



**ARKANSAS INSURANCE DEPARTMENT  
LEGAL DIVISION**

1200 West Third Street  
Little Rock, AR 72201-1904  
501-371-2820  
FAX 501-371-2629

Bulletin 8-2001

November 14, 2001

**TO:** All Licensed Foreign, Alien and Domestic Insurers, Accredited/Trusted Reinsurers, Farmers' Mutual Aid Associations, Hospital and Medical Service Corporation, Health Maintenance Organizations, Fraternal Benefit Societies, Insurer Trade Associations, Rate Service or Advisory Organizations; All Agent and Broker Trade Associations, All Third Party Administrators, Adjuster Trade Association; Approved But Not Admitted Surplus Line Insurers and Licensed Funeral Directors Holding Permits to sell Prepaid Funeral Benefit Contract; Licensed Employee Leasing Firms/Groups; Licensed Managing General Agents/Agencies; Registered Life Care and Continuing Care Facilities; Licensed Surplus Line Brokers; Registered Notary Bond Surety Corporations; and Other Interested Parties.

**FROM:** The Arkansas Insurance Department

**SUBJECT:** 2001 ARKANSAS LEGISLATION

The purpose of this Bulletin is to summarize insurance-related legislation enacted during the 2001 State Legislative Session. The Department does not represent that this list is complete. It remains your duty to review new legislation. Each recipient is hereby requested **immediately** to notify all officers, directors, managers, employees, agents & brokers, adjusters about these new laws. The effective date of all Acts not containing an Emergency clause or other specified effective or compliance date is

**August 13, 2001.**

Please see the Attachment. Full texts of Acts can be obtained from the Arkansas Secretary of State, Room 256, State Capitol Building, State Capitol Grounds, Little Rock, Arkansas, 72201, or 501-682-1010. Electronic [Internet] access to full texts of Acts is available on the State web page with a link to the State Legislature's Home Page on the State's Web at

[www.state.ar.us](http://www.state.ar.us)

or by direct access in links available on the State Legislatures' home page at

[www.arkleg.state.ar.us](http://www.arkleg.state.ar.us)

which is also available through a link to the Insurance Department's Home Page at

[www.state.ar.us/insurance](http://www.state.ar.us/insurance)

Please call the office of the Arkansas Secretary of State at 501-682-1010 to obtain copies of these Acts.

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Mike Pickens  
Insurance Commissioner  
State of Arkansas

