



Arkansas Insurance Department

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Divisions

Administration
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Accounting
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Consumer Services
01-371-2640
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Data Processing
01-371-2657

Finance
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Human Resources
01-371-2815

Legal
01-371-2820

License
01-371-2750

Life & Health
01-371-2800

Property & Casualty
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Regulatory Management
01-371-2690

Reinsurance Network
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Insurance Fraud Investigation
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CHARLES PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

Docket # : 054.00.97-015
Effective Date : 8/1/97

AUGUST 13, 1997

BULLETIN 13-97

TO: ALL LICENSED FOREIGN, ALIEN AND DOMESTIC STOCK AND MUTUAL INSURERS, TITLE INSURERS, MUTUAL ASSESSMENT LIFE AND DISABILITY INSURERS, STIPULATED PREMIUM PLAN AND RECIPROCAL INSURERS, FARMERS' MUTUAL AID ASSOCIATIONS ("FMAA'S"), HOSPITAL AND MEDICAL SERVICE CORPORATIONS ("HMD'S"), HEALTH MAINTENANCE ORGANIZATIONS ("HMO'S"), ALL REGISTERED RISK RETENTION AND PURCHASING GROUPS, LICENSED FRATERNAL BENEFIT SOCIETIES, LICENSE PRE-PAID LEGAL INSURERS, APPROVED BUT NOT ADMITTED SURPLUS LINE INSURERS, LICENSED SURPLUS LINE BROKERS, LICENSED FUNERAL DIRECTORS HOLDING PERMITS TO SELL PREPAID FUNERAL BENEFIT CONTRACTS, ALL REGISTERED THIRD PARTY ADMINISTRATORS ("TPA'S"), ALL REGISTERED MET'S AND MEWA'S AND SELF-INSURED LIFE AND DISABILITY PLANS, ALL LICENSED RATE SERVICE OR ADVISORY ORGANIZATIONS, ALL LICENSED EMPLOYEE LEASING GROUPS OR FIRMS, ALL "ACCREDITED" OR "TRUSTEED" REINSURERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: 1997 ARKANSAS LEGISLATION: SUMMARY

The purpose of this Bulletin is to summarize legislation enacted during the recent 1997 Legislative Session. The Department does not represent that this list is complete. It remains your responsibility to become acquainted with all new legislation.

Each recipient is hereby requested to and should immediately notify all officers, directors, managers, employees, agents, brokers, adjusters, actuaries and consultants, and others.

The general effective date of all Acts NOT containing an emergency clause or other specified effective or compliance date is August 1, 1997, ninety (90) days from adjournment sine die of the Arkansas Legislature.

Full texts of these Acts can be obtained from the Arkansas Secretary of State, State Capital Building, State Capitol Grounds, Little Rock, Arkansas, 72201, or (501) 682-1010.

PLEASE DO NOT CALL THIS OFFICE TO OBTAIN COPIES OF THESE ACTS.

MIKE PICKENS
INSURANCE COMMISSIONER
STATE OF ARKANSAS

ATTACHMENT
1997 Legislation

104 (SB 78) UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Eff. 2-6-97 by Emergency. Provides that any statute of limitations, vesting ownership of property in holder of property before expiration of period of presumed abandonment, is tolled until demand is made by party entitled to possession. See also Act 841 and 1048 of 1997. Direct inquiries or requests for forms to State Auditor's Office at (501) 324-9670.

138 (HB 1077) CASUALTY INSURANCE WITH CREDITORS; FAIR MARKET VALUE

Eff. 5-31-97 by EMERGENCY. Prohibits S & L's, national banks, mortgage companies, public/private mortgagees and financial institutions from requiring borrowers as loan condition to purchase casualty insurance in excess of fair market value of buildings and appurtenances. Does not limit mortgagor from purchasing replacement cost coverages.

144 (HB 1004) MARRIAGES; SAME-SEX PROHIBITED

Eff. 8-1-97. Provides that Arkansas marriages shall only be between a man and a woman. In Arkansas, marriages valid by laws of state or country in which marriages were consummated and in which parties actually resided shall be valid in all courts in this State, except marriages between persons of the same sex; appears to recognize common law marriages in Arkansas where validly contracted in other state/country, except same sex.

146 (SB 5) MARRIAGES; SAME-SEX PROHIBITED

Eff. 8-1-97. Arkansas does not issue marriage licenses to persons of the same sex; does not recognize marriages between members of same sex; and they are not entitled to benefits of marriage. Voids in Arkansas same-sex marriages under licensure in another state or foreign jurisdiction. Does not prevent employer from extending benefits to persons who are domestic partners of employees.

