

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

SENATE BILL 1107

By: Senators Rapert, K. Ingram  
By: Representatives Wren, Dale

## For An Act To Be Entitled

AN ACT TO AMEND THE COMPREHENSIVE HEALTH INSURANCE  
POOL ACT TO PROVIDE FOR THE ORDERLY CESSATION OF  
OPERATIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER  
PURPOSES.

## Subtitle

TO AMEND THE COMPREHENSIVE HEALTH  
INSURANCE POOL ACT TO PROVIDE FOR THE  
ORDERLY CESSATION OF OPERATIONS; AND TO  
DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Findings and legislative intent.

(a) The General Assembly finds that:

(1) The Arkansas Comprehensive Health Insurance Pool was created to provide health care coverage for individuals to whom comprehensive health care coverage is not available in the individual health insurance market because of preexisting health conditions; and

(2) As of January 1, 2014, federal law provides that health insurance carriers in the individual market cannot reject applicants for health insurance coverage based on the presence of preexisting health conditions or exclude health care coverage for preexisting conditions.

(b) It is the intent of the General Assembly by the enactment of this act to provide for the orderly cessation of the Arkansas Comprehensive Health Insurance Pool's operations after December 31, 2013.



SECTION 2. Arkansas Code Title 23, Chapter 79, Subchapter 5, is amended to add additional sections to read as follows:

23-79-515. Orderly cessation of operations.

(a)(1) The Arkansas Comprehensive Health Insurance Pool shall cease enrollment and coverage under the plan on and after January 1, 2014, as required by federal law.

(2) After taking all reasonable steps, including those specified in this section, to timely and efficiently assist in the transition of individuals receiving plan coverage to the individual health insurance market, the Board of Directors of the Arkansas Comprehensive Health Insurance Pool shall cease operating the pool after paying health insurance claims for plan coverage and meeting all other obligations of the board under this section.

(b) The board may take all actions it deems necessary to:

(1) Cease enrollment for plan coverage effective December 1, 2013;

(2)(A) Terminate all existing plan coverage effective at the end of the calendar day on December 31, 2013.

(B) The board shall provide at least ninety (90) days notice to current policyholders of the termination; and

(3) Amend plan policies and provide adequate notice to policyholders, agents, and providers that to be paid or reimbursed, a claim for plan services is required to be filed by the earlier of one hundred eighty (180) days after plan coverage ends or three hundred sixty-five (365) days after the date of service giving rise to the claim.

(c) This section does not require the board to revise plan benefits to comply with federal law or to maintain plan coverage for any individual after December 31, 2013.

(d)(1) After all plan coverage terminates under this section, the board shall take reasonable steps to wind up all significant operations of the pool by December 31, 2014.

(2) Notwithstanding any other provision of this subchapter, to facilitate an efficient cessation of operations:

(A) The board may continue to use existing contractors until cessation of operations without the need to issue competitive requests

for proposals;

(B) The board may continue to fund operations of this subchapter under § 23-79-507;

(C) The board shall remain in effect:

(i) As provided by § 23-79-504(b); and

(ii) Until a judgment, order, or decree in any action, suit, or proceeding commenced against or by the pool is fully executed; and

(D)(i) The term of each current board member shall be extended until the date the pool concludes all business as provided under this section and the Insurance Commissioner certifies the cessations of operations under subsection (g) of this section.

(ii) The term of a board member expires when the commissioner certifies the cessations of operations under subsection (g) of this section.

(e) On or before June 30, 2013, the board shall amend the plan of operation to reflect the actions necessary to implement this section.

(f) If the board has excess funds after the cessation of operations of the pool, the funds shall be returned to the general revenue funds of the state.

(g)(1) On or before March 1, 2016, or a later date if necessary to complete the cessation of operations of the pool, the board shall file a report with the General Assembly and commissioner that reflects completion of the requirements of this section and includes an independent auditor's report on the financial statements of the pool.

(2) If satisfied upon review of the report that the board has complied with this section and accomplished the pool's cessation of operations in a reasonable manner, the commissioner shall certify that the business of the pool has concluded in accordance with this section and publish the certification on the State Insurance Department website.

(h) Upon certification under subsection (g) of this section, the operations of the pool are suspended indefinitely unless reactivated by the General Assembly.

(i) The commissioner may address any matters regarding the pool arising after the certification under subsection (g) of this section, and the Attorney General shall defend a legal action filed after the certification,

including seeking the dismissal of the action under § 23-79-516 or for any other purpose.

(j) Unless inconsistent with this section, the remainder of this subchapter continues to apply to the pool and the board.

23-79-516. Statute of limitations and repose.

Because winding up the operations of the Arkansas Comprehensive Health Insurance Pool requires the expeditious determination of its outstanding liabilities, a cause of action against the pool or the Board of Directors of the Arkansas Comprehensive Health Insurance Pool shall be commenced within the earlier of one (1) year after the cause of action accrues or December 31, 2015.

23-79-517. Individuals moving to Arkansas and previously covered by another qualified high-risk pool.

(a) Notwithstanding § 23-79-510(f), if a resident eligible person is eligible for plan coverage because the person previously was covered under a qualified high-risk pool of another state, a preexisting condition exclusion otherwise applicable to the resident eligible person:

(1) Shall be reduced by each month of coverage in which the resident eligible person was subject to a preexisting condition exclusion in the other state's qualified high-risk pool; or

(2) Does not apply if the resident eligible person was not subject to a preexisting condition exclusion in the other state's qualified high-risk pool.

(b) This section expires on the last day an individual may be enrolled into plan coverage under this subchapter.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act is immediately necessary because changes to the individual health insurance market beginning in 2014 eliminate the necessity of making coverage available through a state high-risk pool; that the Arkansas Comprehensive Health Insurance Pool should cease enrolling individuals on December 1, 2013, terminate all coverage under the plan at the end of the calendar day on December 31, 2013, and cease operations after efficiently winding up its business; and that planning for

the cessation of operations requires immediate action by the Board of Directors of the Arkansas Comprehensive Health Insurance Pool to transition the pool's policyholders into the commercial individual health insurance market. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.