**SELECTED 2001 ACTS & TOPICS OF INTEREST:**

Lower Domestic Insurer's RBC threshold for report exemptions  
ACT 8

Medically Necessary foods  
ACTS 95, 1654

Extra-Territoriality of P&C Coverage  
ACT 309

No Premium increase or cancellation if no loss  
ACT 302

Confidential information sharing  
ACT 538

Producer Licensing Model Act  
ACT 580

Commissioner intervention in lawsuits, Department Mission Statement  
ACT 610

Law enforcement authority for AID Fraud investigators  
ACT 743

Individual Accident and Health Omnibus  
ACT 909

Third Party cancellation of policies  
ACT 919

Mandated Benefits – Consumer Choice  
ACT 924

Health Insurance Purchasing Group Act (“HIPG”)  
ACT 925

Prepaid Funeral Contracts  
ACT 1043

Group Accident and Health Omnibus Act  
ACT 1063

Stipulated Premium Company Guaranty Funds  
ACT 1137

Accident and Health premium notice before changes  
ACT 1177

Genetic Non-Discrimination in Insurance Act  
ACT 1221

Prevents Disclosure of Genetic Information  
ACT 1222

Interstate Cooperation Agreements and Expanded R&R making  
ACT 1239

Genetic Research Studies on Individual Insureds  
ACT 1251

Written Rejection of auto liability  
ACT 1276

Life Insurance Omnibus Act  
ACT 1382

Governmental Bonding Board  
ACT 1383

Captive Insurers  
ACT 1391

Uniform Prescription Drug Cards  
ACT 1409

Protected Cells (Insurer Financial Assets)  
ACT 1428

Step-Down Prohibition – Motor Vehicle Liability Policies

ACT 1438  
 Health Carrier penalty for late payment of health claims  
 ACT 1454  
 P & C Omnibus Act  
 ACT 1555  
 Assets and Liabilities Modernization  
 (Codification for Domestic Insurers)  
 ACT 1566  
 Omnibus Act - change Code references of "Disability" to "Accident and Health"  
 ACT 1603  
 General Insurance Omnibus  
 ACT 1604  
 HMO Omnibus  
 ACT 1605  
 Privacy Enabling Law Regarding Non-Public Consumer Information  
 ACT 1619  
 Balance Billing – Health Insurance  
 ACT 1702  
 Furnish proof of insurance on motorboats & personal watercraft  
 ACT 1704  
 Mutual Holding Company Model Act  
 ACT 1726  
 Consumer Protection – Safe Harbors from GLB Act on Banks and Insurance  
 ACT 1728  
 Creates Title Insurance Board  
 ACT 1742  
 FMAA management agreements  
 ACT 1811  
 Nursing Homes Pool  
 ACT 1825  
 Reporting of Delinquent Premiums  
 ACT 1827

**CONTACTS**

**State Insurance Department**, 501-371-2600  
Accounting Division, Ms. Pam Looney, 501-371-2605  
[Insurance.Accounting@mail.state.ar.us](mailto:Insurance.Accounting@mail.state.ar.us)  
Administration Division, Mr. John Hartnedy, 501-371-2620  
[Insurance.Administration@mail.state.ar.us](mailto:Insurance.Administration@mail.state.ar.us)  
Finance Division, Mr. Mel A. Anderson,  
 Ms. Malisa Landers, or Mr. Rick Toland,  
 501-371-2665, [Insurance.Finance@mail.state.ar.us](mailto:Insurance.Finance@mail.state.ar.us)  
Fraud Division, Mr. Marty Nevrla, 501-371-2790  
[Insurance.Fraud@mail.state.ar.us](mailto:Insurance.Fraud@mail.state.ar.us)  
Legal Division, 501-371-2820  
[Insurance.Legal@mail.state.ar.us](mailto:Insurance.Legal@mail.state.ar.us)  
License Division, Mr. Fred Stiffler, 501-371-2750  
[Insurance.License@mail.state.ar.us](mailto:Insurance.License@mail.state.ar.us)  
Life & Health Division, Mr. John Shields, 501-371-2800  
[Insurance.L&H@mail.state.ar.us](mailto:Insurance.L&H@mail.state.ar.us)  
Liquidation Division, Mr. Steve Uhrynowycz, 501-371-2776  
[Insurance.Liquidation@mail.state.ar.us](mailto:Insurance.Liquidation@mail.state.ar.us)  
Property & Casualty, Mr. Bill Lacy, Ms. Carol Stiffler, 501-371-2800  
[Insurance.P&C@mail.state.ar.us](mailto:Insurance.P&C@mail.state.ar.us)

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## **2001 LEGISLATION**

### **ACT 8 (HB 1100): Strengthened Arkansas' solvency laws by modifying an exemption to Domestic Insurer's Risk Based Capital laws**

Amends A.C.A. §23-63-1310(c), reduce to \$2,000,000 from \$35,000,000 the amount of direct annual premium an insurer may write in order to qualify for an exemption from filing Risk Based Capital Reports. Contact Leo Liu in Finance Division at 501-371-2665.

### **Act 95 (HB 1117): Medically Necessary Foods – Phenylketonuria treatment**

Amends A.C.A. § 23-79-701 to exempt accident only, specified disease, hospital indemnity, Medicare supplement, long term care, disability income, and other limited benefit health products from the mandate of providing metabolic foods coverage. See also Act 1654 of 2001.

### **ACT 302 (HB1178): Prohibits Policy Cancellations or Premium Increases due to "No-loss" Insurance Claims**

Adds new A.C.A. § 23-63-110. Act provides that no insurance policy or contract, after being issued by an insurer authorized to transact business in this state, except the business of life or accident and health or long-term care insurance, may be cancelled nor may the premium for such policy be increased solely as a result of claims made under the policy which resulted in no loss to the insurer.

### **ACT 309 (HB1326): Motor Vehicle Accidents occurring outside Arkansas - Extraterritoriality**

Adds new A.C.A. § 23-79-311 & adds new § 23-89-212 on motor vehicle accident liability policies. Act requires additional coverage for a policyholder when another jurisdiction's financial responsibility or compulsory vehicle liability insurance law requirements exceed Arkansas' minimum mandates. Applies to all commercial and private passenger automobile policies to provide additional coverage. Applies to "motor vehicles" as defined in A.C. A. §27-14-207

### **ACT 465 (SB 370): Redefines Long-Term Care Facility to Exclude Hospices**

Amends A.C.A. §20-10-213(4) to exclude hospices from the definition of long-term care facility.

