

ARKANSAS INSURANCE DEPARTMENT

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Insurance Commissioner

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May 28, 1987

BULLETIN 4-87

TO: ALL LICENSED INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS,
APPROVED SURPLUS LINE INSURERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: 1987 LEGISLATION

The purpose of this Bulletin is to summarize briefly that legislation affecting the insurance industry which was enacted during the recent legislative session. It is offered as a courtesy for the information of admitted insurers, health maintenance organizations and approved surplus line insurers. The Department does not represent that this list is complete as to all legislation which could affect a particular insurer. It remains the responsibility of each insurer to become acquainted with all new legislation affecting it and to take all steps necessary to ensure full compliance with Arkansas law. Each insurer should immediately notify its Arkansas agents of any legislation which would affect their individual compliance.

Some of the legislation summarized below will be the subject of later Bulletins and Regulations. The general effective date for all Acts not containing an emergency clause or other specified effective date is July 20, 1987. Full texts of these and other Acts of the 1987 General Assembly may be obtained from the Office of the Secretary of State, State Capitol, Little Rock, Arkansas 72201, (501) 371-1010.

ACT 19. Amends Ark. Stat. Ann. §§84-1834, et seq., the Arkansas Corporate Franchise Tax Act to change the State agency responsible to the Arkansas Secretary of State. Effective January 1, 1988.

ACT 20. Amends §§64-1201, et seq., to require foreign corporations to file certified copies of charters or articles of incorporation or association and certified copies of all amendments thereto with the Secretary of State or be subject to a penalty of \$100 to \$5,000.

ACT 70. Amends §75-918, as to defendant's payment of double damages and attorneys fees when defendant fails to pay property damage claims in motor vehicle accidents 60 days after written claims notice; to increase property damage amount from \$300 to \$1,000 and to increase attorneys fees from \$100 to \$250.

ACT 99. Provides that all individual and group disability policies, health care plans offered by health maintenance organizations, self-insured health plans, hospital and medical service contracts, and certificates offered or issued after July 1, 1987, shall include coverage for minors for whom the insured has filed a petition for adoption. All policies and contracts issued prior to July 1, 1987, shall include this coverage with the contract's first renewal or anniversary date on and after July 1, 1987. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 156. Amends §66-3005 in the Trade Practices Act to restrict cancellations of property and casualty policies in force over 60 days, or after renewal or annual anniversary dates, to certain permissible grounds. Requires 20 days advance written notice of cancellation to named insureds, lienholders or loss payees, and a minimum 10 days advance written notice for non-payment of premium. Adds as an unfair trade practice refusing to issue or limiting policy coverage due to nonrenewal of the applicant's previous property or casualty policy. Effective March 10, 1987. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 189. Grants qualified immunity from civil liability to volunteer fire departments, except departments of incorporated cities and towns.

ACT 197. Provides that every life, disability, property or casualty policy issued after January 1, 1988, for Arkansas risks must be accompanied by information listing addresses and telephone numbers of the Insurance Department, the insurer's Policyholder Service Office, and the name, address and telephone number of the soliciting agent, if applicable. Inquiries are to be directed to the Legal Division of this Department.

ACT 204. Provides minimum standards for certain commercial property and casualty policies. Effective March 13, 1987. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 205. Amends §66-3016, the "Twisting" provision in the Trade Practices Chapter, to address medicare supplement policies. Inquiries are to be directed to the Legal Division of this Department.

ACT 240. Prohibits nonprofit corporations from using public funds to purchase key-man life insurance as a form of deferred compensation to the insured employee.

ACT 242. Amends §§41-1501 and 41-1902 to increase criminal penalties for arson for purpose of collecting insurance proceeds.

