

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter A. Generally
Part 20. Bulk and Assumptive Reinsurance

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows:

"Section 8. Effective Date

This Rule shall be effective June 1, 1992."

Subpart 1. Generally

23 CAR § 20-101. Purpose.

(a) The purpose of this part is to set out the filing requirements of those reinsurance agreements filed with the Insurance Commissioner pursuant to Acts 1991, No. 804.

(b) This part is promulgated pursuant to the authority of the commissioner as set out in Arkansas Code § 23-61-108 and § 25-15-201 et seq.

Authority. Arkansas Code § 23-61-108.

23 CAR § 20-102. Definitions.

As used in this part:

(1) "Authorized insurer" means any foreign, domestic, or alien insurance company granted a certificate of authority by the Insurance Commissioner and authorized to do business in the State of Arkansas as an insurance company, including but not limited to:

- (A) Life and health insurance companies;
- (B) Property and casualty insurance companies;
- (C) Farmers mutual aid associations;

- (D) Reciprocal insurers;
- (E) Stipulated premium insurers;
- (F) Mutual assessment life and disability companies; and
- (G) Foreign fraternal benefit societies;

(2) "Bulk or assumptive reinsurance" means those agreements of reinsurance whereby there is a transfer of insurance obligations and/or risks of existing or in-force contracts of insurance of a major class or block of policies from a ceding insurer to an assuming insurer and is intended to effect a novation of the transferred contract of insurance with the result that the:

(A) Assuming insurer becomes directly liable to the policyholders of the transferring insurer; and

(B) Transferring insurer's insurance obligations and/or risks under such contracts are extinguished;

(3) "Department" means the State Insurance Department;

(4) "Excess or indemnity reinsurance" means those agreements of reinsurance whereby:

(A) The one (1) insurer undertakes to pay all losses or amounts in excess of a sum specified pursuant to an agreement of reinsurance with another insurer on any line or class of business; and

(B) The ceding insurer remains directly liable for its insurance obligations or risks under the contracts subject to the reinsurance agreement;

(5) "Insurance Commissioner" means the Insurance Commissioner as appointed by the Governor of the State of Arkansas; and

(6) "Unauthorized insurer" means any company not authorized by certificate of authority to do business in the State of Arkansas including alien insurers.

Authority. Arkansas Code § 23-61-108.

23 CAR § 20-103. Filing requirements.

(a) **Agreements with unauthorized insurers.** Any authorized insurer that enters into any agreement of bulk or assumptive reinsurance with an unauthorized insurer which provides for the ceding of Arkansas policies or risks shall file the proposed agreement of reinsurance by petition addressed to the Insurance Commissioner and filed in the following manner:

(1)(A) The petition and proposed agreement shall be filed with the commissioner no less than sixty (60) days prior to the effective date of the proposed agreement.

(B) Six (6) copies of the petition and proposed agreement shall be mailed to the commissioner in care of the Legal Division of the State Insurance Department;

(2)(A) The petition shall:

(i) Contain the notarized signatures of an officer of each company or entity party to the agreement;

(ii) Identify the specific line or class of business to be ceded, including the specific name or form number of any policies involved in the agreement; and

(iii) Also state the number of Arkansas policies or risks and the amount in total gross premium of the Arkansas policies or risks to be ceded.

(B) The proposed effective date of the agreement shall be specifically set out in a separate paragraph of the petition;

(3)(A) A sample certificate of assumption or notice to the policyholder shall be filed with the petition and proposed agreement.

(B) The sample certificate or notice to the policyholder shall conform to the standards set out in 23 CAR § 20-106;

(4) Any service or administration agreements executed pursuant to the proposed reinsurance agreement shall be filed as a part of the petition and agreement;

(5)(A) A current audited financial statement of the unauthorized insurer shall be filed along with the petition and proposed agreement.

(B) If the unauthorized insurer is licensed to do business in another state of the United States then a copy of the NAIC Annual Statement (Convention Blank

Form) for the year immediately preceding the effective date of the proposed agreement may be submitted;

(6)(A) Any letters, certificates, or orders from the appropriate insurance departments of any other state which has denied or granted approval to the proposed agreement shall be included as exhibits to the proposed agreement.

