Arkansas Insurance Department

Mike Beebe
Governor

Julie Benafield Bowman
Commissioner

May 14, 2007

BULLETIN NO.: 4 - 2007

TO: All Licensed Foreign, Alien and Domestic Insurers, Accredited/Trusteed Reinsurers, Farmers' Mutual Aid Associations, Hospital and Medical Service Corporations, 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; Licensed Funeral Directors Holding Permits to Sell Prepaid Funeral Benefit Contracts; 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: **2007 ARKANSAS LEGISLATION PERTAINING TO INSURANCE**

L Life & Health P Property & Casualty A Producers
(Select Act Number to View the Act)

L P A **GENERAL OMNIBUS, ACT 496 of 2007**. Effective July 31, 2007. (Except for Sections 22 and 23 of the Act, which are effective March 26, 2007.)

L P **Section(s) 1, 2, 3.** Market Conduct Regulation – This Act clarifies the Commissioner's authority to conduct market conduct examinations.

L A **Section 4.** Stop-Loss Coverage - Arkansas law previously did not define "stop-loss" as used in the health insurance context, nor did it specify which types of carriers can write such coverage. This Act defines "employee benefit stop-loss" and states that life and health carriers may issue such policies. This Act allows the Commissioner to promulgate rules requiring disclosures to policyholders. Disclosure should clarify that the policyholder is responsible for all benefits under the self-insured plan, that the stop-loss carrier is in no way a fiduciary of the self-insured plan and that failure to qualify for reimbursement of benefits under the stop-loss policy does not relieve the policyholder of liability under the self-insured plan. (Please note that P&C carriers already have the legal authority to write stop-loss under the definition of "casualty insurance" in Ark. Code Ann. § 23-62-105, and that stop-loss fits into the definition of liability insurance.)

L P **Section(s) 5 & 6.** Credit for Reinsurance – An insurer receives credit on its balance sheet (as either an asset or a deduction from liability) when the insurer cedes reinsurance to an assuming insurer under the conditions and requirements set forth in Ark. Code Ann. § 23-63-305. Arkansas amended its Credit for Reinsurance law in 2005, to bring it into greater conformity with the NAIC Model Credit for Reinsurance Law and added insolvency clause provisions recommended by the

Reinsurance Association of America to bring Arkansas in line with the insolvency laws in the majority of the states.

Prior to this legislative session, it was discovered that the current subchapter at Ark. Code Ann. §§ 23-62-301, et seq., says that it applies only to reinsurers used by domestic life and accident and health insurers. The NAIC model law does not limit its application by any line of insurance or reinsurance. It was prudent via this Act to amend the law so that P & C insurers also get on their financial balance sheets a credit for any reserves they cede to admitted and non-admitted companies who are registered in Arkansas.

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Section 7. Management & Service Agreements –Arkansas previously had no requirement that domestic insurers' management and service agreements be in writing. This Act requires written agreements. Previously, the law only required written agreements (and prior Department approval) of an agreement impacting "substantially all of an insurer's operation."

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Section 8. Licensure for Public Issuers of Charitable Annuity –The Act adds a new subsection (e) to Ark. Code Ann. § 23-63-201 to permit the Insurance Commissioner to issue a rule/procedure concerning licensure for municipalities, counties, cities, towns and combinations of such entities pursuant to the Interlocal Cooperation Act to establish programs to issue charitable annuities. The previous provisions in Ark. Code Ann. § 23-63-201(d) did not clearly permit the Commissioner to issue licenses to such publicly owned and operated organizations as those provisions referred only to other non-profit or charitable corporations formed under the Arkansas Non-profit Corporation Act. The Act now allows the Commissioner to promulgate rules for, and to issue licenses to, such public entities for programs which have been in operation for at least 5 years, keeping assets and funds to pay charitable annuities in separate accounts, and carrying out charitable, educational or philanthropic endeavors on behalf of the local governmental entity. Such activities could include public libraries, publicly owned and operated museums, publicly owned hospitals and other similar activities carried on by a municipality.