ACT 253. Requires extension of benefits under group health policies, contracts or certificates, if insured is hospitalized on date of termination, until hospital confinement ends or the policy's hospital benefits are exhausted. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 254. Amends §66-3507, which formerly allowed group policies to be sold in Arkansas if approved in another state, to provide that the Arkansas Insurance Commissioner must now approve group contracts which do not meet the Code definitions of allowable groups before such group policies or certificates are delivered in this State. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 264. Amends §66-5223 to increase certain fees for health maintenance organizations and to provide for payment of fees to the Arkansas Department of Health, rather than to the Insurance Commissioner. Effective March 17, 1987. Inquiries are to be directed to Robert Alexander, Associate Counsel, Legal Division of this Department.

ACT 268. Amends §66-3209(1) to provide that no group disability certificate of insurance can be extended to Arkansas residents under a policy issued outside this State which doesn't include statutory provisions required in group policies issued in-State, unless the Commissioner determines required provisions are inappropriate. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 329. Imposes duties on Insurance Commissioner in regulating continuing care providers. Effective March 19, 1987. Inquiries are to be directed to Robert Alexander, Associate Counsel, Legal Division of this Department.

ACT 335. Requires every insurer writing automobile liability insurance to offer underinsured motorist coverage to named insureds. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 336. Amends §66-4014(1)(a) to provide for funeral benefits payments under first party coverage in personal auto liability policies. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 348. Requires every hospital in Arkansas to furnish patient upon request itemized statement of all services, drugs and supplies billed to patient or an insurer at time of patient discharge or upon billing, but not to exceed 30 days after discharge, except hospitals operated by the State.

ACT 351. Amends §66-3403 to provide no policy of industrial life insurance shall be offered, delivered, or issued for delivery in this State on and after January 1, 1988. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 390. Arkansas Volunteer Immunity Act. Provides qualified immunity from civil liability for personal injury or property damage for "qualified" volunteers. NOTE: Section 5 references liability of volunteer limited to amount of his liability insurance in certain cases. Effective March 25, 1987.

ACT 400. Amends §66-2901 to authorize the Insurance Commissioner to issue cease and desist orders to unauthorized insurers and agents and brokers aiding unauthorized insurers, and to impose monetary and license sanctions for violations. This Act does not apply to service of legal process on unauthorized insurers or to surplus line insurance.

ACT 408. Provides Insurance Commissioner with jurisdiction to regulate the operation of risk retention and purchasing groups in this State in conformity with the Federal Liability Risk Retention Act of 1986. Covers only commercial liability insurance and excludes personal lines. Effective March 25, 1987. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 442. Makes it unlawful for any person to operate a motor vehicle in this State unless he has a certificate of self-insurance, or a policy or surety bond from an authorized insurer with \$25/\$50/\$15 limits. Provides no vehicle license plate shall be issued or renewed without proof of such coverage. See also Act 474 of 1987 and Act 971 of 1987.

ACT 456. Department's Omnibus Bill. Effective March 30, 1987.

Section 1. Amends §66-2108 to clarify that data and reports designated as confidential by the NAIC and furnished to the Commissioner are privileged and are not open to public inspection, and are only admissible in proceedings brought by the Commissioner. Grants immunity to the NAIC and the Commissioner and other pertinent parties as to the furnishing of such reports.

Section 2. Amends §66-2125(5) to clarify that the respondent party pays transcript costs when appealing the Commissioner's orders.

Section 3. Amends §66-2127(8) to allow appeals from the Commissioner's orders to the Arkansas Court of Appeals, as well as to the Arkansas Supreme Court.

Section 4. Amends §66-2207(1) to increase the minimum capital or surplus required of surety insurers from \$250,000 to \$500,000.

Section 5. Repeals §66-2209(3), which allowed insurers to file a surety bond with the Commissioner in lieu of other approved securities for the required security deposit. See also Act 561 of 1987.

Section 6. Amends §66-2211 to broaden the Commissioner's authority to examine insurers applying for a certificate of authority, with exam expenses to be paid by the applicant insurer.

Section 7. Amends §66-2212 to delete the 60-day provision for Commissioner to approve applicant insurers and to delete the provision that insurers may consider applications deemed approved after such time has elapsed.