### **ACT 538 (HB1650): Confidential Information shared by Insurance Department**

Amends A.C.A. § 23-61-107(a)(5). Expands the governmental entities with whom the AID may share confidential information, including federal and state and international governmental entities. Allows the commissioner to enter into information sharing agreements with such entities. Act Emergency Clause = 3-1-01

### **ACT 580 (HB1456): Producer Licensing Model Act**

Act to require compliance by affected licensees **only on and after July 1, 2002**. The NAIC's "Producer Licensing Model Act" was adopted to allow the Arkansas to work with other states to comply with the provisions of the Gramm-Leach-Bliley Act of 1999, regarding reciprocity and uniformity in producer licensing. Allows Commissioner to extend licensee compliance to October 31, 2002, if he finds Act implementation is not possible by 7-1-2002. Act Emergency Clause = Act Effective 3-6-01

### **ACT 610 (HB 1275): Commissioner's "White Knight" Statute; Department Mission Statement**

Adds new (c) to A.C.A. § 23-61-101 & amends § 23-61-110(a)(1). Codifies the goals and purpose of the Arkansas Insurance Department. Act gives Commissioner authority to intervene in civil or administrative actions brought by a party against Department licensees, if the proceedings directly relate to the financial condition & solvency of the licensee.

### **Act 743 (HB 1361): Give Department's Fraud Investigators law enforcement officer powers**

Amends A.C.A. § 11-9-106(d)(1)(B) & 23-66-508(a), to give Department fraud investigators the powers of specialized law enforcement officers of the State. Act Emergency Clause = 3-13-2001

### **ACT 905 (SB 159): Uniform Electronic Transactions Act**

Permits electronic transactions in Arkansas if the parties so agree. Grants legal recognition under Arkansas law to electronic records, electronic signatures & electronic contracts. Act Emergency Clause = 3-19-2001.

**ACT 909 (SB 351): Individual Accident & Health Insurance Omnibus Act**

Amends A.C.A. §§ 23-85-101, et seq. Requires text of individual accident & health insurance policies for electronic transmission to comply with Commissioner's rules & regulations. Changes word "disability" to "accident and health" uniformly throughout Insurance Code. Amends A. C. A. § 23-85-138(a) to permit use of claims formats required by HIPAA.

**ACT 919 (HB 1279): Third Party (Premium Finance Company) requests to cancel another party's insurance policy**

Adds new A.C.A. § 23-66-319. Requires premium finance companies expressly to notify the insured, not just the agent or producer, before sending the insurance company a request for cancellation of the policy.

**ACT 924 (HB 1632): HEALTH INSURANCE CONSUMER CHOICE ACT**

Allows health insurers and HMO's to offer health insurance plan options to consumers that include all, some or none of the Arkansas coverage mandates; and requires certain disclosures to be made to consumers so they may make a fully informed choice of offerings. Authorizes Commissioner to issue rule or regulation under this Act, to help reduce cost of insurance and decrease number of uninsured Arkansans.

**ACT 925 (HB 1660): HEALTH INSURANCE PURCHASING GROUP ACT (HIPG ACT)**

Small Employer Health Insurance Purchasing Group Act of 2001. Allows the formation of health insurance purchasing groups for the purpose of buying health insurance. Allows health insurers to offer options to consumers participating in the purchasing group that include all, some or none of the Arkansas coverage mandates. Contains some actuarial protections to minimize the concern of anti-selection.

**ACT 1043 (HB 1657): Pre-Paid Funeral Contracts Recovery Fund Created – Board Established**

Amends A. C. A. §§ 23-40-106, et seq. Creates a pre-paid funeral contracts recovery fund, as an industry-funded guaranty mechanism to protect pre-paid funeral contract holders. Act Emergency Clause = July 1, 2001.

**ACT 1063 (SB 716): Group Accident and Health Insurance Omnibus Act**

Amends A.C. A. §§ 23-86-101 – 23-86-302, to change the term "disability" to "accident & health" uniformly in Code provisions applicable to group A & H insurance policies. Amends § 23-86-111 to prohibit reduction of disability benefits in group A & H policies due to the extent of or existence of other coverage, unless the policy provides a minimum amount payable, regardless of reduction, of \$50 per month. Amends § 23-86-113 (c) as to minimum benefits for mental illness in group A & H policies. Amends § 23-86-117(a) to permit use of claims formats required by HIPAA. Amends § 23-86-202(12) & 23-86-203(a) to re-define "small employer" as employing no less than 2 nor more than 25 eligible employees.

