

State of Arkansas
76th General Assembly
Regular Session, 1987

SENATE BILL 604

By: Senator Gordon As engrossed 3-13-87

"AN ACT TO AMEND THE ARKANSAS INSURANCE CODE TO PROVIDE FOR
THE LICENSING OF PROPERTY AND CASUALTY CONSULTANTS; AND FOR
OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. No person shall consult, counsel or advise others on matters related to property or casualty risks for insurance for a fee or any other thing of value unless licensed under Section 153 of Act 148 of 1959, as amended (Ark. Stat. 66-2810). Consultants shall pay the Insurance Commissioner a fee of \$25.00 for the original license and \$25.00 for each annual renewal.

"Insurance Consultant" is any person who, or firm, partnership or corporation which for a fee in any manner advises or counsels any person as to his insurance needs and coverages under any insurance policy or contract. The term "insurance consultant" shall not be deemed to include licensed attorneys, actuaries, certified public accountants, or any other person who gives or offers incidental advice to the public in the normal course of a business or professional activity other than insurance consulting.

SECTION 2. Subsection (1) of Section 153 of Act 148 of 1959, as amended, the same being Arkansas Statute 66-2810(1), is hereby amended to read as follows:

"(1) For the protection of the people of this State, the Commissioner shall not issue, continue, or permit to exist any agent, broker, consultant or solicitor license as to insurance other than life and disability, except in compliance with this chapter, or as to any individual not qualified therefor as follows:

(a) Must be of legal age, or must have had disabilities of minority removed for all general purposes. The age requirement may be waived by the

Commissioner, in his discretion, as to an applicant for a solicitor's license who is found by the Commissioner to be otherwise qualified for such license.

(b) Must be a resident of this State, or of a city or town through which passes the boundary of this State, duly qualified as to residence under Section 146(2), and if for an agent or broker license, must have been such a resident for not less than the ninety (90) days immediately prior to date of application for the license; except that the Commissioner may, in his discretion, waive the ninety (90) day residence requirement as to any applicant for license who is a bona fide resident of this State, and who furnishes proof satisfactory to the Commissioner that he is, and intends to be, a permanent resident of Arkansas.

(c) If for agent's license, must have been appointed agent by an authorized insurer, subject to issuance of the license.

(d) If for a solicitor's license, must have been appointed as solicitor by a licensed resident agent or broker, and make and intend to make soliciting insurance a principal vocation.

(e) Must be deemed by the Commissioner to be competent, trustworthy, financially responsible and of good personal and business reputation.

(f) Must have had experience or training or be otherwise qualified in the kind or kinds of insurance as to which he is to be licensed, be reasonably familiar with the insurance laws of this State, and with the provisions of the insurance policies and contracts he proposes to solicit, negotiate or effect under the license.

(g) Must pass any written examination for the license required under this chapter.

(h) Must intend in good faith to act as, and hold himself out to be, an agent, broker, or solicitor in the active solicitation and negotiation of insurance with the general public, and not seek or use the license principally for the purpose of negotiating or effecting insurance on his own property or interests or those of his relatives or of his employer. Such license shall be deemed to have been or intended to be used principally for the purpose of negotiating or effecting insurance on his own property or interests or those of his relatives or of his employer if the Commissioner finds that during any twelve (12) month period the aggregate commissions earned from such business has exceeded twenty-five percent (25%) of the aggregate commissions earned for all business written by such licensee during the same period.

(i) Shall not later than sixty (60) days after the license is issued or continued complete specific courses of instruction in the field of insurance as the Commission shall by regulation prescribe for such license when initially issued, which courses of instruction shall in the aggregate consist of not less than thirty-six (36) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the Commissioner for such purpose and successful completion of which shall be certified to the Commissioner, on forms prescribed by him, by the person under whose supervision such instruction was administered. Such courses of instruction shall provide the applicant with basic knowledge of the broad principles of insurance, licensing and regulatory laws of this State and the obligations and duties of an agent, broker or solicitor licensed as such to transact insurance other than life or disability insurance. Programs of instruction may be provided by any authorized insurer, agents association or trade association recognized by the Commissioner, or by any university, college or any other institution in this State, having a comprehensive course of instruction approved and certified by the Commissioner. The Commissioner shall issue appropriate regulations to implement the educational requirements and standards prescribed herein and to prescribe the general curriculum of courses of instruction, which curriculum shall include not less than five (5) hours of instruction relative to the licensing of agents and insurance regulatory laws of this State, criteria for approval of the providers of such courses of instruction, and certifications contemplated hereunder, within one-hundred-twenty (120) days after the passage of this Act, but not later than September 1, 1983."

SECTION 3. Subsection (2) of Section 230 of Act 148 of 1939, as amended, the same being Arkansas Statute 66-3023(2), is hereby amended to read as follows:

"(2) No person shall willfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance in accordance with the applicable classifications and rates as filed and approved if necessary by the Commissioner; or, in cases where classifications, premiums or rates are not required by this Code to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed

to prohibit the charging and collection, by surplus line brokers licensed under Chapter 10 of this Code, of the amount of applicable State and Federal taxes in addition to the premium and expense of underwriting as required by the insurer on risks written pursuant to the surplus lines law. Nor shall it be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy. Nor shall it be deemed to prohibit a property and casualty agent from charging and collecting interest upon premiums and charges which remain unpaid for a period of thirty (30) days beyond the date that the original premium was due, subject to the supervision of the Commissioner of Insurance, but such interest shall not exceed the maximum rate prescribed by the Arkansas Constitution. Nor shall it be deemed to prohibit the collection of membership dues by a property and casualty agent when membership of the applicant in an organization is a prerequisite of the insurer to the issuance of coverage. Nor shall it be deemed to prohibit the charging of a fee by a licensed consultant, provided that the fee is not excessive."

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Gordon