Section 8. Increases various fees charged for licenses and certificates of authority in §66-2301, including increasing from \$250 to \$500 fees for document review of new applicant insurers and surplus line insurers; increasing from \$100 to \$500 fee for original license of rate service organizations; increasing from \$25 to \$100 fee for amending certificates of authority; increasing agent license and renewal fees by \$5; and setting fees for initial and renewal agent licenses of nonresident firms and corporations.

Section 9. Amends §66-2410 to delete reinsurance provisions which are inconsistent with other provisions of the Insurance Code.

Section 10. Amends §66-2603(1) to require the Commissioner's prior approval before insurers invest in assets which do not pay interest annually or more frequently.

Section 11. Amends §66-2812 to add new language which allows licensing of nonresident firms and corporations as agents.

Section 12. Amends §66-2921(1) to provide that surplus line brokers pay the 4% surplus line tax not later than 60 days after the end of the month in which the surplus line insurance was procured, rather than annually.

Section 13. Amends §66-2922 to provide penalties for late surplus line broker tax payments not in compliance with §66-2921(1) in Section 12 above.

Section 14. Amends §66-3029 to require disability agents to provide professional service to insureds and prospective insureds.

Section 15. Amends §66-3248(1) to require certificates issued through out-of-state group disability contracts to include newborn infant coverage.

Section 16. Repeals §66-3259, which required refunds of advance premiums paid, when an insured cancels a life or disability policy, due to the Pulaski County Court case which ruled Act 710 of 1983 unconstitutional.

Section 17. Amends §66-3702 by adding subsection (6) which requires group disability policies to contain provisions for immediate payment of benefits upon receipt of proof of loss (other than loss of time benefits), and to provide for payment of loss of time benefits.

Section 18. Amends §66-3723 to allow individuals to continue under the old group disability policy until the new group disability policy covers all previously covered conditions.

Section 19. Amends §66-3731 to provide that any request for a conversion policy must be made not later than 30 days after the group disability coverage has terminated.

Section 20. Amends §66-3733 to allow an individual to keep the conversion policy in force until all previously covered conditions are covered under the new group disability policy.

Section 21. Amends §66-5202 as to health maintenance organizations to define "domestic corporation".

Section 22. Amends §66-5203(1) to license only corporations as health maintenance organizations, but does not require incorporation of current health maintenance organization licensees.

Section 23. Amends §66-5204(2) to provide for Health Maintenance Organizations license issuance only when the Commissioner is satisfied that this Section's requirements are met. Adds requirements for paid-in capital of \$100,000 minimum and additional working capital or surplus funds in an amount approved by the Commissioner.

Section 24. Amends §66-5222 to conform with amendments to §66-5204(2) in Section 23 above.

Section 25. Amends §66-5224(4)(b) to change citations of the Administrative Procedure Act to Insurance Code provisions for hearings and judicial review.

Section 26. Amends §66-5404(1) to require legal insurers to maintain paid-in capital of \$100,000 minimum and additional working capital or surplus in an amount approved by the Commissioner. Deletes provision for surety bonds in lieu of other approved securities required for the insurer's deposit.

Section 27. Amends §66-5408 to require the legal insurer's annual report to be filed by March 1 annually, rather than by April 15th annually.

Section 28. Amends §66-5419 to require domestic and foreign legal insurers to pay premium taxes at the rate of 2-1/2% of direct written premium income in Arkansas, less policyholder dividends and return premiums. See also Act 1033 of 1987.

ACT 474. Makes it unlawful for any person to operate a motor vehicle in this State unless he has a certificate of self-insurance, or a policy or surety bond with an authorized insurer with \$25/\$50/\$15 limits. See also Act 442 of 1987 and Act 971 of 1987.

