

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: S2/28/07*

# A Bill

SENATE BILL 379

5 By: Senators Miller, Argue, Bookout, Critcher, Crumbly, Horn, B. Johnson, Malone  
6 By: Representative Rosenbaum  
7  
8

## For An Act To Be Entitled

10 AN ACT TO ENACT THE STATE INSURANCE DEPARTMENT  
11 GENERAL OMNIBUS BILL; TO UPDATE AND MAKE  
12 TECHNICAL CORRECTIONS TO THE ARKANSAS INSURANCE  
13 CODE; TO CONFORM THE EXAMINATION OF INSURERS,  
14 REINSURANCE REGULATION, CUSTODIED SECURITIES, AND  
15 BROKER'S CAPITAL REQUIREMENTS TO CURRENT  
16 INSURANCE PRACTICES; TO PROVIDE FOR EMPLOYER  
17 STOP-LOSS COVERAGE, WRITTEN MANAGEMENT AND  
18 SERVICE AGREEMENTS, AND LOCAL GOVERNMENT  
19 CHARITABLE ANNUITY PROGRAMS; AND FOR OTHER  
20 PURPOSES.  
21

## Subtitle

22 TO UPDATE AND MAKE TECHNICAL CORRECTIONS  
23 TO THE ARKANSAS INSURANCE CODE, TO  
24 CONFORM THE EXAMINATION OF INSURERS AND  
25 OTHER MATTERS TO CURRENT INSURANCE  
26 PRACTICES, AND TO ADDRESS VARIOUS OTHER  
27 INSURANCE ISSUES.  
28  
29  
30

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
32

33 SECTION 1. Arkansas Code § 23-61-201(a), concerning the Insurance  
34 Commissioner's routine audits of insurers, is amended to read as follows:

35 (a)(1) The Insurance Commissioner shall examine the affairs,  
36 transactions, accounts, records, market conduct activity, and assets of each



1 authorized insurer as often as in the commissioner's sole discretion he or  
2 she deems advisable.

3 (2) The commissioner shall so examine each authorized insurer  
4 not less frequently than every five (5) years.

5 (3) Examination of an alien insurer shall be limited to its  
6 insurance transactions and affairs in the United States.

7 (4) In scheduling and determining the nature, scope, and  
8 frequency of the examinations, the commissioner shall consider such matters  
9 as the results of financial statement analyses and ratios, changes in  
10 management or ownership, actuarial opinions, reports of independent certified  
11 public accountants, and other criteria as set forth in the most current  
12 edition of the applicable Examiners' Handbook and other standards adopted by  
13 the National Association of Insurance Commissioners and in effect when the  
14 commissioner exercises discretion to conduct an examination under subdivision  
15 (a)(1) of this section.

16

17 SECTION 2. Arkansas Code § 23-61-203(a), concerning examiners  
18 performing insurer audits, is amended to read as follows:

19 (a) Upon determining that an examination should be conducted, the  
20 Insurance Commissioner shall issue an examination certificate of authority  
21 appointing one (1) or more examiners to perform the examination and  
22 instructing them as to the scope of the examination. In conducting the  
23 examination, the examiner shall observe those guidelines and procedures set  
24 forth in the most current edition of the applicable Examiners' Handbook  
25 adopted by the National Association of Insurance Commissioners. The  
26 commissioner may also employ such other guidelines or procedures as the  
27 commissioner may deem appropriate.

28

29 SECTION 3. Arkansas Code § 23-61-206(a), concerning the cost of  
30 insurer audits, is amended to read as follows:

31 (a) Each person so examined shall pay to the State Insurance  
32 Department the actual travel expenses, reasonable living expense allowance,  
33 and compensation for examiners and other persons assisting in the examination  
34 on a basis not to exceed the total of the Geographical Expense Reimbursement  
35 Plan set forth in the most current edition of the applicable Examiners'  
36 Handbook adopted by the National Association of Insurance Commissioners, upon

1 presentation of a detailed account of the charges and expenses.