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Section(s) 9 &10. Holding Company Requirements – These changes to some holding company requirements are divided into the following two sections: Section 9 amends the definition of materiality; and Section 10 amends the definition of an extraordinary dividend. Each of these is explained more specifically below:

Materiality (**Section 9**) – To meet the guidelines of national accreditation, Ark. Code Ann § 23-63-514(c) (pertaining to what is considered "material" with respect to disclosures on the Holding Company Act's registration statement) is revised with respect to the requirement for ordinary dividend disclosure filings. The current Holding Company Act (HCA) language requires filings of dividends equal to or greater than one-half of one percent (.05%) of assets for companies subject to the HCA. This amendment would require the filing of all dividends for domestic companies subject to the HCA.

Extraordinary Dividend (**Section 10**) – During the last legislative session, Arkansas law was amended to adopt the "greater of" limit language in defining "Extraordinary Dividend calculations under the HCA." The amendment pairs this provision with a profit "carry forward" provision that only applies to property & casualty companies and not to life companies due to the operational differences between the two types of

companies. Specifically, the two year carry forward provision is changed so that the carry forward provision applies to only non-life companies. This change is also to meet national accreditation guidelines.

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Section 11. Non-insurance Subsidiaries – Amends current law [Ark. Code Ann. § 23-63-818(c)] to provide that except with the Commissioner's prior approval, investments in non-insurance subsidiaries are limited to the lesser of ten percent (10%) of assets or fifty percent (50%) of surplus.

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Section 12. Correcting Title Insurance Reserves Citation – Ark. Code Ann. § 23-63-614 (Supp. 2005) addresses reserves for domestic title and aviation title insurers. The citation to title insurance reserves contained in Subsection (b) of Ark. Code Ann. § 23-63-832 (title insurer investments) is corrected to reference Ark. Code Ann. § 23-63-614, instead of Ark. Code Ann. § 23-63-610.

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Section(s) 13 & 14. Custodial Agreement Law Revisions – This deals with revisions to the 2004 NAIC Models on the Use of Custodial Agreements and Clearing Corporations. This amends Ark. Ann. § 23-69-134(b)(4)(A) to make the capital and financial requirements imposed upon security broker-dealer custodians handling the assets of an Arkansas insurer consistent with the requirements the Department imposes under its Rule 26. This Act also strikes out the term "Federal Reserve book entry system" as it is no longer used. Adoption of the Models by Arkansas is an accreditation requirement.

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Section 15. Definition of Policy –The definition of "policy" and "premium" found in Ark. Code Ann. § 23-79-101 fails to apply to certain areas of Chapter 79 of the Insurance Code. The Act makes these definitions now apply to Ark. Code Ann. § 23-79-108, regarding the return of premium.

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Section(s) 16 & 17. "Accident and Health" replaces "Disability" – The Act amends group health insurance statutes Ark. Code Ann. §§ 23-83-123 and 124 wherein the reference to "disability", has now been replaced with the more descriptive term "accident and health" insurance.

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Section 18. Disclosure to Policyholders – Ark. Code Ann. § 23-86-119. This section of the Group and Blanket Accident and Health Chapter (Chapter 86) applies to group insurance for groups larger than 25 insured employees. Groups of 25 or fewer insured employees are governed by the Small-Employer Health Insurance sections of Chapter 86 (Subchapter 2). The previous law that requires disclosure to groups of more than 99 leaves policyholders of groups of 26 to 100 without access to the required information. Group premium rates for groups larger than 25 insured employees are calculated and negotiated at least in part on previous experience of the group. Small groups (25 or fewer) have rates calculated by a process regulated by the Commissioner (under subchapter 2), and do not require this information. The Act's revision to Ark. Code Ann. § 23-86-119 provides disclosure to applicable groups (with more than 25 insured employees) without requiring disclosure to small groups where the experience is neither credible nor appropriate. The required disclosure of the claim and premium information detailed in the statute is triggered by a request from a policyholder.