203 (HB 1272) UNDERINSURED MOTORISTS COVERAGE ("UIM")

Eff. 8-1-97. Amends §23-89-403(a), stating that if named insureds/applicants purchase Third-party liability coverage in amount greater than Arkansas minimum limits (\$25,000/\$50,000/\$15,000), the insurer shall allow person to purchase UIM coverage up to these liability coverage limits. See also Act 284 of 1997.

Contact Director Lenita Blasingame in the Property and Casualty Division at (501) 371-2800.

208 (SB 186) HANDICAPPED PERSONS

Eff. 8-1-97. Replace words "handicapped persons" and similar phrases with "individuals with disabilities" and other more acceptable or politically correct phrases. See Insurance Code Sections 23-75-111 (b) (hospital and medical service corporations), 23-85-131 (b) (disability insurance), 23-86-102 (8) and 23-86-108 (4) (group disability insurance).

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SHARON HEST
SECRETARY OF STATE
STATE OF ARKANSAS

217 (HB 1413) NEW INSURANCE FRAUD DIVISION ACT

Eff. 8-1-97. Sets up new expanded Fraud Division in Insurance Department. Authorizes Insurance Commissioner to investigate fraud in insurance of all types in the State of Arkansas, an expansion of 1993 law creating Workers' Compensation Fraud Unit of the Department.

Mandates insurers, agents and others engaged in the business of insurance to report suspected fraud to Insurance Commissioner. Prohibits persons convicted of felonies (for dishonesty or breach of trust) from participating in business of insurance; provides persons shall not knowingly/intentionally permit felons convicted for dishonesty or breach of trust crimes) from participating in business of insurance (includes agents, brokers and other employees or independent contractors.)

Requires insurers to incorporate fraud warning in claims forms (or similar documents) and insurance applications within 6 months of Act.

Limits civil liability for persons reporting fraud, including insurers' investigators, Commissioner and staff, law enforcement officers and NAIC. Department fraud investigation files are confidential until closed with Commissioner's consent. Disclosure in legal proceedings and to victims of insurance fraud is within the discretion of the Commissioner.

Requires insurers to file anti-fraud "initiatives" to detect insurance fraud.

See Companion Acts 337 of 1997 (HB 1465) and Act 751 of 1997 (HB 1886) and Act 808 of 1997 (HB 1725). See also Act 956 of 1997.

Contact Director Marty Nevrla in the Fraud Division at (501) 371-2790.

251 (HB 1107) ARKANSAS WORKERS' COMPENSATION CODE

Eff. 8-1-97. Act stipulates that reductions of 50% of permanent partial benefits for injured workers 65 years and older are permissible due to amount of benefits received or eligible for receipt from workers' retirement or pension plans (public or private); but not by amount of contribution to such plans. Act effectively increases senior's benefits capped in prior law's formula of a dollar-for-dollar reduction. See also Acts 832 and 260.

260 (HB 1298) ARKANSAS WORKERS' COMPENSATION CODE; IMPAIRMENT RATING GUIDE

Eff. 2-24-97 by EMERGENCY. Prevents lapse on 3-1-97. Prohibits Guide's inclusion of pain as a basis for impairment.

284 (SB 271) UNDERINSURED MOTORIST (UIM)

Eff. 8-1-97. When tortfeasor's auto insurer and victim's (UIM) insurer is same company, provisions on settlement negotiation and 30 day deadline for the UIM carrier to pay are waived. Permits UIM insured to proceed against UIM carrier at any time after settlement with at-fault party. See also Act 203 of 1997.

Contact Director Lenita Blasingame in the Property and Casualty Division at (501) 371-2800.

292 (HB 1369) COMPREHENSIVE HEALTH INSURANCE POOL ACT (CHIPS)

Eff. 7-1-97 by EMERGENCY. New CHIPS ACT to conform 1995 law to Federal Health Insurance Portability law, effective on 7-1-97. Retains as Plan Administrator the administering insurer selected by 1995 CHIPS Act Board until current contract expires. Specifies all outstanding contracts executed by 1995 CHIPS Board are continuing obligations of 1997 CHIPS Act Board.

Sets initial rates for Plan coverage as not less than 150% for individual standard risks in Ark. Subsequent Plan rates not to exceed 200% of rates for individual standard risks. Sets out assessment formula effective 1-1-98. Until 12-31-97, definition of "insurer" for assessments shall include self-insurance arrangements. See also Act 1000.

Contact Deputy Commissioner Robert D. Ridgeway in Legal at (501) 371-2820.

296 (HB 1460) INSURER SECURITY DEPOSIT AT DEPARTMENT

Eff. 8-1-97. Clarifies procedures with the Insurance Commissioner to include banks and trust companies located in the State, not just those within Pulaski County.