2  
3 SECTION 4. Arkansas Code Title 23, Chapter 62, Subchapter 1 is amended  
4 to add an additional section to read as follows:

5 23-62-111. Employee benefit stop-loss insurance.

6 (a) As used in the Arkansas Insurance Code, "employee benefit stop-  
7 loss insurance" or "employee benefit excess loss insurance" means coverage  
8 that insures an employer against the risk that any one (1) claim will exceed  
9 a specific dollar amount or that the entire loss of a self-insurance plan  
10 will exceed a specific dollar amount.

11 (b) An insurer authorized to transact accident and health insurance  
12 business in this state may issue employee benefit stop-loss insurance in this  
13 state.

14 (c) The Insurance Commissioner may promulgate rules to require  
15 disclosures to policyholders by an insurance carrier providing employee  
16 benefit stop-loss insurance.

17  
18 SECTION 5. Arkansas Code § 23-62-301 is amended to read as follows:  
19 23-62-301. Title - Applicability.

20 (a) This subchapter may be cited as ~~"The Model Act for the Regulation~~  
21 ~~of Reserves Ceded to Nonadmitted Reinsurers"~~, the "Arkansas Credit for  
22 Reinsurance Law".

23 (b) All reserves ceded to a nonadmitted reinsurer on ~~life insurance~~  
24 ~~and accident and health~~ insurance written in this state shall be subject to  
25 the provisions of this subchapter.

26  
27 SECTION 6. Arkansas Code § 23-62-302(a), concerning reinsurance for  
28 insurance companies, is amended to read as follows:

29 (a) Reinsurance of ~~life and accident and health~~ insurance risks by  
30 domestic and foreign insurance companies is also regulated under the  
31 provisions of §§ 23-62-201, 23-62-202, 23-62-204, and 23-62-205.

32  
33 SECTION 7. Arkansas Code Title 23, Chapter 63, Subchapter 1 is amended  
34 to add an additional section to read as follows:

35 23-63-114. Written management and service agreements.

36 No domestic insurance carrier, health maintenance organization,

1 farmers' mutual aid association, hospital and medical service corporation,  
2 stipulated premium insurer, or fraternal benefit society shall enter into a  
3 management or service agreement unless the agreement is in writing.

4  
5 SECTION 8. Arkansas Code § 23-63-201, concerning certificates of  
6 authority to transact the business of insurance in this state, is amended to  
7 add an additional subsection to read as follows:

8 (e)(1) The commissioner shall promulgate rules to allow a city, town,  
9 municipality, or county of this state acting independently or in any  
10 combination pursuant to an Interlocal Cooperation Agreement under the  
11 Interlocal Cooperation Act, § 25-20-101 et seq., to obtain a charitable  
12 annuity permit for the purpose of establishing a charitable annuity program.

13 (2)(A) The charitable annuity program shall permit any person or  
14 an entity to make voluntary and charitable donations to benefit the bona fide  
15 charitable, educational, and philanthropic programs, including without  
16 limitation libraries, museums, and governmentally owned hospitals, of a city,  
17 town, municipality, or county acting alone or pursuant to an Interlocal  
18 Cooperation Agreement under the Interlocal Cooperation Act, § 25-20-101 et  
19 seq.

20 (B) The charitable donation may be made to assist the  
21 establishment or maintenance of streets, parks, children's playgrounds,  
22 libraries, museums, beautification projects, or any other charitable,  
23 educational, or philanthropic purpose of a city, town, municipality, or  
24 county.

25 (3) The charitable annuity permit shall authorize the city,  
26 town, municipality, or county acting alone or pursuant to an Interlocal  
27 Cooperation Agreement under the Interlocal Cooperation Act, § 25-20-101 et  
28 seq., to receive unconditional gifts of money and property and to receive  
29 gifts of money and property conditioned upon paying an annuity to the donor  
30 or the donor's nominee.

