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As Engrossed: S3/20/19

A Bill

SENATE BILL 291

By: Senator Rapert

For An Act To Be Entitled

AN ACT TO ALLOW FOR AFFILIATE TRANSFER BETWEEN
INSURERS; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW FOR AFFILIATE TRANSFER BETWEEN
INSURERS.

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

SECTION 1. Arkansas Code § 23-79-307 is amended to read as follows:
23-79-307. Standards.

(a) In addition to other applicable provisions of the Arkansas Insurance Code, insurers and insurance policies subject to the provisions of this subchapter shall meet the following standards:

(1) Notice of claim given by or on behalf of the named insured to any authorized agent of the insurer with specific information to identify the insured is deemed notice of claim to the insurer;

(2) Policies may be issued for a term in excess of twelve (12) months with the premium adjustable on an annual basis if the policy contains an express provision to that effect. At least thirty (30) days' advance notice in writing of the premium to be charged on the policy anniversary date must be given to the insured and the agent of record if the insured has furnished the information necessary to calculate the premium;

(3) Forms or endorsements issued after the policy inception date not at the request of the named insured that reduce, restrict, or modify the original policy coverage must be accepted and signed by the named insured;

(4) Any policy providing an aggregate limit of liability within



the schedule of limits must include a notice specifying that the policy limit is an "aggregate". The aggregate limit provision must be clearly defined within the policy;

(5)(A) Policies containing provisions that would reduce the limit of liability available for judgments or settlements by the amount of payment made for defense cost or claim expenses shall not be approved by the Insurance Commissioner unless a separate limit for defense costs equal to one hundred percent (100%) of the annual aggregate limit of liability stated in the policy for judgments or settlements is offered for defense costs or claims expenses to the insured. However, no policy covering automobile liability insurance may contain the defense within the limits concept.

(B) This subsection ~~shall~~ does not apply to policies or contracts that the commissioner may exempt by order upon a finding that this subsection may not practically be applied or that its application is not necessary or desirable for the protection of the public;

(6)(A) When an insurer revises its rates or rules and the revision results in a premium increase equal to or greater than twenty-five percent (25%) on any renewal policy issued for a term of twelve (12) months or less, the insurer shall mail or deliver to the insured's agent not less than thirty (30) days prior to the effective date of renewal, and to the insured not less than ten (10) days prior to the effective date of renewal, notice specifically stating the insurer's intention to increase the premium by an amount equal to or greater than twenty-five percent (25%).

(B) If the notice is not given as stated in subdivision (6)(A) of this section, the insurer is required to extend the existing policy thirty (30) days from the date the notice is mailed or delivered. The premium for the policy as extended in such circumstances shall be no more than the pro rata premium of the existing policy;

(7) Except in the case of nonpayment of premium, an insurer shall renew a policy unless a written notice of nonrenewal is mailed at least sixty (60) days prior to the expiration date of the policy or, for a policy for a term longer than one (1) year and not having a fixed expiration date, sixty (60) days prior to the anniversary date; and

(8) Policies containing an exclusion for punitive damages must include a definition of punitive damages substantially similar to the following: "Punitive damages" are damages that may be imposed to punish a

wrongdoer and to deter others from similar conduct.

(b) As used in this section, "renewal" or "renew" means the issuance and delivery by an insurer of a policy superseding a policy previously issued by the insurer at the end of the previously issued policy period if the policy is delivered by:

(1) The same insurer; or

(2) An affiliate or subsidiary, as those terms are defined in § 23-63-503, that has a financial strength rating that is:

(A) Issued by an industry-recognized independent insurance rating company; and

(B) At least as good as the insurer issuing the superseded policy.

(c) This section does not repeal or supersede any requirements of the Insurance Holding Company Regulatory Act, § 23-63-501 et seq., including without limitation the provisions of § 23-63-515 that are applicable to material transactions between an insurer and an insurer's affiliates.

SECTION 2. Arkansas Code § 23-79-102 is amended to read as follows:
23-79-102. Scope.

Sections 23-79-101, 23-79-103 – 23-79-107, 23-79-109 – 23-79-128, 23-79-131 – 23-79-134, 23-79-162, and 23-79-202 – 23-79-210 do not apply to:

(1) Reinsurance;

(2)(A) Policies or contracts not issued for delivery in this state nor delivered in this state, except:

(i) On subjects of insurance other than life or accident and health insurance, located or to be performed in this state; and

(ii) Pursuant to § 23-79-109(e).