337 (HB 1465) INSURANCE FRAUD INVESTIGATION DIVISION TRUST FUND ACT

Eff. 3-3-97 by EMERGENCY. Sets additional annual fees due the Insurance Department by insurers and others to support expanded Insurance Fraud Division. First-time fees are due by 6-30-97. Annually thereafter fee due June 30th. Imposes \$100 a day penalty for nonpayment or C/A penalties. Allows waiver of fee for impaired, insolvent, suspended or revoked insurers. See also Acts 217, 751 and 808.

Contact Director Marty Nevrla in the Fraud Division at (501) 371-2790.

372 (SB 287) PRE-PAID FUNERAL SERVICE CONTRACT ACT

Eff. 3-16-97 by EMERGENCY. Licensee compliance required on and after 3-16-97. Excludes as "prepaid funeral benefit contract" the assignment of insurance policies/annuities to funeral homes as beneficiaries. Adds reliable security brokerage firms as "trustees" under Act.

Adds new definitions of "prepaid funeral benefit contract" and "contract beneficiary". Supports Pre-Paid Division of Department by annual fees paid by funeral homes and other licensees. Annual report fee due on and after 3-1-97, based on annual volume of funeral contracts sold in Arkansas. On and after 4-1-97 licensee must remit quarterly \$5 fee per funeral contract written, or pay \$100 per day penalty. Commissioner may act as court-appointed receiver of impaired/insolvent issuers.

Contact Associate Counsel Booth Rand in Legal at (501) 371-2820 or Senior Examiner Rick Toland in Finance Division at (501) 371-2665.

376 (SB 465) PROTECTION OF CONSUMERS FROM PRICE GOUGING; DISASTER RELIEF

Eff. 3-6-97 by EMERGENCY. Protects consumers during/shortly after State of Emergency, Natural and Manmade Disasters. Caps at 10% certain price increases for emergency goods and services, including contractors' repairs and reconstruction services for residential and commercial property. Sets new penalties for violations. Enforcement is by Arkansas Attorney General's Office.

407 (SB 348) ARKIDS FIRST PROGRAM ACT

Eff. 8-1-97. Repeals Uninsured Children's Program Act. Intention to establish 2-year pilot program to provide access to appropriate health care services for eligible children in Arkansas.

479 (SB 274) LIMITED LIABILITY COMPANY ACT

Eff. 3-13-97 by emergency. Conversion of partnerships or limited partnerships to a limited liability company. Includes limited liability companies in definitions of "employer" and "employee" in Arkansas Workers Compensation Act. See also Acts 338 and 912.

490 (SB 479) VIATICAL SETTLEMENT CONTRACTS

Eff 8-1-97. Based on NAIC Model Act. Authorizes Commissioner to license viatical settlement contract providers, and register brokers. Excludes from licensure banks, S & L's, credit unions and other lending institutions, as well as licensed insurers with accelerated benefits in life insurance policies subject to Dept. Rule 60. Allows Commissioner to examine viatical licensees; also allows him to approve viatical contracts. Providers file annual report March 1st with Commissioner. Mandates certain disclosures to viators as contract is signed.

517 (HB 1731) LONG TERM CARE INSURANCE ("LTC")

Eff. 7-1-97 BY EMERGENCY. (Not NAIC Model). Conforms LTC to new Federal Health Insurance Portability Act, itself effective 7-1-97. Includes "Qualified long-term care contracts" per IRS Code. Excludes life policies with accelerated death benefits provisions. Limits field-issued LTC policies based on medical or health status. Adds new incontestability provisions. Prohibits insurer from recovery of benefits paid upon rescission of LTC policy. Mandates offer of policy with nonforfeiture benefits.

Contact Director John Shields, Life and Health Division, at (501) 371-2800.

705 (SB 383) USED MOTOR VEHICLE DEALERS BONDS

Eff. 8-1-97. Permit or license bonds. Surety in no event required to pay judgments obtained by fraud or collusion between dealer and retail buyer, or rendered against bonded dealer for acts not constituting violations of this subchapter.

749 (HB 1801) ARKANSAS HOME SERVICE INSURANCE ACT

Eff. 8-1-97. Redefines "blind" advances as intentional. Defines home service system of distribution, excluding sale of commercial policies, crop or hail policies, or feed and grain and chemical and fertilizer policies, and term policies on crops (harvested or unharvested). Expands contents of policyholder receipts and types of agent violations. Requires delivery of warning notices with policy.

