

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

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 357

By: Senator Dees

By: Representative Maddox

For An Act To Be Entitled

AN ACT TO ENACT THE STATE INSURANCE DEPARTMENT'S GENERAL OMNIBUS BILL; TO AMEND THE LAW CONCERNING EXAMINATIONS BY THE INSURANCE COMMISSIONER; TO CLARIFY REQUIREMENTS FOR A MARKET CONDUCT ANNUAL STATEMENT; TO MODIFY THE VALUATION OF ASSETS OF A REPORTING ENTITY BY THE INSURANCE COMMISSIONER; TO AMEND THE LAW CONCERNING CAPTIVE INSURERS; TO MODIFY THE EXAMINATION REQUIREMENTS OF CAPTIVE INSURERS; TO REGULATE THE MAINTENANCE OF AN INSURER'S HOME OFFICE AND RECORDS; TO AMEND THE LAW CONCERNING THE FORMATION OF RECIPROCAL INSURERS; TO MODIFY THE LAW CONCERNING THE LICENSURE OF HEALTH MAINTENANCE ORGANIZATIONS; TO CHANGE THE DUE DATE OF ANNUAL REPORTS OF AUTOMOBILE CLUBS OR ASSOCIATIONS THAT ARE REQUIRED BY THE INSURANCE COMMISSIONER; TO MODIFY THE STANDARD VALUATION LAW FOR LIFE INSURANCE AND ANNUITIES; TO REPEAL THE SMALL COMPANY EXEMPTION FROM THE STANDARD VALUATION LAW FOR LIFE INSURANCE AND ANNUITIES; AND FOR OTHER PURPOSES.

Subtitle

TO ENACT THE STATE INSURANCE DEPARTMENT'S
GENERAL OMNIBUS BILL.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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~~

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

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

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

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