



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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**RULE AND REGULATION 68
LIMITED ADJUSTERS' LICENSES**

SECTION 1. PURPOSE

The purpose of this Rule and Regulation is to set out the minimum qualifications for optional and permissive licensure of limited adjusters from applicants desiring but not required to obtain this license under the provisions of Ark. Code Ann. §23-64-102(4)(E), as amended by Arkansas Act 1004 of 1997, effective July 1, 1997. It is not the intent of the Department in enacting this Rule to construe this limited license as mandatory or required for self-insured insurance activities in this State; nor any intent to have public or private sector self-insured entities mandate that their employees obtain this limited license. The purpose includes the availability of an Arkansas license for applicants who need it as a prerequisite for their application for similar licensure in other states.

SECTION 2. AUTHORITY AND SCOPE

1. This Rule is promulgated under the Commissioner's authority in Ark. Code Ann. Sections 23-61-108, 23-63-106, 23-64-102 (4)(E) as amended by Act 1004 of 1997, and 25-15-201, et seq. This Rule shall apply to all applicants for license as a limited adjuster on and after the effective date of this Rule.
2. Exemptions:
This Rule shall not be applicable to, and no limited adjuster license shall be required of:
 - a. Third Party Administrators (TPA's) registered with the Department, or exempted from the provisions of Ark. Code Ann. §§23-92-201, et seq.;
 - b. Valid ERISA-qualified or ERISA-exempt self-insured trusts, plans, MET's or MEWA's or their third-party administrators (TPA's);
 - c. Self-insured plans, policies or contracts of the State of Arkansas, or any of its political subdivisions, including counties, state agencies, boards and commissions, and cities, municipalities, school districts, improvement or other districts including any administered by a local trade association or organization;
 - d. Self-insured plans administered or regulated by or under the statutory jurisdiction of any other state agency, board or commission, or of the Federal Government;
 - e. Public adjusters who represent insureds or claimants under insured/self-insured policies or contracts, including public adjusters licensed in another state, country or territory;
 - f. Adjusters as independent contractors who are licensed by the Commissioner to represent insurance companies, or who are otherwise exempted from such licensure under Ark. Code Ann. §§23-64-101 et seq., or other Arkansas laws;
 - g. Attorneys at law and other licensed legal representatives of the insurance company, self-insured, insured or claimant under a policy or contract; and
 - h. Salaried and/or commissioned employees of insurers, HMO's, or other Department licensees who adjust or settle claims for their employers.

SECTION 3. DEFINITIONS

As used in this Rule,

1. "Commissioner" shall mean the Insurance Commissioner of the State of Arkansas; and
2. "Department" shall mean the Arkansas Insurance Department;
3. "Limited Adjusters" shall mean individual persons who are sponsored by and are employees of self-insured (self-funded) entities for purposes of the adjustment of claims for or on behalf of that self-insured sponsoring entity, as defined in Section 23-64-102 (4)(E), as amended by Act 1004 of 1997.
4. "Rule and Regulation" shall mean the rules and regulations promulgated by the Arkansas Insurance Department unless the context requires otherwise.

SECTION 4. LICENSE AVAILABLE AND OPTIONAL BUT NOT REQUIRED

A. ELIGIBILITY.

(1) On and after the effective date of this Rule, self-insured or self-funded entities may sponsor their employees for limited adjusters' licenses with this Department. In order to be eligible for licensure, the individual persons must be current, full time employees of the sponsoring self-insured or self-funded entity, not independent contractors for such sponsors.

(2) Eligibility for such licensure shall cease upon the effective date of termination of the applicant or licensee's employment with the sponsoring self-insured or self-funded entity for any reason by either party.

(3) The applicant shall be of legal age of majority or have the disabilities of minority removed by a court of law for all general purposes, and provide evidence of same.

(4) The applicant must be a resident of the State of Arkansas or a resident of another state which will permit residents of Arkansas to act as an adjuster or limited adjuster in the other state, or a nonresident who meets or will meet the requirements imposed on a resident of this State.