774 (HB 1894) FARMERS MUTUAL AID ASSOCIATIONS ("FMAA")

Eff. 8-1-97. Applies domestic home office law under §23-69-134 to FMAA's. Makes agents hold limited license under Code excepting non-commissioned officers and directors. Applies valued policy law on total fire losses under §23-88-101 to FMAA policies. Applies rural fire department or district invoicing laws under §23-88-102 to FMAA's. Applies §23-79-109 form filing law to FMAA policies and contracts, but on an information filing (FYI) basis only (not prior approval basis).

Grants Commissioner discretion to waive special deposit of \$50,000. Mandates FMAA's to maintain minimum 50 members, with 50 separate risks; and to notify Dept. when membership falls below 50. FMAA's are given time to correct in 90 days or face involuntary dissolution. Increases policyholder surplus to \$750,000 for converted mutual (from \$300,000). Adds new provisions for voluntary/involuntary dissolutions and mergers of FMAA's. See also Acts 749, 908 and 1004.

Contact Associate Counsel Rogers McNeil, Legal Division, at (501) 371-2820.

808 (HB 1725) ARKANSAS WORKERS COMPENSATION FRAUD ACT

Eff. 7-1-97 by EMERGENCY. Amends Title 11 to clarify types of fraudulent activity and to make jurisdiction sections comport with Arkansas Criminal Code. See also Acts 217, 337, 751, and 956 of 1997.

Contact Director Marty Nevrla, Fraud Division, at (501) 371-2790.

832 (HB 1735) ARKANSAS WORKERS COMPENSATION CODE

Eff. 8-1-97. Exempts real estate licensees.

835 (HB 1812) VEHICLE CRASH PARTS; OEM PARTS

Eff. 8-1-97. Directs that damaged parts under original equipment manufacturer ("OEM") warranty may only be repaired using OEM parts unless owner gives written consent to use of non-OEM parts. Directs insurers to disclose in policy or with attached sticker Company intent to specify use of non-OEM parts or after market parts.

841 (HB 1920) ABANDONED VEHICLES

Eff. 8-1-97. Clarifies procedures for obtaining titles and selling vehicles under towing-storage liens and vehicle repair liens. See also Act 104 and 1048 of 1997.

900 (HB 2070) INSURANCE SALES CONSUMER PROTECTION ACT

Eff. 7-1-97 by EMERGENCY. Excludes application to credit life, credit accident and health, credit property, credit casualty, credit involuntary unemployment, mortgagor's decreasing term life, and mortgagor's decreasing term accident and health and sickness insurance, a financial institution's forced-placed or vendor single interest policies purchased when debtor does not insure, and to private mortgage insurance.

Applicable to insurance sales in connection with loan or extension of credit. Solicitation of insurance on premises must be done by employee not making loan or giving credit; insurance shall be completed separately and independently of loan documentation.

For lenders or third parties selling on premises: each initial life and annuity solicitation must involve disclosures that product is not FDIC insured, is not a deposit or obligation of lender, is an investment risk and is subject to loss of principal.

Customer must acknowledge in writing that he need not purchase insurance from lender or affiliates, and that insurance is available from other agents and brokers (off premises).

Physical Facilities: Lenders for premises sales must sell insurance in areas physically separate from customer deposit, loan and credit extension activity areas; and install signs in areas of insurance sales.

Lenders must disclose to customers how to stop release of information to allow others to quote insurance. See also Act 930 of 1997.

908 (HB 1565) TERMINATION OF APPOINTED AGENTS; FIRE AND CASUALTY

Eff. 3-28-97 by EMERGENCY. Limits authority of "Fire" and Casualty Insurance Companies to terminate appointed agents. Excludes application to contracts of agents for sale of life/accident/health insurance, or to insurers writing only for members of specific organization or its agents. Excludes application to captive agents or brokers of insurer or group whose book of business is owned by insurer or group. Cancellation of agent or broker contract shall not result in insurers' cancellation or refusal to renew policies.

Permits renewal for 12 months of policies after agent appointment is terminated (subject to company underwriting rules), except contracts of insurers deemed in hazardous/impaired/insolvent condition. Requires 60 days for nonrenewal or 90 days advance notice of insurer's intention to terminate agency contract; except for terminations due to agent's failure to remit monies or breach of contract. During 90 days agent shall not write or bind new coverage without insurer's written approval. Requires insurers renewing policies to pay terminated agent renewal commissions in same amount as during 12 months prior.

930 (SB 501) CREDITOR-PLACED INSURANCE

Eff. 8-1-97. Applies to insurers and producers transacting personal or family insurance for consumers as debtors who are financing purchases in the creditor's office. Regulates effective date and termination dates for creditor-placed insurance, and manner for calculation of premiums. Sets out

(Act 930 continued)

formula for calculation of premium rates; mandates certain written disclosures to debtors. See also Act 900 of 1997.

Direct inquiries to Director Lenita Blasingame, Property and Casualty Division, at (501) 371-2800.

