the protection of the interests of the people of
 8 this state but not less frequently than one (1) time every ~~three (3)~~ five (5)
 9 years.

10
 11 SECTION 11. Arkansas Code § 23-76-122(f)(2), concerning a waiver of an
 12 examination of a health maintenance organization by the Insurance
 13 Commissioner, is amended to read as follows:

14 (2) The commissioner shall consider the following in determining
 15 whether a full or partial waiver may be granted:

- 16 (A) Claims payment history;
- 17 (B) Consumer complaint history; and
- 18 (C) Financial condition; ~~and~~
- 19 ~~(D) Compliance with § 23-76-118 [repealed].~~

20 ~~(3) Any health maintenance organization requesting a waiver of~~
 21 ~~an examination shall continue to comply with § 23-76-118 [repealed] until~~
 22 ~~such time as it is no longer providing healthcare services in this state.~~

23
 24 SECTION 12. Arkansas Code § 23-77-109(a), concerning the due date of
 25 annual reports of automobile clubs or associations, is amended to read as
 26 follows:

27 (a)(1) Each licensed automobile club or association shall annually on
 28 or before ~~April 1~~ June 1, or within any extension of time ~~therefor which~~ the
 29 Insurance Commissioner for good cause may have granted, file with the
 30 commissioner a full and true statement of its financial condition,
 31 transactions, and affairs as of the December 31 preceding.

32 (2) The statement required in subdivision (a)(1) of this section
 33 shall be in a general form and context as required or not disapproved by the
 34 commissioner.

35
 36 SECTION 13. Arkansas Code § 23-84-119 is amended to read as follows:

23-84-119. Single-state ~~and small company exemptions~~ exemption.

(a)~~(1)~~ The Insurance Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this state from the requirements of §§ 23-84-115 – 23-84-117 if:

~~(A)(1)~~ The commissioner has issued a written exemption to the company and has not subsequently revoked the exemption in writing; and

~~(B)(2)~~ The company computes reserves using assumptions and methods used before the operative date of the valuation manual in addition to any requirements established by the commissioner.

~~(2)(b)~~ If a company is granted an exemption under ~~subdivision (a)(1)~~ subsection (a) of this section:

~~(A)(1)~~ Sections 23-84-103 – 23-84-114 apply to the company; and

~~(B)(2)~~ Any reference to § 23-84-115 found in §§ 23-84-103 – 23-84-112 and 23-84-114 do not apply to the company.

~~(b)(1)~~ ~~A company that has less than three hundred million dollars (\$300,000,000) of ordinary life premiums, that is licensed and doing business in this state, and that is subject to the requirements of §§ 23-84-115 – 23-84-118 may hold reserves based on the mortality tables and interest rates defined by the valuation manual for net premium reserves using the methodology defined in §§ 23-84-106 and 23-84-108 – 23-84-111 as applicable to ordinary life insurance in lieu of the reserves required by §§ 23-84-115 – 23-84-118, if:~~

~~(A)~~ ~~In the event the company is a member of a group of life insurers, the group has combined ordinary life premiums of less than six hundred million dollars (\$600,000,000);~~

~~(B)(i)~~ ~~The company reported total adjusted capital of at least four hundred fifty percent (450%) of authorized control level risk-based capital in the most recent risk-based capital report;~~

~~(ii)~~ ~~Upon written request from a company that does not satisfy subdivision (b)(1)(B)(i) of this section, the commissioner may exempt the company from subdivision (b)(1)(B)(i) of this section;~~

~~(C)~~ ~~The appointed actuary has provided an unqualified opinion on the reserves in accordance with § 23-84-112; and~~

~~(D)~~ ~~The company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee issued or assumed by the company after the operative date of the valuation~~

1 ~~manual meets the definition of a nonmaterial secondary guarantee universal~~
2 ~~life product as defined in the valuation manual.~~

3 ~~(2) For purposes of subdivision (b)(1) of this section, ordinary~~
4 ~~life premiums are measured as direct premium plus reinsurance assumed from an~~
5 ~~unaffiliated company, as reported in the prior calendar year annual~~
6 ~~statement.~~

7 ~~(3)(A) On or before July 1 each year, a domestic company that~~
8 ~~meets all of the conditions required by this subsection may file a statement~~
9 ~~with the commissioner certifying that the conditions are met for the current~~
10 ~~calendar year based on premiums and other values from the financial~~
11 ~~statements of the prior calendar year.~~

12 ~~(B) The commissioner may reject the statement on or before~~
13 ~~September 1 of the same calendar year and require the domestic company to~~
14 ~~comply with the valuation manual requirements for life insurance reserves.~~

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