ACT 478. Amends §66-3702 to require each insurer who is replacing an existing group contract to allow all previously covered individuals to enroll under the new group policy regardless of any restrictions, such as in "actively at work". Individuals must be a member of a class being covered by the new policy. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 489. Makes it unlawful for an employer providing pharmacy services to employees for health care programs to require employees to obtain drugs from an out-of-state mail order pharmacy, to pay a co-payment fee or other conditions. Does not apply to an employer who offers health insurance to employees which provides payment of equal portion of employee's cost of drugs regardless of supplier if the insurance plan allows freedom of choice for drug purchase. Effective March 30, 1987.

ACT 513. Authorizes banks, trust companies or savings banks to open Deferred Income Investment Accounts for depositors. Section 3 requires the Bank Commissioner to incorporate §§66-3315 - 66-3322, as to annuity and pure endowment contracts, as applicable, into regulations promulgated pursuant to this Act.

ACT 527. Provides workers compensation for designated volunteer public safety workers of county government, such as sheriff's auxiliaries, ambulance services, rural volunteer fire departments, etc. Section 3 requires insurers or other entities providing workers compensation to a county to offer coverage for volunteer public safety workers on the same terms as for county employees.

ACT 561. Amends §66-2209 to increase the minimum security deposit required of insurers applying for a certificate of authority, or admitted insurers applying for an added line(s) to a certificate of authority. Adds a new special security deposit of \$100,000 for surety insurers applying to engage in or engaging in writing bail bonds in this State. Deletes provision permitting filing of surety bonds in lieu of other securities. See also Section 5 of Act 456 of 1987.

ACT 573. Amends §§66-3248 and 82-625, et seq. Requires every disability insurance policy, contract, or health care plan covering a family to include coverage for testing non-caucasian newborn infants for sickle-cell anemia. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 598. Amends §75-902 to require drivers of vehicles involved in an accident to remove the vehicles from the roadway unless the vehicles are disabled or there is visible or apparent injury to a person.

ACT 601. Authorizes the court in civil actions to award to the prevailing party an attorney's fee of \$5,000 or 10% of the amount in controversy, whichever is less, if there is a complete absence of a justiciable issue of law or fact raised by the losing party or his attorney. This Act does not apply to actions arising out of a written agreement or instrument entitling prevailing party to an award of reasonable attorney's fees.

ACT 610. Amends §66-3033 to provide that no person, including primary and secondary mortgagees, vendors, or lenders may unreasonably disapprove the insurance policy or binder provided by a borrower for property securing the credit or lien, or require any borrower, insurer, broker or agent to pay a separate charge for handling policies or binders, or for substituting a policy

or binder of one insurer for that of another. This Act also provides that once a binder has been issued, the insurer must issue the policy within ninety (90) days and that all information given on the binder must be without material change when the policy is issued.

ACT 619. Amends §§66-5402 and 66-5412, the Legal Insurance Chapter of Code, to require legal referral service programs claiming an exemption from regulation as a legal insurer to file program materials with Commissioner before doing business in this State, and thereafter any program modifications. Authorizes the Commissioner to determine appropriate provisions of Agent Licensing Chapter of Code to be applicable to licensing of legal insurance agents, and to develop and administer an exam for legal agent license applicants. Licensing inquiries are to be directed to Lenita Blasingame, Director, License Division of this Department. Legal referral service program inquiries are to be directed to Jean Langford, Associate Counsel, Legal Division of this Department.

ACT 622. Amends §§66-2801, et seq., the Agent License Chapter of Code. Effective April 4, 1987. Inquiries are to be directed to Lenita Blasingame, Director, License Division of this Department.

ACT 658. Authorizes an early intervention program for infants and toddlers with handicaps and their families. NOTE: Section 1 defines the State policy to include coordination of payments for early intervention services from Federal, State, local and private sources, including public and private insurance coverage.

ACT 676. Amends §34-1214(B) to exclude from the definition of "marital property" benefits for permanent disability or future medical expenses from workers compensation or personal injury claims.

ACT 685. Grants immunity from civil liability to persons furnishing information as to suspected fraudulent insurance acts to law enforcement officials, the Insurance Department, NAIC, or other organizations established to detect and prevent fraudulent insurance acts. Effective April 7, 1987.