31 (4) The rules of the commissioner to implement this subsection  
32 (e) shall provide without limitation:

33 (A) That the city, town, municipality, or county acting  
34 alone or pursuant to an Interlocal Cooperation Agreement under the Interlocal  
35 Cooperation Act, § 25-20-101 et. Seq., has been actively involved in the  
36 operation of the public charitable, educational, or philanthropic activity

1 for at least five (5) years prior to the issuance of the permit;

2 (B) For the investment of the assets and maintenance of  
3 the liabilities and surplus of the charitable annuity program appropriate to  
4 funding the annuities;

5 (C) That separate accounts be maintained solely for the  
6 benefit of annuity contract owners;

7 (D) The prior approval of annuity contract forms and  
8 annuity rates by the commissioner; and

9 (E) Annual financial reporting of a charitable annuity  
10 program of a city, town, municipality, or county acting alone or pursuant to  
11 an Interlocal Cooperation Agreement under the Interlocal Cooperation Act, §  
12 25-20-101 et. seq., that has been granted a charitable annuity permit under  
13 this subsection (e).

14  
15 *SECTION 9. Arkansas Code § 23-63-514(c), concerning material*  
16 *disclosures on the registration statement, is amended to read as follows:*

17 *(c)(1) Materiality. No information need be disclosed on the*  
18 *registration statement filed pursuant to subsection (b) of this section if*  
19 *the information is not material for the purposes of this section. Unless the*  
20 *commissioner by rule, regulation, or order provides otherwise, sales,*  
21 *purchases, exchanges, loans, or extensions of credit, or investments,*  
22 *involving one-half of one percent (~~+.5%~~) (0.5%) or less of an insurer's*  
23 *admitted assets as of the December 31 next-preceding shall not be deemed*  
24 *material for purposes of this section.*

25 *(2)(A) However, each registered insurer shall disclose in*  
26 *writing to the commissioner within five (5) business days following the*  
27 *declaration of a dividend and no less than ten (10) business days prior to*  
28 *the payment of the dividend, all ordinary dividends payable to shareholders.*

29 *(B) The disclosure shall also be included in the reporting*  
30 *insurer's next annual and restated insurance registration statement and upon*  
31 *any statutory filing required under § 23-63-514 or § 23-63-515.*

32  
33 *SECTION 10. Arkansas Code § 23-63-515(d)(2)(A), concerning*  
34 *extraordinary dividends of domestic insurers, is amended to read as follows:*

35 *(2)(A) In determining whether a dividend or distribution is*  
36 *extraordinary, an insurer other than a life insurer may carry forward net*

1 income from the previous two (2) calendar years that has not already been  
2 paid out as ~~dividends~~ a dividend.

3  
4 SECTION 11. Arkansas Code § 23-63-818, concerning domestic insurer's  
5 investments in subsidiaries, is amended to add an additional subsection to  
6 read as follows:

7 (c)(1) Unless a greater investment has been approved in writing by the  
8 commissioner, a domestic insurer subject to this subchapter shall limit its  
9 investments in common stock, preferred stock, debt obligations, and other  
10 securities of its noninsurance subsidiaries to the lesser of:

11 (A) Ten percent (10%) of the domestic insurer's assets; or

12 (B) Fifty percent (50%) of the domestic insurer's surplus.

13 (2) This subsection does not apply to the amount of an  
14 investment held on the effective date of this act by a domestic insurer  
15 licensed in Arkansas.

16  
17 SECTION 12. Arkansas Code § 23-63-832(b), concerning title insurer  
18 investments, is amended to read as follows:

19 (b) Investments authorized by this section shall not be credited  
20 against the insurer's required unearned premium or guaranty fund reserve  
21 provided for under ~~§ 23-63-610.~~ § 23-63-614.