**ACT 1137 (HB 2536): Increase in Stipulated Premium Plan Insurers' Statutory "Guaranty Fund" Deposits effective January 1, 2002**

Act amends A.C.A. § 23-71-110 to increase the current \$ amounts required of stipulated premium plan insurers effective on & after January 1, 2002, for their "guaranty fund deposits".

**ACT 1177 (HB 1961): A & H premium notice required before changes are effective**

Requires 60 days advance notice by accident & health insurers prior to any unilateral change of the premium payment mode on individual A & H insurance policies. See § 23-86-115.

**ACT 1221 (SB 763): Genetic Non-Discrimination in Insurance Act**

New law provides that no insurer shall, for determining eligibility of any individual for any insurance coverage or establishing premiums or limiting coverages or renewing coverages or terminating coverages or any other underwriting decision, in connection with the offer, sale, renewal, or continuation of a policy, except to the extent and in the same fashion as an insurer limits coverage, or increases premiums for loss caused by or contributed to by other medical conditions presenting an increased degree of risk,

require or request (directly or indirectly) any individual or member of his family to obtain a genetic test, or condition the provision of the policy upon a requirement that the individual take a test.

**ACT 1222 (SB 765): Prevents Disclosure of Genetic Information**

Act prevents disclosure of genetic information in any judicial, legislative, or administrative proceeding.

**ACT 1239 (HB 1871): Commissioner's Authority to execute Regulatory Cooperation and Coordination Agreements with Other States**

Amends §23-61-108 to allow the commissioner to promulgate regulations necessary to effectively regulate the business of insurance. Amends §23-61-103 to allow the Commissioner to enter into agreements with other regulators on matters relating to the effective regulation of the business of insurance. Act Emergency Clause = 4-2-01

**ACT 1251 (SB 764): Genetic Research Studies Nondisclosure Act**

Act prohibits disclosure of specific information collected in genetic research studies without informed written consent of the subject.

**ACT 1276 (HB 2003): Require rejection of Uninsured Motorists Liability Coverage to be in writing**

Amends A. C. A. § 23-89-403(a)(2); provides that no UMBI coverage required by this law is applicable where insured named in auto policy has rejected such coverage in writing.

**ACT 1281 (HB 2521): Amends burden of proof in occupational disease cases in Workers' Compensation laws**

An act to amend the burden of proof in establishing an occupational disease under the Workers' Compensation Laws; to authorize the Workers' Compensation Commission to enact guidelines regarding carpal tunnel syndrome; to regulate health care provider payments while claims are pending; to amend the admission of expert testimony and to amend the schedule of fees for legal services.

**ACT 1289 (HB 2429): Allows College Students to have Two (2) Primary Care Physicians**

Adds new A.C.A. 23-76-132, as to HMO contracts to allow student selection of 2 primary care physicians, one near the enrollee's domicile & one near the educational institution, provided both have provider contracts with the HMO.

**ACT 1382 (HB 1954): Life Insurance Omnibus Act**

Amends various life insurance provisions at A.C.A. §§ 23-81-101, et seq.

**ACT 1391 (HB 2502): Licensing & Regulation of "Captive" Insurers**

Provides authority for the commissioner to license and regulate captive insurance companies. Act Emergency Clause = 4-5-01

**ACT 1407 (SB 766): Regulation of Employer Use of Genetic Information**

Act adds new subchapter, A.C.A. §§ 11-5-401 - - 11-5-405, "Genetic Information in Workplace Act". Act makes it unlawful for an employer to use a genetic test or genetic information of an employee for any purpose of discriminating against or restricting any right or benefit otherwise due or available to an employee.

**ACT 1409 (SB 800): Uniform Prescription Drug Information Cards**

Act requires health benefit plans, which provide coverage for prescription drugs or devices and issues a card or other technology for claims-processing, to issue to all covered persons a uniform drug information card. Cards are to be issued to covered persons on enrollment or upon material changes to plan affecting prescription drug benefits. Two (2) years from Act effective date (4-09- 2001) is deadline for all cards or technology to comply with this Act. Act Emergency Clause = 4-9-2001

**ACT 1428 (HB 2474): "Protected Cell" Act**

Provides for the creation and regulation of protected cells. Act Emergency Clause = 4-9-2001

**ACT 1438 (HB 1963): Prohibits "step-down" provisions in motor vehicle liability policies**

Adds new A.C.A. § 23-79-311 and new § 23-89-212, prohibiting a motor vehicle insurance policy from decreasing the levels of coverage (policy limits) for bodily injury or property damage, whenever a person other than the named insured is driving the vehicle which is involved in an accident.