ACT 686. Authorizes the Arkansas Soil and Water Conservation Commission to issue Waste Disposal and Pollution Abatement Facilities General Obligation Bonds. NOTE: Section 12 provides that the bonds shall be legal for investment of insurance company funds. Effective April 7, 1987. Inquiries are to be directed to Lewis Wharff, Chief Examiner, Finance Division of this Department.

ACT 696. Amends §§50-620, the Arkansas Uniform Unclaimed Property Act. Effective April 7, 1987.

ACT 697. Amends §66-3120 to authorize the Commissioner to obtain a review of workers compensation insurance rate filings from an independent actuary and to require the filing insurer or rate service organization to pay such actuarial review costs. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 713. Arkansas Rights of the Terminally Ill Act or Permanently Unconscious Act. Note: Section 10 states: "(a) Death resulting from the withholding or withdrawal of life-sustaining treatment pursuant to a declaration and in accordance with this Act does not constitute, for any purpose, a suicide or homicide. (b) The making of a declaration pursuant to Section 2 does not affect in any manner the sale, procurement, or issuance of any policy of life insurance or annuity, nor does it affect, impair, or modify the terms of an existing policy of life insurance or annuity. A policy of life insurance of [or] annuity is not legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured qualified patient, notwithstanding any term to the contrary." Repeals Act 879 of 1977. Effective July 1, 1987.

ACT 715. Arkansas Premarital Agreement Act. Section 3 permits parties to contract with respect to ownership rights in and disposition of death benefits from a life insurance policy. Repeals Act 548 of 1981. Effective July 1, 1987.

ACT 736. Directs Insurance Commissioner to prescribe a standard disability insurance claim form to be used by all disability insurers doing business in this State. Provides Commissioner may suspend or revoke the certificate of authority of any insurer refusing to use and accept claim form. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 738. Amends §§66-5503, et seq., the Arkansas Property and Casualty Insurance Guaranty Act. Effective April 7, 1987. Inquiries are to be directed to Steve Durish, Liquidation Officer, Liquidation Division of this Department.

ACT 779. Requires all disability insurers doing business in this State to include in vitro fertilization as a covered expense. Requires Insurance Commissioner to establish minimum and maximum levels of coverage after a public hearing, and allows Commissioner to suspend or revoke the certificate of authority of any carrier failing to comply with this Act. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 833. Amends §66-6010 to exempt from the surety bond requirement for registration any third party administrator who operates only pursuant to an Administrative Service Agreement and who does not collect, receive or remit funds on behalf of insureds. Effective April 8, 1987. Inquiries are to be directed to Lenita Blasingame, Director, License Division of this Department.

ACT 836. Defines duties of volunteer fire departments. Section 2 provides that when a volunteer fire department responds to a fire occurring on property within the district owned by a nonmember and insured for damage from fire, the insurer shall pay to the volunteer fire department reasonable costs of its services from the claim proceeds and obtain a written release from the fire chief prior to dispersing balance of claim proceeds to any other person, financial institution, company or corporation with a legal interest in the proceeds. Repeals Act 1088 of 1985 (§20-950).

ACT 837. Creates the Arkansas Fire Protection Services Board and the Office of Fire Protection Services. Permits annual certification of fire departments by Office of Fire Protection Services. Provides limited liability for certified fire departments. For workers compensation purposes, volunteer fire fighters of certified fire departments, other than municipal fire departments, shall be deemed county employees, and receive minimum compensation therefor.

ACT 839. Amends §§66-5903, et seq., the Amusement Ride and Amusement Attraction Safety Insurance Act. Requires permit applicant to file insurer's most recent safety inspection or loss control report or insurer's certificate that no inspection was conducted. Requires insurer to notify Insurance Commissioner if amusement ride operator's liability policy is reinstated after cancellation notice is issued or if such notice is rescinded, and for other purposes. Inquiries are to be directed to Lenita Blasingame, Director, License Division of this Department.