22  
23 SECTION 13. Arkansas Code § 23-69-134(b)(4), concerning the  
24 maintenance of custodied securities and bank custodians, is amended to read  
25 as follows:

26 (4) In the discretion of the Insurance Commissioner, custodied  
27 securities may be held or managed inside or outside the state by a bank  
28 custodian as defined by and subject to the requirements imposed on bank  
29 custodians by rules of the State Insurance Department governing the  
30 holding and transferring of securities through ~~Federal Reserve book~~  
31 ~~entry~~ a clearing corporation. In addition, custodied securities may be  
32 held or managed inside or outside the state by a securities brokerage  
33 firm meeting the following qualifications:

34  
35 SECTION 14. Arkansas Code § 23-69-134(b)(4)(A), concerning the  
36 statutory capital requirements placed on security broker custodians, is

1 amended to read as follows:

2 (A) The securities broker-dealer firm must be  
3 registered with and subject to jurisdiction of the Securities and Exchange  
4 Commission, maintain membership in the Securities Investor Protection  
5 Corporation, and demonstrate by its most recent audited financial statement  
6 and regulatory filings:

7 (i) Tangible net worth ~~equal to or greater~~  
8 ~~than one hundred million dollars (\$100,000,000)~~ that satisfies the capital  
9 and financial requirements of a custodian as defined by rules promulgated by  
10 the department and regulatory net capital in an amount determined by the  
11 commissioner; or

12 (ii) Tangible net worth ~~equal to or greater~~  
13 ~~than fifty million dollars (\$50,000,000)~~, that satisfies the capital and  
14 financial requirements of a custodian as defined by rules promulgated by the  
15 department along with:

16 (a) Regulatory net capital in an amount  
17 determined by the commissioner; and

18 (b) Securities Investor Protection  
19 Corporation excess insurance coverage equal to or greater than the market  
20 value of the insurers' securities held by the custodian and in the form  
21 approved by the commissioner;

22

23 SECTION 15. Arkansas Code § 23-79-101 is amended to read as follows:  
24 23-79-101. Definitions.

25 As used in this section and §§ 23-79-102 – ~~23-79-107, 23-79-109~~ – 23-  
26 79-128, 23-79-131 – 23-79-134, and 23-79-202 – 23-79-210:

27 (1) "Policy" means the written contract of or written agreement  
28 for or effecting insurance, by whatever name called, and includes all  
29 clauses, riders, endorsements, and papers made a part thereof; and

30 (2) "Premium" is the consideration for insurance, by whatever  
31 name called. Any assessment, or any membership, policy, survey, inspection,  
32 service, or similar fee or charge in consideration for a policy is deemed  
33 part of the premium.

34

35 SECTION 16. Arkansas Code § 23-83-123(a), concerning group health  
36 insurance, is amended to read as follows:

1 (a) All group life, annuity, and ~~disability~~ accident and health  
2 insurance placed by an employer on employees who are residents of this state  
3 shall be placed by the employer with an insurer authorized to transact  
4 insurance in this state.

5  
6 SECTION 17. Arkansas Code § 23-83-124(a), concerning group health  
7 insurance withholdings, is amended to read as follows:

8 (a) Any employer in this state withholding or collecting any money  
9 from employees who are residents of this state for any group life, annuity,  
10 or ~~disability~~ accident and health insurance placed with an unauthorized  
11 insurer in violation of § 23-83-123 shall be deemed to be the agent of the  
12 insurer for the purpose of service of process in any action brought by any  
13 employee on the insurance contract.

14  
15 SECTION 18. Arkansas Code § 23-86-119 is amended to read as follows:  
16 23-86-119. Disclosure to policyholders.

17 (a) Upon request from a policyholder with more than twenty-five (25)  
18 insured employees under a comprehensive health insurance policy, Any any  
19 insurer issuing or delivering group accident and health insurance policies in  
20 this state ~~must~~ shall provide to a the policyholder ~~with more than ninety-~~  
21 ~~nine (99) insured employees under a comprehensive health insurance policy~~ the  
22 following information for the most recent twelve-month period or for the  
23 entire period of coverage, whichever is shorter:

- 24 (1) Claims incurred by month;  
25 (2) Premiums paid by month;  
26 (3) Number of insureds to include dependents by month; and  
27 (4) Claims exceeding ten thousand dollars (\$10,000) on any  
28 individual with diagnosis during the same period.

