

Title 23. Public Utilities and Regulated Industries

Chapter I. State Insurance Department, Department of Commerce

Subchapter B. Life, Health, and Accident

Part 132. Prohibition on the Use of Discretionary Clauses in Disability Income Policies

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 1. Authority

This Rule is promulgated pursuant to Ark. Code Ann. § 23-61-108, Ark. Code Ann. § 23-66-207, Ark. Code Ann. § 25-15-204 and other applicable laws or rules."

"Section 6. Severability

If any provision of this Rule, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this Rule which can be given effect without the invalid provision or application, and to that end the provisions of this Rule are severable.

Section 7. Effective Date

This Rule shall apply to all disability income policies issued in this State which are issued or renewed on and after March 1, 2013."

Subpart 1. Generally

23 CAR § 132-101. Purpose.

(a) The purpose of this part is to prohibit conflicts of interest that may arise when an insurer responsible for providing disability income benefits has discretionary authority to decide what benefits are due.

(b) Nothing in this part shall be construed as imposing any requirement or duty on any person other than an insurer that offers disability income protection coverage.

Authority. Arkansas Code §§ 23-61-108, 23-66-207.

23 CAR § 132-102. Definitions.

As used in this part:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Disability income protection coverage" is a policy, contract, certificate, or agreement issued by an insurer subject to the insurance laws and rules of this state, or subject to the jurisdiction of the Insurance Commissioner, that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination of them; and

(3) "Person" means:

(A) An individual;

(B) A corporation;

(C) A partnership;

(D) An association;

(E) A joint venture;

(F) A joint stock company;

(G) A trust;

(H) An unincorporated organization; or

(I) Any similar entity or combination of the foregoing.

Authority. Arkansas Code §§ 23-61-108, 23-66-207.

23 CAR § 132-103. Discretionary clauses prohibited.

No policy, contract, certificate, or agreement offered or issued in this state providing for disability income protection coverage may contain a provision purporting

to reserve discretion to the insurer to interpret the terms of the contract, or to provide standards of interpretation or review that are inconsistent with the laws of this state.

Authority. Arkansas Code §§ 23-61-108, 23-66-207.

23 CAR § 132-104. Penalties.

A violation of this part shall be subject to the same penalties and remedies authorized to be imposed against an insurer by the Insurance Commissioner under Arkansas Code § 23-66-210.

Authority. Arkansas Code §§ 23-61-108, 23-66-207.