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Section(s) 19, 20, & 21. Long-Term Care IRS Qualification Disclosure – The Act corrects the Internal Revenue Code (IRS) references in Arkansas' version of the Model Long-Term Care Act related to the federal tax qualification of certain long-

term care insurance contracts. (The previous language of what the IRS determined "as it existed on January 1, 2004" was potentially problematic with respect to the tax qualifications of future contracts as insurance policies have to keep up with the IRS tax qualification changes in this regard.)

L P A **Section(s) 22, 23, & 24.** Debt Cancellation – The Arkansas Code is being amended to add an additional subchapter to address the situation that arises when a motor vehicle lender allows part or the entire remaining amount of a loan to be written off after a triggering event that is not death or disability. These "debt cancellation agreements" (DCAs) and this new law pertaining to such agreements do not include "GAP" insurance. The new DCA law will not allow a lender to require purchase of the DCA. The DCA must: be legible, identify whom the coverage is through, explain how to file a claim, state the price of the agreement, and explain that the purchaser may cancel at any time and receive a refund minus any cancellation costs. This type of contract may not be issued if it is misleading. A violation will be considered a deceptive trade practice and may be enforced by the Attorney General. This is not to be considered insurance and may not be included with other loan documents. Consistent with the foregoing changes to the Arkansas Code, the Insurance Code's definition of "insurance" is amended in Section 23 of the Act to carve "debt cancellation agreements" out of the "insurance" definition. There is an emergency clause to require this to go into affect on the date of its approval by the Governor, which occurred on March 26, 2007.

P **FMAA, ACT 76 of 2007**. Effective July 31, 2007.

Section 1 of this Farmers' Mutual Aid Association (FMAA) Act, with respect to the organizational FMAA statute, corrects a codification numbering error to make clear that the new 2005 FMAA statutory requirements (including increased surplus and membership) apply to all FMAAs, regardless of whether they write liability coverages.

Section 2 of the Act amends subdivision (1) of Ark. Code Ann. § 23-73-112, to allow the Insurance Commissioner authority annually to grant, for good cause, additional time extensions to achieve a minimum of 250 members, for those associations or companies which ask for the extension in writing, which request must include the association's planned action steps to achieve the minimum membership.

Section 2 of the Act also clarifies in Ark. Code Ann. § 23-73-112(2)(A) that indemnity reinsurance for farmer's mutual aid associations or companies is to be purchased as necessary, based on surplus and risk levels.

A **INSURANCE PRODUCER RESPONSIBILITY TO REPORT CRIMINAL ACTION, ACT 330 of 2007**. Effective July 31, 2007.

Ark. Code Ann. § 23-64-517(b) currently states that a producer must inform the Department, within thirty (30) days of the "initial pretrial hearing date", of any criminal prosecution of the producer. The law contains no definition of this term, so this Act changes the language to require a producer to report to the Department within 30 days after the producer first appears before a judge following arrest.

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PRODUCERS RESPONSIBLE FOR THEIR ASSOCIATES' NON-LICENSED CONDUCT, ACT 331 of 2007. Effective July 31, 2007.

Until July 1, 2002, Ark. Code Ann. § 23-64-201(d) provided that no producer could permit any person not properly licensed to engage in the business of insurance on his or her behalf. When this section of the code was amended in 2001, the Amendment inadvertently deleted this language. This Act restores to Ark. Code Ann. § 23-64-201(a) the penalty for a producer who has allowed an unlicensed person to conduct insurance business on the producer's behalf.

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PRIMARY LIABILITY FOLLOWS THE CAR, ACT 373 of 2007. Effective July 31, 2007.