(B) Subdivision (2)(A) of this section does not apply to group insurance certificates issued under group insurance policies carried out and delivered outside this state but covering a person that is a resident in this state;

(3) Wet marine and foreign trade insurance; and

(4) Title insurance, except that the following apply to this line:

(A) Section 23-79-101(1), §§ 23-79-109 – 23-79-111, 23-79-113, 23-79-116, 23-79-118, 23-79-119, and 23-79-202 – 23-79-205; and

(B) Section 23-79-121, provided that the insurer may authorize or require its title agents to provide the policy to the insured.

SECTION 3. Arkansas Code Title 23, Chapter 79, Subchapter 1, is amended to add an additional section to read as follows:

23-79-162. Notice of renewal in affiliate or subsidiary.

(a) This section applies to all forms of property and casualty insurance written under this subchapter.

(b) A notice of nonrenewal is not required if:

(1) The insured is transferred from an insurer to an affiliate insurer for future coverage; and

(2) The transfer results in substantially similar or broader coverage to the insured.

(c)(1) Notice of a renewal in an affiliate or subsidiary shall be provided to a policyholder according to the renewal notice requirements applicable to the type or kind of policy being renewed.

(2) The notice of renewal in an affiliate or subsidiary described in subdivision (c)(1) of this section shall state:

(A) The reason for the change to the affiliate or subsidiary;

(B) That coverage shall be provided by the affiliate or subsidiary unless the policyholder chooses to pursue coverage with an insurer outside the group of affiliated insurers; and

(C) The relevant information about changes to the policy's deductible, provisions, and amount of premium.

(d) At least ninety (90) days in advance of mailing the notice of renewal in an affiliate or subsidiary to its policyholders, an insurer shall notify the Insurance Commissioner of its intention to renew policies in bulk in an affiliate or subsidiary and provide the commissioner with a copy of the notice to policyholders.

(e) This section does not repeal or supersede any requirements of the Insurance Holding Company Regulatory Act, § 23-63-501 et seq., including without limitation the provisions of § 23-63-515 that are applicable to material transactions between an insurer and an insurer's affiliates.

SECTION 4. Arkansas Code § 23-88-105, concerning notice required

before expiration of a property insurance policy, is amended to add an additional subsection to read as follows:

(c) As used in this section, "renewal" means the issuance or delivery by an insurer of a policy superseding a policy previously issued by the insurer at the end of the previously issued policy period if the policy is delivered by:

(1) The same insurer; or

(2) An affiliate or subsidiary, as those terms are defined in § 23-63-503, that has a financial strength rating that is:

(A) Issued by an industry-recognized independent insurance rating company; and

(B) At least as good as the insurer issuing the superseded policy.

SECTION 5. Arkansas Code § 23-89-301(6), concerning the definition of "renewal" or "to renew", is amended to read as follows:

(6)(A) "Renewal" or "to renew" means the issuance and delivery by an insurer of a:

*~~(i) policy replacing at the end of the policy period~~
Policy superseding a policy previously issued and delivered by:*

~~(a) the~~ The same insurer; or

*~~(b) An affiliate or subsidiary, as defined in~~
§ 23-63-503, that has a financial strength rating that is:*

*~~(1) Issued by an industry-recognized~~
independent insurance rating company; and*

*~~(2) At least as good as the insurer~~
issuing the superseded policy; or*

*~~(ii) the issuance and delivery of a certificate~~
Certificate or notice extending the term of a policy beyond its policy period or term.*

(B) However, for the purposes of this subchapter:

(i) Any policy with a policy period or term of less than six (6) months shall be considered as if written for a policy period or term of six (6) months; and

(ii) Any policy written for a term longer than one (1) year or any policy with no fixed expiration date shall be considered as

if written for successive policy periods or terms of one (1) year, and the policy may be terminated at the expiration of any annual period upon giving twenty (20) days' notice of cancellation prior to the anniversary date. This cancellation shall not be subject to any other provisions of this subchapter.

(C) This section does not repeal or supersede any requirements of the Insurance Holding Company Regulatory Act, § 23-63-501 et seq., including without limitation the provisions of § 23-63-515 that are applicable to material transactions between an insurer and an insurer's affiliates.

/s/Rapert

APPROVED: 4/4/19