29 (b) This section does not require the insurer to disclose any  
30 information that is required by law to be confidential.

31  
32 SECTION 19. DO NOT CODIFY. The purpose of sections 17 and 18 of this  
33 act is to correct references to the Internal Revenue Code in the Long-Term  
34 Care Insurance Act of 2005, § 23-97-301 et seq., that may act to restrict the  
35 tax qualification determination of long-term care insurance contracts to the  
36 federal tax qualification of the contract under the Internal Revenue Code of



1 1986, as it existed on January 1, 2004. It is not the intent of the General  
 2 Assembly to limit the tax qualification determination of long-term care  
 3 insurance contracts to the federal tax qualification of the contract under  
 4 the Internal Revenue Code of 1986, as it existed on January 1, 2004.

5  
 6 SECTION 20. Arkansas Code § 23-97-304(5), concerning the definition of  
 7 "federally tax-qualified long-term care insurance contract" under the Long-  
 8 Term Care Insurance Act of 2005, is amended to read as follows:

9 (5) "Federally tax-qualified long-term care insurance contract"  
 10 means:

11 (A) ~~an~~ An individual or group insurance contract that  
 12 meets the following requirements of section 7702B(b) of the Internal Revenue  
 13 Code of 1986, ~~as it existed on January 1, 2004:~~

14 ~~(A)(i)(a)(i)(a)~~ (i)(a) The only insurance protection provided  
 15 under the contract is coverage of qualified long-term care services.

16 (b) A contract satisfies the requirements of  
 17 this subdivision (5)(A)(i) even though payments are made on a per diem or  
 18 other periodic basis without regard to the expenses incurred during the  
 19 period to which the payments relate;

20 (ii)(a) The contract does not pay or reimburse  
 21 expenses incurred for services or items to the extent that the expenses:

22 (1) Are reimbursable under Title XVIII  
 23 of the Social Security Act, ~~as it existed on January 1, 2004;~~ or

24 (2) Would be reimbursable but for the  
 25 application of a deductible or coinsurance amount.

26 (b) The requirements of this subdivision  
 27 (5)(A)(ii) do not apply to expenses that are reimbursable under Title XVIII  
 28 of the Social Security Act only as a secondary payor.

29 (c) A contract satisfies the requirements of  
 30 this subdivision (5)(A)(ii) even though payments are made on a per diem or  
 31 other periodic basis without regard to the expenses incurred during the  
 32 period to which the payments relate;

33 (iii) The contract is guaranteed renewable under  
 34 section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, ~~as it existed on~~  
 35 ~~January 1, 2004;~~

36 (iv) The contract does not provide for a cash

1 surrender value or other money that can be paid, assigned, pledged as  
2 collateral for a loan, or borrowed, except as provided in subdivision  
3 (5)(A)(v) of this section;

4 (v) All refunds of premiums, policyholder dividends,  
5 or similar amounts under the contract are to be applied as a reduction in  
6 future premiums or to increase future benefits, except that a refund in the  
7 event of the death of the insured or a complete surrender or cancellation of  
8 the contract cannot exceed the aggregate premiums paid under the contract;  
9 and

10 (vi) The contract meets the consumer protection  
11 provisions set forth in section 7702B(g) of the Internal Revenue Code of  
12 1986, ~~as it existed on January 1, 2004~~; or

13 (B) The portion of a life insurance contract that provides  
14 long-term care insurance coverage by rider or as part of the contract and  
15 that satisfies the requirements of ~~section~~ sections 7702B(b) and ~~section~~  
16 7702B(e) of the Internal Revenue Code of 1986, ~~as it existed on January 1,~~  
17 ~~2004~~;

18  
19 SECTION 21. Arkansas Code § 23-97-312(b), concerning the outline of  
20 coverage required to be delivered to a prospective long-term care insurance  
21 applicant, is amended to read as follows:

22 (b) The outline of coverage shall include:

23 (1) A description of the principal benefits and coverage  
24 provided in the policy;

25 (2) A statement of the principal exclusions, reductions, and  
26 limitations contained in the policy;

27 (3)(A) A statement of the terms under which the policy or  
28 certificate, or both, may be continued in force or discontinued, including  
29 any reservation in the policy of a right to change premium.