Arkansas state courts have held that as a fundamental principle of insurance law, under a standard automobile policy, primary liability is generally placed on the insurer of the owner of the automobile involved and the policy providing the nonownership coverage is secondary. This has become an issue at the Department because some insurers have policies they consider to be "non-standard" thus creating situations where consumers could end up with no clear coverage when there are conflicting policies. Since the motor vehicle code requires a licensed auto to be covered by insurance, it seems rational to codify what happens to conflicts in policy language between the policy that covers the auto versus the policy held by the guest driver on his or her own vehicle. Because the statutes talk in terms of the vehicle having coverage as a condition of licensing, it seems likewise good policy that the insurance policy covering that particular auto be primary.

Section 1 of the Act makes it clear the liability policy covering a motor vehicle will be primary when the subject vehicle is driven:

(a) by an insured (which includes members of the insured's household unless specifically excluded);
(b) by any other person with the permission of an insured and the use of said vehicle is within the scope of the permission granted.

Section 2 of the Act seeks to maintain the status quo regarding vehicles loaned temporarily by an automobile dealer or for short term rentals of automobiles by rental companies. Currently that law provides, since the auto serves as a temporary substitute for the insured vehicle, the driver's policy should be primary to any insurance or self-insurance maintained by the auto dealer or rental company.

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THREE YEAR SEASONING REQUIREMENT AND HMO ELECTION, ACT 429 of 2007. Effective March 22, 2007.

The Act changes two areas of insurance regulation: (1) allowing the Insurance Commissioner to waive the three year seasoning requirement for out-of-state HMOs and insurers desiring to transact business in Arkansas; and (2) permitting HMOs to elect to be regulated under the Arkansas Insurance Code Holding Company Regulatory Act. Both changes are designed to encourage more out-of-state HMOs to transact business in this State.

Under Subdivision (A) of subsection (1) of Ark. Code Ann. § 23-63-202, the current "seasoning" requirement states that an out-of-state insurer must have conducted business in the state of its incorporation for three years before it qualifies for a

certificate of authority to transact business in Arkansas. The Act's **Section 1** grants the Commissioner the discretion to waive the seasoning requirement. This is necessary to recognize and support current provisions regarding the waiver of insurance company admissions in federal law. (The exercising of this discretion would allow the Commissioner, for example, to issue limited certificates of authority to health insurers planning to underwrite in Arkansas Medicare Part D prescription drug plan coverages, so that Arkansas can be uniform with other states allowing such seasoning waivers in the appropriate circumstances as states seek to support applicable federal law.) Exercise by the Insurance Commissioner of the discretion provided could increase availability of insurance choices.

Section 2(a) of the Act clarifies the application to HMOs of some existing Insurance Code revisions, including but not limited to, Change of Domicile.

Section 2(b) allows HMOs domiciled or applying to be domiciled in Arkansas to elect to be governed by Arkansas' Insurance Holding Company Regulatory Act (Ark. Code Ann. §§ 23-63-501, et seq).

Many states apply their insurance holding company laws to a foreign health maintenance organization doing business in such state if the health maintenance organization's state of domicile does not have substantially similar laws, thus potentially subjecting a health maintenance organization to multiple holding company filings. The Act in providing an option for HMOs to elect to be subject to Arkansas' holding company law could avoid unnecessary duplication. (Arkansas' Insurance Holding Company Regulatory Act governs affiliate transactions of the HMO subject to the Act. The Act's Section 2 makes it clear that with respect to an HMO's non-affiliate transactions which result in a major modification to the HMO's operations, the current requirements of Chapter 76 of the Arkansas Insurance Code are still in play as such non-affiliate transactions do not trigger a filing under the Holding Company Act.)

P A **TITLE INSURANCE, ACT 684 of 2007**. Effective January 1, 2008.

The regulation of title insurance agents will be moved from the Arkansas Title Insurance Agents' Licensing Board to the Department in January of 2008. At that time, the Board will cease to exist and the Department will have exclusive regulatory jurisdiction over the title insurance industry in this state.

