

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

SENATE BILL 1107

5 By: Senators Rapert, K. Ingram  
6 By: Representatives Wren, Dale  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE COMPREHENSIVE HEALTH INSURANCE  
10 POOL ACT TO PROVIDE FOR THE ORDERLY CESSATION OF  
11 OPERATIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER  
12 PURPOSES.  
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## Subtitle

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16 TO AMEND THE COMPREHENSIVE HEALTH  
17 INSURANCE POOL ACT TO PROVIDE FOR THE  
18 ORDERLY CESSATION OF OPERATIONS; AND TO  
19 DECLARE AN EMERGENCY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. DO NOT CODIFY. Findings and legislative intent.

25 (a) The General Assembly finds that:

26 (1) The Arkansas Comprehensive Health Insurance Pool was created  
27 to provide health care coverage for individuals to whom comprehensive health  
28 care coverage is not available in the individual health insurance market  
29 because of preexisting health conditions; and

30 (2) As of January 1, 2014, federal law provides that health  
31 insurance carriers in the individual market cannot reject applicants for  
32 health insurance coverage based on the presence of preexisting health  
33 conditions or exclude health care coverage for preexisting conditions.

34 (b) It is the intent of the General Assembly by the enactment of this  
35 act to provide for the orderly cessation of the Arkansas Comprehensive Health  
36 Insurance Pool's operations after December 31, 2013.



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2 SECTION 2. Arkansas Code Title 23, Chapter 79, Subchapter 5, is  
3 amended to add additional sections to read as follows:

4 23-79-515. Orderly cessation of operations.

5 (a)(1) The Arkansas Comprehensive Health Insurance Pool shall cease  
6 enrollment and coverage under the plan on and after January 1, 2014, as  
7 required by federal law.

8 (2) After taking all reasonable steps, including those specified  
9 in this section, to timely and efficiently assist in the transition of  
10 individuals receiving plan coverage to the individual health insurance  
11 market, the Board of Directors of the Arkansas Comprehensive Health Insurance  
12 Pool shall cease operating the pool after paying health insurance claims for  
13 plan coverage and meeting all other obligations of the board under this  
14 section.

15 (b) The board may take all actions it deems necessary to:

16 (1) Cease enrollment for plan coverage effective December 1,  
17 2013;

18 (2)(A) Terminate all existing plan coverage effective at the end  
19 of the calendar day on December 31, 2013.

20 (B) The board shall provide at least ninety (90) days  
21 notice to current policyholders of the termination; and

22 (3) Amend plan policies and provide adequate notice to  
23 policyholders, agents, and providers that to be paid or reimbursed, a claim  
24 for plan services is required to be filed by the earlier of one hundred  
25 eighty (180) days after plan coverage ends or three hundred sixty-five (365)  
26 days after the date of service giving rise to the claim.

27 (c) This section does not require the board to revise plan benefits to  
28 comply with federal law or to maintain plan coverage for any individual after  
29 December 31, 2013.

30 (d)(1) After all plan coverage terminates under this section, the  
31 board shall take reasonable steps to wind up all significant operations of  
32 the pool by December 31, 2014.

33 (2) Notwithstanding any other provision of this subchapter, to  
34 facilitate an efficient cessation of operations:

35 (A) The board may continue to use existing contractors  
36 until cessation of operations without the need to issue competitive requests

1 for proposals;

2 (B) The board may continue to fund operations of this  
3 subchapter under § 23-79-507;

4 (C) The board shall remain in effect:

5 (i) As provided by § 23-79-504(b); and

6 (ii) Until a judgment, order, or decree in any  
7 action, suit, or proceeding commenced against or by the pool is fully  
8 executed; and

9 (D)(i) The term of each current board member shall be  
10 extended until the date the pool concludes all business as provided under  
11 this section and the Insurance Commissioner certifies the cessations of  
12 operations under subsection (g) of this section.