(5) The applicant must be a high school graduate or have obtained his GED (General Education Diploma). The applicant must be deemed by the Commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation, and not otherwise ineligible under the provisions of Arkansas Act 217 of 1997, codified as Ark. Code Ann. §§23-66-501, et seq., and other applicable laws.

(6) The applicant must pass a written examination as to his competence to act as a limited adjuster for the self-insured employer, with such examination based on the types of insurance which the applicant shall be adjusting. The Commissioner may specify that the applicant must pass an examination for property, casualty or workers' compensation insurance as is administered under Ark. Code Ann. Section 23-64-209 or other laws for adjusters, and may specify that the applicant must pass an examination for life and disability insurance as is administered under Ark. Code Ann. Section 23-64-203 or other laws for life and disability insurance agents, or other examinations as the Commissioner may prescribe in his license application instructions. The Commissioner may give, conduct, and grade all examinations, or he may arrange to have examinations administered and graded by an independent testing service as specified by contract, in a fair and impartial manner, and without unfair discrimination as between individuals examined. An oral or other type examination may for good cause be substituted for a written examination of the applicant on his written request, and if deemed necessary by any applicable laws, including but not limited to The Americans with Disabilities Act (ADA). The Commissioner shall require a waiting period of eight (8) weeks before reexamination of an applicant who has twice failed to pass previous similar examinations.

(7) The applicant for the limited adjuster license or renewal license shall not be required to obtain pre-licensure education hours under Ark. Code Ann. Sections 23-64-202 and 203 or Department Rule and Regulation 31, nor continuing education hours under Sections 23-64-301, et seq., or Department Rule and Regulation 50.

(8) The employees of self-insured plans or entities or employees of corporate subsidiaries or affiliates of the self-insured plan or entity are eligible for the limited adjuster license provided under this Rule and Regulation.

B. APPLICATION. Each applicant for the limited adjuster's license shall complete and submit the written application form, in format prescribed by or acceptable to the Commissioner, accompanied by a letter or other documentation from the sponsor confirming active full-time employment of the applicant, and accompanied by the fees for adjusters' licenses established by Ark. Code Ann. §23-61-401 and Department Rule and Regulation 57. Such fees shall be payable by check or money order to "The State Insurance Department Trust Fund", and are nonrefundable.

C. LICENSE ISSUANCE AND ANNUAL RENEWAL.

(1) The Commissioner may issue the limited adjuster's license for property insurance, casualty insurance, workers' compensation insurance, life insurance, disability insurance, or any combination thereof to individuals meeting all applicable qualifications of this Rule and Regulation, including successful examinations and payment of proper fees. The Commissioner shall issue a license on a form he shall prescribe to the limited adjuster upon successful completion of these requirements by the applicant. The term of the limited adjuster license shall be one year. Within one year from issuance date, the license shall be renewable on or before the licensee's birthday, and annually on the birthday thereafter.

(2) The limited adjuster shall at the anniversary remit the annual renewal fee for adjusters under Rule & Regulation 57, or have his self-insured employer or any licensing bureau remit it to the Department by check or money order payable to "The State Insurance Department Trust Fund".

(3) With the renewal the applicant or licensing bureau shall submit a letter or other evidence from the self-insured employer confirming that the applicant is eligible for licensure because he is a full-time employee of the employer. Alternately, the limited adjuster may continue his license upon submission of proof by letter or other documentation that he has a new employer and he is employed full-time in the same capacity as a claims representative for the new employer which is a self-insured entity transacting business in Arkansas, so long as the limited adjuster demonstrates to the Commissioner's satisfaction that he continues to meet the eligibility requirements for such license under Act 1004 of 1997 and this Rule and Regulation, and other applicable laws.

(4) The limited adjuster or his self-insured employer or licensing bureau shall also pay the Rule 57 fee of \$35 (ARF Fee) on or before the licensee's birthday as required in Act 1004 of 1997.