932 (SB 540) CANCELLATION/REFUSAL TO RENEW

Eff. 8-1-97. Regarding personal and commercial vehicle policies covering autos, trucks, vans, sports utility vehicles, motorized bicycles, cancelling or refusing to renew vehicle liability insurance solely because of administrative revocation or suspension of the driver's license of the owner or operator (dealing with seizure of drivers' licenses for offenses of driving while intoxicated [DWI] or under the influence of a controlled substance [DUI], or refusing to submit to chemical testing), is prohibited.

950 (HB 1635) ARKANSAS LIFE and DISABILITY GUARANTY FUND ACT

Eff 8-1-97. Amends §§23-96-101, et seq., to conform Arkansas law to current NAIC Model Law. Act provides no change in insurer assessments or tax credits or benefits. See also §17 of Act 1000.

Contact Deputy Liquidator Steve Uhrynowycz in the Liquidation Division at (501) 371-2776.

956 (HB 1710) CONFIDENTIALITY; DEPARTMENT RECORDS

Eff. 8-1-97. Strengthens and expands confidentiality of Department exam and insurance investigation files. Files remain confidential pending closing by Commissioner or pending limited release for his administrative hearings. Provides limited release to affected persons, law enforcement officers and NAIC. See also Act 1163 of 1997.

Contact Associate Counsel Booth Rand in Legal at (501) 371-2820.

958 (HB 1805) HMO SOLVENCY: SECURITY DEPOSITS

Eff 8-1-97. Act requires HMO's to post and maintain \$150,000 total deposit in the first year; and in 2nd year increase and maintain full \$300,000 deposit thereafter. Allows limited licensees to post \$75,000 in that first year, rising to \$100,000 in second and subsequent years. Imposes a hold harmless contract between HMO and participating medical providers, protecting subscriber from liability for payment to medical provider in event of HMO nonpayment. Requires HMO's to file for Commissioner's approval a plan to ensure continuation of subscriber benefits during insolvency.

Contact Associate Counsel Rogers McNeil in Legal at (501) 371-2820.

963 (HB 1950) PREGNANT WOMEN

Eff. 8-1-97. Amends §20-16-507 to expand the scope of tests to be administered to pregnant women, to include tests for Hepatitis B, Syphilis, and Human Immunodeficiency Virus.

991 (HB 1156) MOTOR VEHICLE LICENSE AND PLATE ACT

Eff. 8-1-97. Failure to present proof of insurance coverage at time of arrest includes failure of DMV's insurance database to show current coverage. Allows officer to impound vehicles involved in accident which are inadequately insured. Commencing on 1-1-98, all vehicle liability insurers report monthly each motor vehicle policy in force to Revenue Division thru electronic means (except those qualifying for exception as low-volume producer by Revenue Department regulations). Insurer penalty is \$250 per day. Permits release of information to individual, parent or legal guardian, state and local law enforcement officers, ACIC, and other governmental agencies as needed. Eff. 1-1-98 no vehicle license or new or renewal plate shall be issued without either evidence of satisfactory insurance or satisfactory check of insurance database to confirm coverage.

997 (HB 1715) ARKANSAS HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1997

Eff. 4-1-97 by EMERGENCY. Act is designed to conform Arkansas group health insurance laws to comply with the Federal Health Insurance Portability and Accountability Act of 1996. (Not NAIC Model Act).

New §23-86-302 (d) applies Act to all disability insurers, HMO's, hospital/medical service corporations, fraternal benefit societies, licensed and authorized by Insurance Commissioner. Act also applies to all licensed or state-regulated entities: MEWA's, health benefit plans, MET's, other persons providing plans of group health insurance coverage in this State. See also §§18-23 of Act 1000.

Contact Deputy Commissioner Robert D. Ridgeway in Legal at (501) 371-2820.

1000 (HB 1861) DEPARTMENT OMNIBUS ACT

Eff. 7-2-97 by EMERGENCY.

§1 - Adds new definition of "reinsurance" to clarify application of new CHIPS law to reinsurers for purposes of health care pool assessments. See Act 292 of 1997.

§2 - Expand insurer financial exams from every 3 years to every 5 years (for NAIC accreditation). See also Act 774.

§3 - Updates Commissioner's duties as agent for service of legal process on foreign and alien insurers per Arkansas Code or Civil Procedure Rule 12 (a).

§4 - Defines as unfair trade practice failure of domestic insurers, HMO's, FMAA's, fraternal, and hospital/medical service corps to adopt and implement written conflict of interest procedures for officers, directors and managers before next exam commencing after 7-2-97.