L P **DEMUTUALIZATION, ACT 30 of 2007**. Effective July 31, 2007.

Allows a mutual insurer converting to a stock insurer under Ark. Code Ann. § 23-69-141 to use a holding company formed for the purpose of facilitating the demutualization**.**

L A **ARKANSAS LONG-TERM CARE PARTNERSHIP PROGRAM, ACT 99 of 2007**. Effective July 31, 2007.

This Act adds an additional subchapter Ark. Code Ann. §§ 20-77-1801 et seq. that enables the state Medicaid under DHS to participate in the federal Long-Term Care Partnership Program. This program allows Medicaid to recognize benefits provided under a qualified long-term care insurance policy to preserve assets of an equal amount in the calculation of Medicaid spend-down in determining Medicaid

eligibility. The federal program is designed to encourage the purchase of long-term care insurance as a means of exercising personal planning for long-term care expenses. Qualified long-term care insurance policies must meet certain minimum standards and be sold as "Partnership" policies. The Long-Term Care Partnership Program requires the Commissioner to certify to the State Medicaid Director that all producers who sell Long-Term Care Partnership policies are adequately trained and have demonstrated understanding of how the Partnership program coordinates with Medicaid. Therefore, the Commissioner will be issuing a Bulletin or Rule that sets forth the procedure for each insurer to certify to the Commissioner that all producers that solicit the insurer's Partnership policies meet the required standards.

L P A **NOTICE OF CANCELLATION TO ALL LIENHOLDERS, ACT 127 of 2007**. Effective February 21, 2007.

This Act amends Ark. Code Ann. § 23-89-304 to allow notification of cancellation of insurance to be delivered to all lienholders whose rights may be adversely affected by the cancellation. Formerly, this statute only required notification to banks and lending institutions.

L A **DISCONTINUE THE ARKANSAS ADVISORY COMMISSION ON MANDATED HEALTH BENEFITS, ACT 303 of 2007**. Effective March 16, 2007.

The Act eliminates all parts of the Arkansas Advisory Commission on Mandated Health Benefits and Mandate Commission Act.

P A **SALVAGE VEHICLES, ACT 410 of 2007**. Effective July 31, 2007, except Ark. Code Ann. § 27-14-2302(a)(4)(A), which becomes effective January 1, 2008.

Ark. Code Ann. §§ 27-14-2301, 27-14-2302, and 27-14-2305 are amending the definition of a salvage (previously called a "damaged") vehicle, and what must be done or reported when a vehicle becomes salvage property.

Section 1 amends Ark. Code Ann. § 27-14-2301 by adding the definitions for "Occurrence" and "Salvage Vehicle." "Occurrence" will be the date that a vehicle becomes damaged through either collision, weather, vandalism or theft. A vehicle will be considered "salvage" when it is either water damaged or the damage exceeds 70% of the average retail value.

Section 2 amends Ark. Code Ann. § 27-14-2302 to delete all of subsection (a) and replace this language with new language that requires an insurer to take certain actions when dealing with a salvage vehicle. Specifically, the insurer or owner of a salvage vehicle is responsible for surrendering the certificate of title for the salvage vehicle to the Office of Motor Vehicle within 30 days after either the vehicle becoming a salvage vehicle or the salvage title being acquired. If a vehicle becomes a salvage vehicle but the insurer doesn't have title, the insurer must notify the Office of Motor Vehicle, who will be responsible for affixing a note or stamp to the copy of the title delineating it as a salvage vehicle or as "parts only". The insurer may delegate its responsibility for notifying the Office of Motor Vehicle to a different organization or a buyer, but is still responsible if the person to whom the insurer delegates its duties fails to comply.

If a person purchases a vehicle that is a salvage vehicle before the issuance of the

salvage title and a good faith estimate determines that the car has 70% or more repair cost, the person must surrender the title of the vehicle within 30 days of receiving the certificate of title. If the vehicle has no value other than for parts, the owner may request that he be issued a "parts only" title and dismantle the car for parts. This is to be effective on January 1, 2008.