**ACT 1454 (HB 2449): Penalty for Late Payment of Claims for Health Carriers**

Adds new A.C.A. § 23-66-215. Act provides 12% per annum penalty for health carriers' late payments for a health insurance contract, without necessity of claimant's demand. Penalty procedure is to be set in a regulation to be adopted by the Commissioner.

**ACT 1470 (HB 2363): Insurance coverage for bones, joints of face, head and neck**

New law applicable to accident & health insurance companies, hospital & medical service corporations (including dental-only companies), and HMOs (including dental-only HMOs). Requires health carriers to offer optional coverage for medical treatment of musculo-skeletal disorders affecting any bone or joint in the face, neck or head, for medically necessary treatments. Insurers offer & rejections must be in writing on the application. Act applies to policies issued or renewed or extended after effective date of Act (August 13, 2001).

**ACT 1555 (HB 2244): Property and Casualty Insurance Omnibus Act**

Amends various sections from A.C.A. §§ 23-65-103 to § 23-94-213 to modernize certain property & casualty provisions of Insurance Code. Amends A.C.A. § 23-67-203 to exempt surplus line insurance companies from the statutory rate filings required for licensed and authorized property, casualty, or surety insurers. Amends A.C.A. § 23-79-307 as to renewal of commercial policies; adds a new subsection (7) as to renewal requirements, which apply except upon non-payment of premium; requires policy renewal unless the insurer mails notice of non-renewal at least 60 days prior to the expiration of the policy anniversary date. [If the written notice of cancellation is not sent to the insured at least 60 days prior to the original expiration date of the policy, the insurer will be assumed to have renewed the policy for another term, subject to receipt of the required premium.](#)

**ACT 1566 (HB 2404): Assets & Liabilities Modernization Act for Domestic Insurers**

Amends A.C.A. § 23-63-202(1)(B), A.C.A. §§ 23-63-601 to 613; as well as A.C.A. §§ 23-65-103 to 23-94-213. Repeals §§ 23-63-605 – 23-63-609. Act modernizes the insurance laws on financial assets, liabilities, and reserves for domestic insurers.

**ACT 1603 (HB 2405): Accident and Health Insurance Omnibus Act**

Amends A. C. A. §§ 23-61-401 – 23-98-106, in order to replace the term “disability” with term “accident and health”. Amends § 23-62-103(a) to specify that “accident and health” insurance is insurance against loss of income due to disablement. Amends § 23-96-101 to change the name of the Guaranty Fund Act to “Arkansas Life and Health Insurance Guaranty Association Act.” Act Emergency Clause = 4-13-2001.

**ACT 1604 (HB 2450): GENERAL INSURANCE OMNIBUS/TECHNICAL CORRECTIONS ACT**

Omnibus Act to adopt technical corrections to modernize the State Insurance Code to meet the requirements of Federal Laws under the Gramm-Leach-Bliley Act, to amend the code to meet continuing NAIC accreditation requirements for the Arkansas Insurance Department; and for other purposes. Changes to investment subchapter for domestic insurers will be effective on October 1, 2001.

**ACT 1605 (HB 2489): HMO OMNIBUS ACT**

Amends A. C. A. §§ 23-76-103 – 23-76-113(d). Act expands chart of Insurance Code sections directly applicable to HMOs. Adds new (b) to § 23-76-111 to require HMOs to maintain a fidelity bond or policy covering officers & employees in amounts ranging from \$250,000 to \$5,000,000 aggregate for HMOs in holding company systems.

**ACT 1619 (SB 286): Privacy Regulation Enabling Act**

Adds new A.C.A. § 23-61-113 to authorize Commissioner to enact a regulation to protect consumers' and customers' confidential financial and health information, in accordance with GLB Act. Act Emergency Clause = 4-16-2001

**ACT 1624 (SB 426): Arkansas Workers Compensation - Rule 33 (Managed Care) & other matters**  
Section 9 of this Appropriation Act states that the Workers' Compensation Commission shall provide quarterly reports to the State Legislature on the Health and Safety Program as well as the Medical Cost Containment Program. This provision is effective only from 7-1-2001 – 6-30-2003; & will not be codified in Arkansas law. Section 11 states that implementation of Rule 33 shall be voluntary for all employers. Section 11 is effective only from 7-1-2001 – 6-30-2003; & will not be codified in Arkansas law. See also A.C.A. § 11-9-530.