(Act 1000 continued)

§5 and §6 - Exempts from public inspection information in rate and rule filings for property, casualty, surety and marine insurers containing trade secrets or data of proprietary nature; and exempts rate filings for workers' compensation on same basis. See also Act 873.

§7 - Limits original jurisdiction of circuit court receivership proceedings on insurers to Pulaski County only.

§8 - Allows Commissioner to commence in Arkansas state court an action to place licensed domestic insurers into CONSERVATION.

§9 and 10 - Conforms Arkansas' priority of distribution of LIQUIDATION CLAIMS in insurer receivership actions in Circuit Court to U.S. Supreme Court decision in U.S. Dept of Treasury v. Fabe, in §23-68-126. Applies Act to pending/future claims of existing receiverships and those arising after 7-2-97.

§11 - Increases license bonds from \$50,000 to \$100,000 for EMPLOYEE LEASING FIRMS so that statute matches Commissioner's Rule and Reg 58.

§12 - §14 - Corrects Bail Bond Company Laws; substitutes "State Bail Bond Board" for "Insurance Commissioner" therein. See also Act 252.

§15 and §16 - Conforms State income tax deductions for medical and dental expenses and medical savings accounts (MSA's) to 1997 IRS Code.

§17 - Exempts CHIPS Pool and Board, Life and Health Guaranty Fund Assn. and Board, and P and C Guaranty Fund and Advisory Assn. from State cash fund limitation laws. See Act 292 of 1997.

§18 - §23 - Companion to Act 997 of 1997, Ark. Health Insurance Portability Act. (Not NAIC Model). Conforms ARKANSAS SMALL EMPLOYERS GROUP HEALTH law to new 1996 Federal Health Insurance Portability Act.

§24 - Amends §3(m) of then uncodified CHIPS law, now Act 292 of 1997. Excludes long term care and disability policies from definition of health insurance. See Act 292 of 1997.

§25 - Amends §13 of then uncodified CHIPS law, now Act 292 of 1997; to apply unfair trade practice referral law in CHIPS Act to applicant groups of fewer than 15 members. See Act 292 of 1997.

§26 - NAIC model language. On and after 1-1-98, INDEMNITY REINSURANCE contracts of domestic insurers shall provide that reinsurance obligations of reinsurer to insolvent or impaired domestic insurer are payable without diminution due to insolvency or impairment; and are payable to domestic insurer or its receiver. Requires receiver of domestic insurer or Guaranty funds to give claim notice to reinsurer.

(Act 1000 continued)

Applicable to all contracts entered, renewed or amended on/after 1-1-98. Includes obligations arising from business written or transaction covered by reinsurance after 1-1-98 for contracts in existence prior to 1-1-98.

1004 (HB 2155) AGENT LICENSE CODE REVISION and SIMPLIFICATION ACT.

Eff. 7-1-97 by Emergency. Adds limited liability companies (corporations) to definition of agent, broker, adjuster, consultant. Adds new "clerical" exemption from licensure for secretaries and other employees of consultants and adjusters. Strengthens violation for agents acting without proper licensure. Requires agents to conduct business only after appointment by insurers. Prohibits brokers from effectuating and countersigning policies.

Deletes solicitor licenses from the Code. Adds new limited license for adjusters for employees of self-insured employers.

Continuing education changed from biennial 16 or 20 hours to 8 hours annually for 1 license or 10 hours annually for dual or multiple licenses held.

On and after 1-1-1998, due date for filing continuing education certificates with the Department is the agent's birthday. On and after 1-1-1998, Rule 57 or ARF fees are also due on the agent's birthday.

All agency ARF fees are due on the agency's license anniversary. Each licensed agency must list one officer, member or partner on the appointment or Form I-48.

Expands license suspensions for misconduct to maximum 3 years.

Makes unnecessary the resident agent status as inactive or retired, since appointments are necessary to conduct business. Clarifies Commissioner can require restitution to victims of any noncomplying agent, broker, adjuster, consultant. Provides automatic suspension for licensees late in payment of court-ordered child support.

Requires proctored exams for correspondence courses. Allows CE credits for company meetings.

See companion Department Bulletin 5-97 dated April 24, 1997 on Solicitors. See also Acts 749, 774 and 908.

Contact Legal at (501) 371-2820 or Director Fred Stiffler, License Division, at (501) 371-2750.

1020 (HB 1525) ARKANSAS MENTAL HEALTH PARITY ACT

Eff. 8-1-97. Applies to group health benefit plans, as defined. Requires plans to provide medical coverage for diagnosis and mental health treatment of mental illnesses and of those with developmental disorders. Plans may exclude medically unnecessary diagnosis or treatment.

Contact Legal Division at (501) 371-2820.