Section 3 amends Ark. Code Ann. § 27-14-2305 to make the provisions of this chapter not applicable to vehicles 7 model years old prior to the calendar year of the occurrence. This was previously not applicable to vehicles more than 5 model years old.

L A **PHYSICIAN ASSISTANCE REIMBURSEMENT, ACT 458 of 2007**. Effective July 31, 2007.

This Act adds an additional subsection to be codified at Ark. Code Ann. § 23-79-154. It provides that a health plan must fully reimburse a physician for services provided by a physician assistant so long as the practice was compliant with state laws.

P A **MINIMUM MOTOR VEHICLE LIABILITY INSURANCE AND DRIVER EXCLUSIONS, ACT 485 of 2007**. Effective July 31, 2007.

Ark. Code Ann. § 23-89-213 as amended by Act 485 of 2007, now requires each insurer issuing a private passenger automobile insurance policy to print the words "excluded driver(s)" on the face of the proof of insurance card issued for each vehicle covered by the policy. The name of each driver excluded from coverage on private passenger automobile insurance policies must now be included in the reports given to the Revenue Division of the DF&A to compile the vehicle insurance database. As a practical matter, commercial automobile policies will not be affected by this Act due to related provisions in Arkansas law outside of the Insurance Code.

L A **ENSURE THAT THIRD PARTIES THAT ARE LIABLE FOR MEDICAID COSTS PROVIDE REIMBURSEMENT TO THE MEDICAID PROGRAM, ACT 537 of 2007**. Effective July 31, 2007.

This Act gives DHS a direct right to recover from a third party health insurer amounts payable as a covered claim by the insurer which were instead, for whatever reason, paid by Medicaid.

P A **REIMBURSEMENT TO VOLUNTEER FIRE DEPARTMENTS, ACT 581 of 2007**. Effective July 31, 2007.

This Act amends Ark. Code Ann. § 20-22-902 and Ark. Code Ann. § 23-88-102 to allow for volunteer fire departments to apply for reimbursement of up to $500 within 30 days. The reimbursement is only available for personal property of nonmembers. The statutes as they were previously written only allowed the volunteer fire departments to collect up to $300 and only if applied for within 10 days.

P **ESTABLISHMENT OF INSURANCE REQUIREMENTS FOR PUBLIC SCHOOL FACILITIES, ACT 625 of 2007**. Effective March 28, 2007.

This Act amends Ark. Code Ann. § 6-21-114, which created the Commission for Arkansas Public School Academic Facilities and Transportation. The Act requires the Commission to promulgate rules in consultation with the Insurance

Commissioner to establish insurance requirements and guidelines. The state's financial participation under the Academic Facilities Partnership Program (Ark. Code Ann. § 6-20-2507) and the Academic Catastrophic Program (Ark. Code Ann. § 6-20-2508) is to be reduced if a school district does not comply with rules promulgated pursuant to the proposed legislation.

The Act also amends § 6-21-114 to allow the Commission to study earth movement and motor vehicle insurance coverage.

Ark. Code Ann. §§ 6-20-2507 and 2508 are amended to add language that the state's financial participation in the programs established by those sections may be reduced for failure to comply with rules promulgated pursuant to Ark. Code Ann. § 6-21-114, as amended.

P A **FIRE DEPARTMENT RENEWAL SUBSCRIPTION NOTICES, ACT 588 of 2007**. Effective July 31, 2007.

This Act continues the provisions in Ark. Code Ann. § 23-88-306(d), which concerns the fee assessed by the Commissioner to cover the expense of mailing fire department renewal subscription notices. This statute is found in the Rural Risk Underwriting subchapter of the Property Insurance chapter. This assessment was due to sunset on June 30, 2007, without this Act.

P A **REGULATION OF SERVICE CONTRACTS, ACT 656 of 2007**. October 1, 2007.

