

Stricken language would be deleted from and underlined language would be added to present law.  
Act 1210 of the Regular Session

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: S3/25/15  
**A Bill**

SENATE BILL 769

By: Senator Rapert

### For An Act To Be Entitled

AN ACT TO AMEND THE PROPERTY AND CASUALTY LAW; TO REPEAL THE REQUIREMENT FOR ANNUAL DIRECT WRITING REPORTS; TO CLARIFY FORM FILINGS BY AN INSURANCE COMPANY; TO AMEND THE VALUED POLICY LAW TO REGULATE TOTAL LOSS CLAIMS INVOLVING MORE THAN ONE INSURER; TO PROVIDE EXCEPTIONS TO THE VALUED POLICY LAW; TO CLARIFY THE CALCULATION OF PROPERTY DAMAGE CLAIM PAYMENTS; TO MODIFY THE FIRE LOSS REPORTING ACT OF 2003; TO CLARIFY THE DISCLOSURE REQUIRED FOR RESIDENTIAL EARTHQUAKE COVERAGE; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE PROPERTY AND CASUALTY LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 23-61-103(d)(5)(B), concerning the filings by property and casualty insurers, is repealed.

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

SECTION 2. Arkansas Code Title 23, Chapter 63, Subchapter 12, is repealed.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~~ An insurance policy, rider, or endorsement issued and otherwise valid ~~which that~~ 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~~ 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:

(a) The insured shall recover the lesser of:

(1) The face amount of the property

insurance policy with the highest limit of coverage; or

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

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

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

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

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

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

SECTION 6. Arkansas Code § 23-88-402 is repealed.

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

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

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

SECTION 7. Arkansas Code § 23-88-403 is repealed.

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

~~Information filed under this subchapter by an insurance company with the Insurance Commissioner shall be treated as proprietary information and is~~

~~exempt from public disclosure except in an aggregate form.~~

SECTION 8. Arkansas Code § 23-102-114(b), concerning the disclosure required for residential earthquake coverage, is amended to read as follows:

(b) New Policyholders.

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

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

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

*/s/Rapert*

**APPROVED: 04/07/2015**