ACT 859. Provides for registration of homebuilders with building inspectors of Arkansas counties, incorporated cities, towns, and villages. Section 4 requires applicant to file certificate of an admitted carrier stating that applicant has public liability and property damage coverage with \$50/\$100/\$20 limits, and workers compensation insurance, if applicable. Requires liability and workers compensation carriers to notify Secretary of State upon cancellation/nonrenewal of this coverage.

ACT 895. Provides that records prepared by or in the possession of entities having potential liability for payment for services provided by or paid for in whole or part by an agency of the State shall be made available for inspection, review, audit and other purposes to representatives of the State. This Act applies to, but is not limited to, records of private health insurers. Effective April 13, 1987.

ACT 896. Authorizes Insurance Commissioner to create risk sharing plans for property and/or casualty insurance which is not reasonably available in the voluntary market. Effective April 13, 1987. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 927. Amends §§66-2810 and 66-3023(2) to authorize Insurance Commissioner to license insurance consultants who advise others as to property and casualty risks for fees. Permits licensed consultants to charge a fee which is not excessive. Inquiries are to be directed to Lenita Blasingame, Director, License Division of this Department.

ACT 955. Amends §66-2803(2) to allow Insurance Commissioner to license, as Arkansas resident agents, persons living in adjacent states, in border communities or trade areas within 5 miles of the Arkansas boundary, upon reciprocal agreements with adjacent states, and under certain conditions. Inquiries are to be directed to Lenita Blasingame, Director, License Division of this Department.

ACT 959. Makes significant changes to rate filing requirements for property and casualty insurers. Repeals §§66-3101 through 66-3119. Effective six (6) months after enactment on April 14, 1987. Inquiries are to be directed to Jan Taylor, Director, Property and Casualty Division of this Department.

ACT 970. Grants limited tort immunity to directors of nonprofit corporations, and members of boards, commissions, and agencies of governmental entities. Applies only to causes of action accruing on and after August 1, 1987.

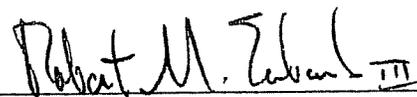
ACT 971. Amends Section 3 of Act 442 of 1987 to exempt the Department of Finance and Administration from liability for bodily injury and property damage due to acts and omissions as to its keeping of motor vehicle records as to liability insurance of vehicle license applicants, and for other purposes. See also Act 442 of 1987 and Act 474 of 1987.

ACT 1033. Amends §§66-2302, et seq., 19-2212.1, and 84-1904, et seq., to add new premium taxes to domestic life and disability, domestic wet marine and foreign trade insurers, and all health maintenance organizations, and allows for certain tax credits. Amends provisions on legal insurance premium tax. Exempts domestic life and disability companies from payment of State income tax. Provides for quarterly premium tax payments and annual reconciliations. See also Section 28 of Act 456 of 1987. Inquiries are to be directed to Pam Davis, Fiscal Officer, Accounting Division of this Department.

ACT 1047. Requires all insurers, hospital and medical service corporations and health maintenance organizations to offer alcohol and drug dependency coverage in group disability policies and contracts delivered, issued for delivery, or renewed in this State 120 days after effective date of this Act, with certain exceptions. Inquiries are to be directed to John Shields, Director, Life and Health Division of this Department.

ACT 1068. Amends §§64-1001, et seq., as to fees charged by Secretary of State. Section 2 excludes insurance companies from payment of fees required of foreign corporations doing intrastate business in Arkansas. Provides Sections 1 and 2 cease to be effective on December 31, 1987. Effective April 17, 1987.

Telephone numbers for the referenced Divisions are as follows: Accounting-(501) 371-1412; Finance-(501) 371-1275; Legal-(501) 371-1811; License-(501) 371-1421; Life and Health-(501) 371-1346; Liquidation-(501) 371-2138; and Property and Casualty-(501) 371-1814.



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Insurance Commissioner