(B) Also attached as an exhibit to the proposed agreement shall be a statement of all requests for approval, whether granted, denied, or pending, made in any other state where approval is required by such state;

(7) If the unauthorized insurer is domiciled in the United States, a copy of the most recent financial examination by the insurance regulatory authority of the insurer's state of domicile shall be filed as an exhibit to the proposed agreement;

(8) Any other information or documents which the commissioner may deem necessary to make a decision concerning the petition and proposed agreement shall be provided by any party to the agreement to which the commissioner's request is directed; and

(9) After notice and hearing, the commissioner may approve the agreement for reinsurance if it is found that the:

(A) Agreement is fair and equitable and does not lessen or diminish any benefit to a policyholder which would have been provided by the ceding entity;

(B) Agreement promotes the public interest and does not create a monopoly;

(C) Agreement is not harmful to the best interest of the policyholders;

(D) Agreement will not impair the financial condition of either the ceding insurer or the assuming insurer;

(E) Assuming insurer is in sound financial condition; and

(F) Assumption certificates, after being filed with and approved by the commissioner, shall be given to Arkansas policyholders affected by the agreement, provided that notice to credit life and credit disability policyholders may be given to the creditor beneficiary of the credit life or credit disability policy.

(b) **Agreements with authorized insurers.** Any insurer authorized to do business in the State of Arkansas that enters into any agreement of bulk or assumptive reinsurance with another insurer authorized to do business in the State of Arkansas which provides for the ceding or assuming of Arkansas policies or risks shall file for approval of the agreement in the following manner:

(1)(A) Six (6) copies of the letter requesting approval and the proposed agreement shall be sent to the commissioner in care of the Legal Division of the State Insurance Department.

(B) The letter requesting approval shall be signed by an officer of each of the parties to the agreement;

(2)(A) The letter and proposed agreement shall be filed no less than thirty (30) days prior to the effective date of the proposed agreement.

(B) The letter shall identify the specific line or class of business to be ceded including the specific name or form number of any policies involved.

(C) The letter shall also state the number of Arkansas policies and the amount of total gross premiums of the Arkansas policies or risk to be ceded; and

(3) Any certificate of assumption to be issued in relation to the proposed agreement shall be attached as an exhibit to the proposed agreement and shall comply with the requirements of 23 CAR § 20-106.

(c) **Disapproval, appeal to circuit court.**

(1) If the commissioner shall disapprove any agreement of bulk or assumptive reinsurance filed for his or her approval pursuant to subsection (b) of this section, the commissioner or his or her representative shall so notify the parties to the agreement by certified mail.

(2) Any party wishing to appeal the disapproval shall file a written request for hearing within thirty (30) days of receipt of the letter of disapproval.

(3) If after hearing and an order thereon, any aggrieved party may appeal the commissioner's order by requesting a review by the Pulaski County Circuit Court.

(d) A proposed agreement shall be deemed to have been filed for approval on the date it is received by the Legal Division of the State Insurance Department.

Authority. Arkansas Code § 23-61-108.

Codification Notes. "NAIC" means National Association of Insurance Commissioners.

23 CAR § 20-104. Waiver of hearing.

(a)(1) Any authorized insurer that files for approval with the Insurance Commissioner an agreement of bulk or assumptive reinsurance between itself and an unauthorized insurer may request a waiver of hearing.

(2) Such request shall be made by separate written letter attached to the petition for approval and shall set forth the grounds which the insurer believes support the waiver of hearing.

(b) A waiver of hearing, if granted, shall be set out in writing by the commissioner or his or her representative and shall be sent to the parties to the agreement.

(c)(1) If the commissioner shall disapprove any agreement the commissioner or his or her representative shall so notify the parties to the agreement by certified mail.

(2) Any party wishing to appeal the disapproval shall file a notice of appeal with the Pulaski County Circuit Court Clerk pursuant to Arkansas Code § 23-61-307 within thirty (30) days of receipt of the letter of disapproval.

Authority. Arkansas Code § 23-61-108.

23 CAR § 20-105. Excluded contracts.

This part does not apply to:

- (1) Contracts of excess or indemnity reinsurance;
- (2) Any reinsurance agreement in which the ceding insurer continues to remain directly liable for its insurance obligations and/or risks under the contracts of insurance subject to the reinsurance agreement;

(3) The substitution of one (1) insurer for another upon the expiration of insurance coverage pursuant to statutory or contractual requirements and the issuance of a new contract of insurance by another insurer; or

(4) Any insurer subject to a judicial order of liquidation or rehabilitation.

Authority. Arkansas Code § 23-61-108.

23 CAR § 20-106. Notice to policyholders.

All assumption certificates or notice to policyholders shall contain the following information:

(1) The name and address of the ceding carrier and the name and address of the assuming carrier;

(2) The effective date of the agreement;

(3) Specific premium payment instructions;

(4) The address and toll-free telephone number of the person to whom the policyholder may direct any inquiries regarding the notice or assumption certificate; and

(5) The address and general phone number of the State Insurance Department where the policyholder may call for further information regarding the financial condition of the assuming insurer.

Authority. Arkansas Code § 23-61-108.

23 CAR § 20-107. Severability.

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

Authority. Arkansas Code § 23-61-108.