Creates legal framework for sale of "service contracts" to Arkansas consumers, clarifying they are not regulated as "insurance" and providing for disclosures to consumers and financial responsibility requirements for those who issue service contracts.

"Service contract" is defined as contract for a separately stated consideration to service, repair, replace, or maintain property, or indemnify for service, repair, replacement, or maintenance of property due to operational or structural failure due to defects in materials, workmanship, or normal wear and tear, with or without incidental payment of indemnity under limited circumstances such as unavailability of parts, obsolescence, food spoilage, rental shipping, and accidental damage from power surges and handling.

The Act does not apply to "motor vehicle service contracts," which contracts are already regulated under the Motor Vehicle Service Contract Act (Ark. Code Ann. §§ 4-90-501 et seq.), nor to warranties. Also, service contracts that are "manufacturers" service contracts are exempt from all requirements except those requiring that service contracts be written in clear, understandable language and identify the administrator, provider, seller, and holder of the service contract. The Act also contains a utility related exemption for contracts provided to their customers by persons or entities licensed or certificated by the Arkansas Public Service Commission or the Federal Communications Commission.

Seller of service contracts must provide a receipt and deliver copy of service contract within reasonable period of time from date of purchase.

For financial responsibility purposes, obligor of service contracts must maintain either:

(i) reimbursement insurance policy to cover its obligations to consumers,

(ii) maintain a funded reserve account of forty percent (40%) of gross considerations received,

(iii) a financial security deposit placed in trust with the Commissioner having a value of not less than five percent (5%) of the gross consideration received less claims paid on the sale of all unexpired service contracts, but not less than $25,000 consisting of a surety bond issued by an authorized surety, or

(iv) net worth of $100 million.

Required "disclosures" include:

(i) identities of all parties to the service contract,

(ii) purchase price and terms,

(iii) procedure for obtaining prior approval of repair work, if required, including toll-free numbers,

(iv) existence of any deductible,

(v) services provided and any limitations, exceptions or exclusions,

(vi) termination provisions, and

(vii) a "free-look" period for consumer to return and cancel the service contract for full refund within 10 days if the service contract is delivered at time of sale or 20 days after mailing of service contract, if mailed to consumer.

The Act prohibits service contract provider from using words like "insurance" in its name, or from using any false or misleading advertising, and prohibits a lender from requiring purchase of a service contract as a condition of a loan.

The Act requires registration of service contract providers with the Arkansas Insurance Department; and gives the Arkansas Insurance Department authority to enforce the requirements of the Act and to promulgate Rules if necessary.

The Act is applicable to all service contracts issued on or after October 1, 2007.

L A **SUBSCRIBER IDENTIFICATION CARDS, ACT 686 of 2007**. Effective July 31, 2007.

This Act adds a new subsection to be codified at Ark. Code Ann. § 23-63-113. (The references herein to a "contracting agent" are not pertaining to insurance producers, but rather to an entity engaged in assigning, leasing or selling access to the entity's network provider panel and the entity's contracted reimbursement rates.) This subsection provides that a contracting agent disclosure regarding access to Provider Networks may not grant access to the contracting agent's panel of providers or to the contracting agent's reimbursement rates to another entity unless authorized in an

agreement between the contracting agent and the provider contracted. The contracting agent must provide its providers a list to whom this information has been released at least annually or upon written request. The identification card must state who is responsible for paying claims, and if any alternate rates of payments may be used. This is not to apply to an insurance company who provides health benefits directly without the use of a "contracting agent".

L P A **FAILURE TO PAY BONA FIDE LOSS CLAIMS, ACT 687 of 2007**. Effective July 31, 2007.