1028 (HB 1787) LONG-TERM CARE

Eff. 8-1-97. Amends §20-10-213 to clarify situations in which long-term care facility must have a license from State of Arkansas.

1048 (HB 2267) ARKANSAS UNCLAIMED OR ABANDONED PROPERTY ACT

Eff. 8-1-97. Amends §§18-28-208, et seq. Monetary penalties for failure to report, pay or deliver abandoned or unclaimed property within a certain time are payable to the State Auditor. Allows State Auditor to waive penalties in whole or in part. See also Act 104 and 841 of 1997.

Direct inquiries to State Auditor's Office at (501) 324-9670.

1077 (SB 505) INSURANCE TURNBACK FOR FIRE PENSION FUNDS

Eff. 8-1-97. If aggrieved fire department or district determines that gross inaccuracy exists in reporting of taxes for adjoining cities, towns or districts (leading to inaccurate distribution of tax turnback to certified fire pension funds), then may file hearing request with Insurance Commissioner. Commissioner is authorized to collect data from insurers, hold hearing, and then recertify tax amounts to State Auditor, if inaccuracy is demonstrated. Commissioner is authorized to issue orders to insurers to remedy turnback problems. See also Acts 1150, 1178 and 1215.

1110 (SB 491) INSURANCE POLICIES; CANCELLATION FOR DISASTER CLAIMS

Eff. 4-4-97 by EMERGENCY. Prohibits coverage of damages to real property from being cancelled or nonrenewed solely as result of claims arising from natural causes, defined as act occasioned exclusively by violence of nature where all human agency is excluded. Insurer penalties lie under Arkansas Trade Practices Act.

1111 (SB 578) PROPERTY and CASUALTY INSURERS ANNUAL CLAIMS REPORTS TO DEPT.

Eff. 8-1-97. Amends §23-63-102 to expand report required annually of P and C insurers to Department to include:

Net Investment Gain on Surplus, allocated to lines as % of previous year's incurred losses;

Federal Income Taxes paid, allocated to lines as % of earned premium;

Return on Surplus with Surplus allocated to lines based upon earned premiums.

Act clarifies that LAE for prior and current years are split between Allocated and Unallocated LAE.

1143 (SB 636) ARKANSAS WORKERS COMPENSATION INSURANCE PLAN

Eff. 4-7-97 by EMERGENCY. Requires Insurance Commissioner vigorously to promote competition for designation of Plan Administrator and Servicing Carrier(s). Authorizes the Arkansas Office Manager for Plan to intervene with servicing carriers to secure adequate level of services. Complaint Registry shall be maintained and provided to Insurance Commissioner.

Requires selection of Plan Administrator and Servicing Carriers no less often than every 3 years. Authorizes Insurance Commissioner to suspend competitive bidding under limited circumstances.

(Act 1143 continued)

Requires the Administrator and Servicing Carriers' performance reviews by the Insurance Commissioner to be conducted within third (3rd) year of competitive selection period, independent of other reviews.

Contact Deputy Commissioner Robert D. Ridgeway, Legal Division at (501) 371-2820 or Director Lenita Blasingame, Property and Casualty Division, at (501) 371-2800.

1150 (HB 1483) VOLUNTEER FIRE DEPARTMENTS; INSURANCE POLICY CLAIMS

Eff 8-1-97. Amends §20-22-901 and §23-88-102 to clarify that volunteer fire departments are entitled to reimbursement for reasonable value of services for fire and emergency services rendered to district nonmembers. Insurance companies of nonmember shall pay volunteer fire department the fair market value of services for fires and 911 emergency calls. See also Acts 1077 and 1178.

1163 (SB 30) CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS

Eff. 8-1-97. On and after 7-1-97 requires State Agencies, Boards and Commissions to provide confidentiality of licensees for professional, business or occupation licenses. See also Act 956 of 1997.

1178 (SB 720) RURAL FIRE RATE CREDITS; AGENT VIOLATIONS

Eff. 8-1-97. Amends §23-88-103 on rate credits for dues-paying insureds in rural fire protection districts or departments. Increases agent penalties for violations to \$100 (1st violation), \$500 (2nd violation), or \$500 and difference in premium charged and proper premium chargeable (3rd violation). See also Acts 1077 and 1150.

1184 (HB 1068) PERSONAL AUTO RATES; REDUCTIONS

Eff. 8-1-97. Requires reduction of premium charges for personal auto liability and physical damage policies for insureds under age 25 who graduate from college or university, or for students who have Grade "B" averages or higher, or who have 3.00 GPA on scale of 4.00 GPA. This reduction does not apply for reductions due to marriage or to commercial or business policies. Appears to apply to personal auto policies only.