30 (B) Continuation or conversion provisions of group  
31 coverage shall be specifically described;

32 (4) A statement that the outline of coverage is a summary only,  
33 not a contract of insurance, and that the policy or group master policy  
34 contains governing contractual provisions;

35 (5) A description of the terms under which the policy or  
36 certificate may be returned and premium refunded;

1 (6) A brief description of the relationship between cost of care  
2 and benefits; and

3 (7) A statement that discloses to the policyholder or  
4 certificate holder whether the policy is intended to be a federally tax-  
5 qualified long-term care insurance contract under section 7702B(b) of the  
6 *Internal Revenue Code of 1986, as it existed on January 1, 2004.*

7  
8 *SECTION 22. Arkansas Code Title 4, Chapter 90 is amended to add an*  
9 *additional subchapter to read as follows:*

10  
11 *SUBCHAPTER 7 – DEBT CANCELLATION AGREEMENTS*

12  
13 *4-90-701. Definition.*

14 *As used in this subchapter, "debt cancellation agreement" means a loan*  
15 *term or contractual arrangement modifying a loan term dealing with motor*  
16 *vehicles under which a lender agrees to cancel all or part of a borrower's*  
17 *obligation to repay an extension of credit from the lender upon the*  
18 *occurrence of a specified event other than the death or disability of the*  
19 *borrower, whether or not separate from or a part of other loan documents.*  
20 *Provided, however, for purposes of this subchapter only, the term "debt*  
21 *cancellation agreement" shall not include that form of debt cancellation*  
22 *agreement which constitutes a guaranteed automobile protection waiver*  
23 *agreement or "GAP" waiver agreement. A guaranteed automobile protection*  
24 *waiver agreement or "GAP" waiver agreement means a loan term or a contractual*  
25 *arrangement modifying a loan term dealing with motor vehicles under which a*  
26 *lender agrees to waive, cancel, pay, or satisfy any remaining balance owed*  
27 *on a loan after a total loss or theft of the vehicle.*

28  
29 *4-90-702. Requiring borrower to purchase debt cancellation agreement*  
30 *prohibited.*

31 *A lender shall not require a borrower to purchase a debt cancellation*  
32 *agreement.*

33  
34 *4-90-703. Debt cancellation agreements to be legible – Disclosure*  
35 *requirements.*

36 *All terms of a debt cancellation agreement shall be printed or*

1 reproduced to render all material provisions of the agreement legible and  
2 shall clearly and conspicuously disclose the following information:

3 (1) If the debt cancellation agreement is provided by or  
4 administered by a third party, the debt cancellation agreement shall disclose  
5 that fact and provide the name, address, and telephone number of the third  
6 party and describe the procedure to follow for filing a claim with that third  
7 party under the debt cancellation agreement;

8 (2) The total retail price of the debt cancellation agreement;

9 (3) Any limitation or restriction on the cancellation of the  
10 entire debt due upon the occurrence of the specified event;

11 (4) That the purchaser is allowed to cancel the debt  
12 cancellation agreement at any time and receive a refund paid directly to the  
13 purchaser minus any cancellation fee not to exceed twenty-five dollars  
14 (\$25.00) as follows:

15 (A) If the debt cancellation agreement is cancelled within  
16 thirty (30) days of purchase, a purchaser shall receive a full refund of the  
17 retail price; or

18 (B) If the debt cancellation agreement is cancelled at a  
19 later time, the purchaser shall receive a pro rata refund of the retail price  
20 for the unexpired term based upon the number of elapsed months at the time of  
21 the cancellation compared to the total length of the financing agreement; and

22 (5) That the terms of the debt cancellation agreement financed  
23 by the lender are binding on the lender.