13 (ii) The term of a board member expires when the  
14 commissioner certifies the cessations of operations under subsection (g) of  
15 this section.

16 (e) On or before June 30, 2013, the board shall amend the plan of  
17 operation to reflect the actions necessary to implement this section.

18 (f) If the board has excess funds after the cessation of operations of  
19 the pool, the funds shall be returned to the general revenue funds of the  
20 state.

21 (g)(1) On or before March 1, 2016, or a later date if necessary to  
22 complete the cessation of operations of the pool, the board shall file a  
23 report with the General Assembly and commissioner that reflects completion of  
24 the requirements of this section and includes an independent auditor's report  
25 on the financial statements of the pool.

26 (2) If satisfied upon review of the report that the board has  
27 complied with this section and accomplished the pool's cessation of  
28 operations in a reasonable manner, the commissioner shall certify that the  
29 business of the pool has concluded in accordance with this section and  
30 publish the certification on the State Insurance Department website.

31 (h) Upon certification under subsection (g) of this section, the  
32 operations of the pool are suspended indefinitely unless reactivated by the  
33 General Assembly.

34 (i) The commissioner may address any matters regarding the pool  
35 arising after the certification under subsection (g) of this section, and the  
36 Attorney General shall defend a legal action filed after the certification,

1 including seeking the dismissal of the action under § 23-79-516 or for any  
2 other purpose.

3 (j) Unless inconsistent with this section, the remainder of this  
4 subchapter continues to apply to the pool and the board.

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6 23-79-516. Statute of limitations and repose.

7 Because winding up the operations of the Arkansas Comprehensive Health  
8 Insurance Pool requires the expeditious determination of its outstanding  
9 liabilities, a cause of action against the pool or the Board of Directors of  
10 the Arkansas Comprehensive Health Insurance Pool shall be commenced within  
11 the earlier of one (1) year after the cause of action accrues or December 31,  
12 2015.

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14 23-79-517. Individuals moving to Arkansas and previously covered by  
15 another qualified high-risk pool.

16 (a) Notwithstanding § 23-79-510(f), if a resident eligible person is  
17 eligible for plan coverage because the person previously was covered under a  
18 qualified high-risk pool of another state, a preexisting condition exclusion  
19 otherwise applicable to the resident eligible person:

20 (1) Shall be reduced by each month of coverage in which the  
21 resident eligible person was subject to a preexisting condition exclusion in  
22 the other state's qualified high-risk pool; or

23 (2) Does not apply if the resident eligible person was not  
24 subject to a preexisting condition exclusion in the other state's qualified  
25 high-risk pool.

26 (b) This section expires on the last day an individual may be enrolled  
27 into plan coverage under this subchapter.

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29 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
30 General Assembly of the State of Arkansas that this act is immediately  
31 necessary because changes to the individual health insurance market beginning  
32 in 2014 eliminate the necessity of making coverage available through a state  
33 high-risk pool; that the Arkansas Comprehensive Health Insurance Pool should  
34 cease enrolling individuals on December 1, 2013, terminate all coverage under  
35 the plan at the end of the calendar day on December 31, 2013, and cease  
36 operations after efficiently winding up its business; and that planning for

1 the cessation of operations requires immediate action by the Board of  
2 Directors of the Arkansas Comprehensive Health Insurance Pool to transition  
3 the pool's policyholders into the commercial individual health insurance  
4 market. Therefore, an emergency is declared to exist, and this act being  
5 immediately necessary for the preservation of the public peace, health, and  
6 safety shall become effective on:

7 (1) The date of its approval by the Governor;

8 (2) If the bill is neither approved nor vetoed by the Governor,  
9 the expiration of the period of time during which the Governor may veto the  
10 bill; or

11 (3) If the bill is vetoed by the Governor and the veto is  
12 overridden, the date the last house overrides the veto.

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15 **APPROVED: 04/04/2013**  
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