1196 (HB 1843) ARKANSAS HEALTH CARE CONSUMER ACT

Eff. 8-1-97. Act applies to health care plans issued, renewed, extended or modified including plans where insurer has reserved the right to change the premium. Applies to: insurance companies, health maintenance organizations, hospital or medical service corporations, health care plans in Arkansas subject to Insurance Code, individual, blanket and group health care plans or policies, including indemnity or managed care plans (excluding workers' compensation).

(Act 1196 continued)

Insurers may not restrict benefits for hospital stays of less than 48 hours for mother and child for new births. Insurers providing mastectomy benefits shall cover prosthetic devices and reconstructive surgery. Allows women to select a participating obstetrician or gynecologist in addition to primary care physicians (PCP's), for direct visits.

Act prohibits "Gag Clauses" restricting information that providers disclose. Dictates insurers allow new or terminating enrollees to use non-network providers for acute conditions for 1st 90 days of new plan, or 90 days after end of plan.

Insurers for managed care plans must establish a grievance procedure.

1215 (HB 2137) FIRE PENSION FUNDS/PREMIUM TAX TURNBACK

Eff. 8-1-97. Requires LOPFI to notify Insurance Department by December 15th annually as to which fire departments or districts with pension funds are to be placed on non-certified list for 2 years for receipt of premium tax turnback pending fire department or district's actuarial assessment during its consideration of joining LOPFI. During interval, Insurance Department must require insurance companies to determine premium taxes payable in district of non-certified fire department in same manner as certified locations. Details when and how fire department can be re-certified to receive premium tax turnback after joining LOPFI. See also Acts 1077, 1150 and 1178.

1249 (HB 1797) DIABETES SELF-MANAGEMENT

Eff. 8-1-97. Training, equipment and supplies to be covered by certain health insurance policies. Applies to group and individual health policies with coverage on an expense-incurred, service or prepaid risk-sharing basis issued, delivered, renewed or extended after Act effective.

Includes policies issued by insurers, fraternal benefit societies, hospital and medical service corporations, and health maintenance organizations. Requires health insurance policies to include coverage for:

One lifetime training program per insured for diabetes self-management training as medically necessary;

One training session when there is a significant change in symptoms or conditions;

Medically necessary equipment supplies and services for patients. Allows Insurance Department to adopt a rule and regulation. Excludes application to long term care policies, disability income policies, 6 month or other short term policies, med pay sections of auto or homeowner policies and workers' compensation policies.

1301 (SB 433) UNAUTHORIZED PRACTICE OF LAW; ADJUSTERS

Eff. 8-1-97. Excludes persons licensed as an adjuster or employed as adjuster by an insurer. Prohibits activities of public adjusters acting without attorney licenses. Prohibits person for personal economic benefit to advise another on claims for personal injury or property damage, or advising that person whether to accept settlements.

1317 (HB 1475) STATE LICENSES; MISDEMEANOR OFFENSES DISCLOSABLE

Eff. 10-1-97 by EMERGENCY. Amends §17-1-103 as to state licenses, registrations, and certifications for trades, professions and occupations as to applicants with criminal convictions. Provides that misdemeanor sex offenses and misdemeanors involving violence are criminal records which can be used, disseminated or distributed in connection with an application for a license, registration or certification.

1320 (HB 1654) MEDICAL TRANSPORTATION SERVICES; POLICY REIMBURSEMENT

Eff. 8-1-97. Mandates that insurance policies with coverage for medical transportation must contain provisions for direct reimbursement to transporter. Prevents transporter from demanding payment by insured (until after insurer's reimbursement has been received). Act excludes HMO contracts; insurers' individual, group or blanket disability insurance policies and Medicare Supplement policies.

1331 (HB 2174) ARKANSAS AFFORDABLE NEIGHBORHOOD HOUSING TAX CREDIT ACT OF 1997

Eff. 8-1-97. Provides that business firms, including insurance companies paying an annual tax on gross premium receipts in State, may contribute money, real or personal property to construct or rehabilitate affordable housing units, in a plan to be approved by Ark Development Housing Authority (ADFA), in conjunction with Ark Department of Finance and Administration (DF and A), and claim state income or premium tax credits therefor. Tax credit is amount cannot exceed 30% of total amount invested by business firm or insurer; unused tax credit may be carried forward to any of 5 subsequent tax years until full credit allowed. Total amount of tax credit shall not exceed \$750,000 in any taxable year.

ADFA and Director of DF&A are authorized to approve Plan of any business firm, and to promulgate rules and regulations. ADFA is to issue certifications or statements of donation, credit taken, unused credit available and credit claimed for each tax year in question.

Direct your inquiries to Ruby Dean at the Arkansas Development Finance Authority at (501) 682-5900.