D. LICENSE CONTINUATION. Licenses of individual persons granted limited adjuster's licenses by the Commissioner under his discretionary authority pursuant to Ark. Code Ann. §23-61-103(a)(b) and other applicable laws before the effective date of this Rule shall continue in full force and effect, but subject to the provisions of this Rule after it is effective, and without the necessity to requalify hereunder except as to the effect or impact of licensing provisions as to felons under Arkansas Act 217 of 1997, codified as Ark. Code Ann. §§23-66-501, et seq.

E. LAWS APPLICABLE. Except where they conflict with this Rule, the provisions of the Insurance Code, Ark. Code Ann. §§23-60-101, et seq., and the Commissioner's Rules and Regulations shall apply to limited adjuster licenses and applicants.

SECTION 5. LICENSE TERMINATION OR NONRENEWAL

A. The Commissioner may suspend or revoke upon notice and a hearing, or nonrenew or refuse to continue without notice and a hearing the license of any limited adjuster who has failed to comply with the license continuation provisions of Ark. Code Ann. Section 23-64-215, as amended by Act 1004 of 1997, including failure of the limited adjuster to remit or timely remit the annual fees or ARF fees to the Commissioner. Alternately the Commissioner may in his discretion impose a monetary penalty in the amounts contained in Ark. Code Ann. Section 23-64-216, as amended by Act 1004 of 1997.

B. The Commissioner may immediately terminate, cancel or expire any license of a limited adjuster without notice or a hearing upon adequate proof that the limited adjuster is no longer a full-time employee of the self-insured employer; or upon adequate proof that the self-insured employer has terminated its self-insurance plan or has gone out of business, or no longer has insured employees within the State of Arkansas; or upon adequate proof that the limited adjuster is no longer employed as an adjuster or claims representative for the self-insured entity or employer but has been hired in a new capacity by such employer.

C. The Commissioner may suspend, revoke, or nonrenew or refuse to continue the license of any limited adjuster who is in violation of or noncompliance with the provisions of the Unfair Trade Practices laws of the State under Ark. Code Ann. Sections 23-66-201, et seq., and Sections 23-66-301, et seq., or with the license provisions under Ark. Code Ann. Sections 23-64-101, et seq., 23-64-201, et seq., particularly Section 23-64-216 as amended by Act 1004 of 1997, or is in violation of the laws of the State of Arkansas, the Insurance Code or rules and regulations of the Commissioner.

D. Administrative proceedings under this Rule and Regulation shall be conducted under the Administrative Procedure Act, Ark. Code Ann. §§25-15-201, et seq. as applicable, or under the provisions of the Insurance Code under Ark. Code Ann. Sections 23-61-301, et seq.

E. The Commissioner may not again issue any license to an applicant or limited adjuster whose other insurance license under the Insurance laws has been suspended or revoked, or whose limited adjuster license under this Rule and Regulation has been revoked.

F. Upon any revocation, suspension, cancellation, expiration or lapse, the limited adjuster license shall be returned to the Department as the property of the State of Arkansas.

SECTION 6. TPA REGISTRATION NOT REQUIRED

The applicants or renewal applicants for the limited adjuster license shall not be deemed to be “third party administrators” (“TPA’s”) under the provisions of Ark. Code Ann. Sections 23-92-201, et seq.; nor shall such applicants or renewal applicants be required to obtain the TPA registration from the Commissioner. Third party administrators registered or licensed by the Commissioner shall not be required to obtain the limited adjuster license under the provisions of Act 1004 of 1997 or this Rule and Regulation. The licenses for limited adjusters and third party administrators shall be deemed mutually exclusive by the Department.

SECTION 7. EFFECTIVE DATE

The provisions of this Rule and Regulation shall be effective on and after April 15, 1998, upon signature and statutory filing by the Commissioner.

SECTION 8. SEVERABILITY

Any section or provision of this Rule and Regulation held by a court to be invalid or unconstitutional shall not affect the validity of any other section or provision of this Rule.

Mike Pickens
Insurance Commissioner
State of Arkansas

Date