This Act amends Ark. Code Ann. § 23-79-208, which concerns damages and attorney's fees on loss claims and is found in the subchapter addressing suits against insurers. This statute is amended with regard to the twelve percent (12%) penalty and attorney's fee that is to be awarded when the plaintiff/insured prevails. In cases involving a homeowner's policy, the Act changes the right to "attorney's fees" to the right to "reasonable attorney's fees" if the amount recovered is within thirty percent (30%) of the amount demanded or sought in the suit. In cases concerning a homeowner's policy, this amendment makes it easier for the plaintiff/insured to obtain his attorney's fees than to obtain the twelve percent (12%) penalty, which is only available if the amount recovered is within twenty percent (20%) of the amount demanded or sought in the suit.

L A **MEDICAL CARE PROVIDER FUNDS DEEMED "LIABILITY INSURANCE", ACT 750 of 2007**. Effective July 31, 2007.

This Act amends Ark. Code Ann. § 23-79-210, which concerns direct actions against a liability insurer when the insured is not subject to suit. The Act adds language stating that any funds set aside by a medical care provider for the payment or indemnification of the provider's liabilities will be deemed to be "liability insurance" susceptible to direct action. The provision expressly includes liability pools to which the medical care provider contributes.

P A **REQUIRE NOTICE OF CANCELLATION OF INSURANCE TO THE HOLDER OF A LIEN UPON A COMMERCIAL MOTOR VEHICLE, ACT 826 of 2007**. Effective July 31, 2007.

This Act extends the existing requirements for cancelling or non-renewing an existing automobile insurance policy to commercial policies while maintaining the amended subchapter's applicability to private passenger policies. In accordance with this amendment to Ark. Code Ann. § 23-89-301(5), commercial policies must now comply with the cancellation and non-renewal requirements in Ark. Code Ann. §§ 23-89-301, et seq.

Commercial automobile insurance policies must now comply with the following:

§ 23-89-302. Prohibition against using railroad accidents for rating engineers, conductors, firemen and brakemen on automobile policies.

§ 23-89-303. Permitted mid-term grounds for cancellation of a policy.

§ 23-89-304. Time requirements regarding notices of cancellation of a policy.

§ 23-89-305. Notices required prior to renewal of a policy both as to the new rate and any changes to forms or coverage.

§ 23-89-306. Requirements regarding proof of notices given.

§ 23-89-307. Notice of eligibility for the assigned risk plan.

§ 23-89-308. Immunity for disclosing grounds of cancellation of a policy.

P A **AMEND ARK. CODE ANN. § 11-9-525 CONCERNING COMPENSATION FOR SECOND INJURIES AND TO AMEND A PORTION OF THE ARKANSAS CODE WHICH RESULTED FROM INITIATED ACT 4 OF 1948, ACT 1415 of 2007**. Effective July 31, 2007.

This Act amends Ark. Code Ann. § 11-9-525 to provide a sunset provision for people seeking to claim compensation for second injuries. The last date a person can file is December 31, 2007. No claims of this nature may be submitted from January 1, 2008, forward.

P A **ENSURE THE SOLVENCY OF THE DEATH AND PERMANENT TOTAL DISABILITY TRUST FUND AND TO AMEND A PORTION OF THE ARKANSAS CODE WHICH RESULTED FROM INITIATED ACT 4 OF 1948, ACT 1599 of 2007**. Effective July 31, 2007.

This Act amends Ark. Code Ann. § 11-9-502, concerning limitations payable by the employer or workers' compensation carrier for permanent disability or death compensation in workers' compensation claims. For injuries occurring on or after January 1, 2008, if an injured employee dies or is deemed to be permanently and totally disabled due to the workers' compensation injury then the employer or carrier must pay the weekly death or permanent disability benefits up to 325 times the maximum total disability rate for the date of the injury before the Death and Permanent Total Disability Trust Fund assumes payment for the death or permanent total disability. Injuries occurring before January 1, 2008, continue to be governed by the existing language of the statute which provides for the employer or carrier to pay $75,000.00 before the Death and Permanent Total Disability Trust Fund assumes payment.

signed by Julie Benafield Bowman
JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS

May 14, 2007
DATE