24  
25 4-90-704. Debt cancellation agreements – Restrictions.

26 No debt cancellation agreement shall be issued that:

27 (1) Is in any respect in violation of or does not comply with  
28 this subchapter;

29 (2) Contains or incorporates by reference if incorporation by  
30 reference is otherwise permissible any inconsistent, ambiguous, illusory, or  
31 misleading clauses or exceptions and conditions that deceptively affect the  
32 material terms of the debt cancellation agreement;

33 (3) Has a title, heading, or other indication of its provisions  
34 that is misleading; or

35 (4) Is sold after any representation, oral or written, that is  
36 misleading or deceptive with respect to any material term of the contract or

1 any provision of this subchapter.

2  
3 4-90-705. Application of § 4-88-101 et seq. to debt cancellation  
4 agreements and sellers of debt cancellation agreements.

5 (a) Debt cancellation agreements and sellers of debt cancellation  
6 agreements are subject to the provisions of § 4-88-101 et seq., and any  
7 violation of any of the provisions of this subchapter constitutes an  
8 unconscionable or deceptive act or practice under § 4-88-101 et seq.

9 (b) All remedies, penalties, and authority granted to the Attorney  
10 General under § 4-88-101 et seq. are available to the Attorney General for  
11 the enforcement of this subchapter.

12  
13 SECTION 23. Arkansas Code § 23-60-102(1), concerning the definition of  
14 "insurance" under the Arkansas Insurance Code, is amended to read as follows:

15 (1)(A)(i) "Insurance" is any agreement, contract, or other  
16 transaction whereby one party, the "insurer", is obligated to confer benefit  
17 of pecuniary value upon another party, the "insured" or "beneficiary",  
18 dependent upon the happening of a fortuitous event in which the insured or  
19 beneficiary has, or is expected to have at the time of such happening, a  
20 material interest which will be adversely affected by the happening of such  
21 an event.

22 (ii) A "fortuitous event" means any occurrence or  
23 failure to occur which is, or is assumed by the parties to be, to a  
24 substantial extent beyond the control of either party.

25 (B) "Insurance" shall, for purposes of subtitle 3 of this  
26 title, be deemed to include "annuities", which are agreements by insurers to  
27 make periodic payments that continue during the survival of the measuring  
28 life or lives under the agreements or for a specified period.

29 (C) "Reinsurance" is a contract under which an originating  
30 insurer, called the "ceding" insurer, procures insurance for itself in  
31 another insurer, called the "assuming" insurer or reinsurer, with respect to  
32 part or all of an insurance risk of the originating insurer.

33 (D)(i) "Insurance" shall not include a debt cancellation  
34 agreement.

35 (ii) "Debt cancellation agreement" is a loan term or  
36 contractual arrangement modifying a loan term dealing with motor vehicles

1 under which a lender agrees to cancel all or part of a borrower's obligation  
2 to repay an extension of credit from the lender upon the occurrence of a  
3 specified event other than the death or disability of the borrower. The  
4 agreement may be separate from or a part of other loan documents."

5  
6 SECTION 24. EMERGENCY CLAUSE. It is found and determined by the  
7 General Assembly of the State of Arkansas that the incompatibility of acts of  
8 the Eighty-Sixth General Assembly presents difficult compliance issues for  
9 the administration of debt cancellation agreements; that in order to avoid a  
10 disruption in commerce associated with compliance with other debt  
11 cancellation legislation, the enactment of Sections 22 and 23 of this act is  
12 immediately necessary. Therefore, an emergency is declared to exist and  
13 Sections 22 and 23 of this act being immediately necessary for the  
14 preservation of the public peace, health, and safety, Sections 22 and 23  
15 shall become effective on:

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

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

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

22  
23 /s/ Miller  
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