**ACT 1654 (SB 900): Health Plans Cover Medically Necessary Foods**

See also Act 95 of 2001. Exempts application to limited benefit insurance policies of any State mandates to provide insurance coverage for metabolic foods.

**ACT 1702 (HB 1324): Prohibits provider “balance billing” of Subscribers and Enrollees of Licensed HMO’s**

Amends A.C.A. § 23-76-118(b) & adds new (c) to § 23-76-119. Prohibits medical providers from balance billing health insurance consumers in the event of the financial difficulty or insolvency of an HMO. Arkansas law already expressly prohibits this practice in all other circumstances. Act Emergency Clause = 4-17-2001

**ACT 1704 (HB 1418): Insurers to furnish proof of insurance on motorboats & personal watercraft**

Amends A.C.A. § 23-101-207(b) to require insurers to provide proof of liability coverage on motorboats and personal watercraft, in a convenient form. Requirement is excepted when the liability coverage is included as part of the insured’s homeowners policy.

**ACT 1726 (HB2439): Mutual Holding Company Model Act**

New law creates Mutual Holding Company Model Act for formations of “mutual holding companies”. Permits a mutual insurer to convert to a stock insurance company, while its newly formed parent company is a mutual holding company which retains policyholder equity and voting rights. Protects insurance consumers whose policies would continue with the licensed converted insurer and who are entitled to full participation in the continued profits of the mutual holding company. Act allows for benefits traditional of a stock insurer which is to be able to sell shares of stock to raise capital. Act supplements existing insurance laws & does not repeal current laws.

**ACT 1728 (HB 2601): GLB “SAFE HARBOR” ACT**

Ensures Arkansas’s consumer protection laws that deal with insurance sales activities of depository institutions are GLB complaint.

**ACT 1742 (HB 2427): Arkansas Title Insurance Agents Licensing Act**

Arkansas Title Insurance Agents Licensing Act. Creates the Arkansas Title Insurance Agents’ Licensing Board. Requires any person that sells a commitment or a contract of title insurance pertaining to real property situated in the state of Arkansas to obtain a license from the Board on and after January 1, 2002. Requires a countersignature by a licensed resident title insurance agent. Provides for penalties for violations of the Act. Effective September 1, 2001.  
Act Effective Date = 9-1-01

**ACT 1810 (HB 2197): Driver License Info by Insurer**

Amends A.C.A. § 27-50-906 to provide abstracts or driver confirmation records of policyholders, applicants for insurance, as well as all licensed drivers in household of insured, to insurers upon request.

**ACT 1811 (HB 2208): Managers & Management Agreements of FMAAs**

Amends A.C.A. §23-73-115. Provides the Insurance Department with additional regulatory authority over the management agreements of Farmers Mutual Aid Associations or Companies.

**Act 1825 (HB 2438): Authorize Creation of Long-Term Care Liability Insurance Plan**

Adds new subchapter to Insurance Code at A.C.A. §§ 23-91-301, et seq. Requires commissioner to hold a hearing to determine if long-term care liability insurance is not reasonably available in this state. If not,



the commissioner shall implement a plan to provide such coverage, in accordance with the Act. Act  
Emergency Clause = 4-18-01

**ACT 1827 (HB2451): Requires reporting to Department of agents who do not timely remit  
Insurance premium monies to the insurance company;**

**Requires written rejection of UMBI insurance before rejections are effective**

Amends A.C.A. § 23-65-312. Requires insurers to report to the Insurance Department those agents who fail to remit timely insured premium monies to the insurer. Contains protections to prevent unfair treatment of insurance agents and producers.

**ACT 1828 (HB 2512): Card for Proof of Automobile Liability Insurance**

Requires all insurers issuing automobile liability insurance to furnish the insured a proof of insurance card, which shall contain names, addresses, telephone numbers of both the insurance company and the local agent or producer through whom the policy was produced. Blank space is included to write in local agent's information. The card must list the policy number, inception and expiration dates, vehicle ID numbers and descriptions, as well as the name and address of the insured person.

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