

ARKANSAS REGISTER

Transmittal Sheet

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AR. REGISTER DIV.
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W.J. "BILL" McCUEN
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

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Secretary of State (11505)
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Little Rock, Arkansas 72201-1094



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Name of Agency Arkansas Insurance Department

Department Legal Division

Contact Person Jean Langford, Chief Counsel, 686-2999

Statutory Authority for Promulgating Rules SS 25-15-201, et seq, 52361-108 ETC.

Intended Effective Date	Date
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<u>on 9-10-93 w/Ark</u>	Filed With Legislative Council <u>5-17-93</u>
<u>SOS + State Highway</u>	Reviewed by Legislative Council <u>6-3-93</u>
	Adopted by State Agency <u>9-10-93</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted In Compliance with Act 434 of 1967 As Amended.

Jean Langford
Signature

Chief Counsel
Title

9-10-93
Date

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W.J. "BILL" McCUEH
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS
BY _____

1 RULE AND REGULATION NO. 56
2 COMPANIES' FINANCIAL REGULATION FEES

3 SECTIONS

- 4 1. PURPOSE.
5 2. AUTHORITY AND SCOPE.
6 3. EFFECTIVE DATE.
7 4. ADMINISTRATIVE AND FINANCIAL REGULATION FEE.
8 5. PAYMENT EXTENSIONS AND WAIVERS; PENALTY FOR NONCOMPLIANCE.
9 6. SEVERABILITY.

10 SECTION 1. PURPOSE. The purpose of this Rule and Regulation is to
11 implement and clarify Sections 3, 4 and 5 of Arkansas Act 652 of 1993,
12 The State Insurance Department Trust Fund Act ("Trust Fund Act"), and
13 Section 44 and others of Act 901 of 1993, the Department Omnibus Act of
14 1993 ("Omnibus Act"), which specify the method and manner of payment of
15 nonrefundable administrative and financial regulatory fees payable by
16 licensed or authorized insurers and others to The State Insurance
17 Department Trust Fund ("Trust Fund") for the support of the operations
18 of the Arkansas Insurance Department ("Department"). Further, it is to
19 clarify that fees imposed under this Rule pursuant to the provisions of
20 Section 3 of Act 652 of 1993 are in addition to any other fee,
21 assessment, tax or premium tax or penalty due and payable under other
22 Arkansas laws or rules by insurers as defined in Act 652. The Rule is
23 to detail the credit provision available to domestic insurers under
24 Section 44 of the Omnibus Act of 1993.

25 SECTION 2. AUTHORITY AND SCOPE. (A) AUTHORITY. The Insurance
26 Commissioner ("Commissioner") hereby promulgates this Rule under his
27 authority pursuant to Section 10(a) of the Trust Fund Act; Ark. Code
28 Ann. §23-61-108; §§25-15-201, et seq.; and other applicable sections of
29 Arkansas law. Credits for domestic insurers referenced in Section 4 of
30 this Rule are based on the provisions of Section 44 of the Omnibus Act.

31 (B) SCOPE. This Rule shall apply to all licensed or authorized
32 domestic, foreign, and/or alien stock and mutual insurers, mutual
33 assessment life and disability insurers, health maintenance
34 organizations ("HMO's"), fraternal benefit societies, hospital and
35 medical service corporations, stipulated premium plan and reciprocal
36 insurers, title insurance companies, prepaid legal insurance companies,
37 and farmers' mutual aid associations ("FMAA's"), pursuant to Section 3
38 of Act 652 of 1993. For purposes of this Rule, "insurers" shall mean
39 all and any of the licensed or authorized insurers of the Commissioner
40 referenced in this Rule, in Section 3 of Act 652 of 1993, and as defined
41 in Ark. Code Ann. §23-60-102 (11).

42 (C) APPLICATION. The Rule is not intended to and shall not
43 apply to approved but non-admitted surplus line insurers, registered
44 foreign and alien risk retention groups, registered purchasing groups,
45 or to licensed automobile clubs or associations. This Rule is intended
46 to apply to annuity premiums and considerations, including annuity and
47 other fund deposit premiums listed on the NAIC Convention Blank
48 Schedule T. This Rule is not intended to apply to indemnity reinsurance
49 premiums or other premiums which are not "direct written". The Rule is
50 intended to apply to companies who have not written any Arkansas

1 premiums in the reported calendar year; the fee imposed by the Act in
2 that situation is the nominal sum of \$500.

3 SECTION 3. EFFECTIVE DATE. This permanent Rule shall be issued on
4 September 10, 1993, replacing the earlier "Emergency Rule 56" in effect
5 since May 15, 1993; and the Rule shall be effective that date as to all
6 persons receiving actual notice, and shall be effective as to all others
7 by constructive notice upon the Commissioner's filing of this Rule with
8 the Arkansas Secretary of State and Arkansas State Library, as required
9 by Ark. Code Ann. §§25-15-201, et seq., as amended by Act 1106 of 1993.

10 SECTION 4. ADMINISTRATIVE AND FINANCIAL REGULATION FEES.

11 (A) FEES DUE ON OR BEFORE JUNE 30, 1993. All insurers were
12 required by Section 3 of Act 652 of 1993 and by Emergency Rule and
13 Regulation 56 to forward to the Department the nonrefundable
14 administrative and financial regulation fee, payable to THE STATE
15 INSURANCE DEPARTMENT TRUST FUND, on or before June 30, 1993, based upon
16 the insurer's direct premiums or annuity considerations (both new and
17 renewal) written or received from or in the State of Arkansas during
18 1992 as evidenced by the appropriate Arkansas page detailing premiums
19 written by class or subclass of insurance on the insurer's 1992 Annual
20 Statement; the fee was to be determined and paid in accordance with the
21 following schedule.

22	ARKANSAS PREMIUMS	REG FEE	ARKANSAS PREMIUMS	REG FEE
23	\$0	\$ 500	\$ 10,000,000-19,999,999	\$10,000
24	01-499,999	750	20,000,000-29,999,999	12,000
25	500,000-2,499,999	1,000	30,000,000-49,999,999	15,000
26	2,500,500-4,999,999	2,500	50,000,000-74,999,999	17,500
27	5,000,000-7,499,999	5,000	75,000,000-99,999,999	20,000
28	7,500,000-9,999,999	7,500	100,000,000 AND UP	25,000

29 (B) FEES DUE ANNUALLY ON OR AFTER JUNE 30, 1993. On and after
30 July 1, 1993, the administrative and financial regulation fee of
31 insurers due under Section 3 of Act 652 of 1993 and this Permanent Rule
32 and Regulation 56 shall be due and payable in the amounts, methods and
33 manner required in Subsection (A) of this Section on or before June 30th
34 of each calendar year, based upon the direct premiums and/or annuity
35 considerations received in the previous calendar year and as reported in
36 the pertinent Annual Statement. However, the fee imposed by this Rule
37 shall in no event exceed \$25,000 for any one insurer in any one calendar
38 year.

39 (C) MANNER AND METHOD OF PAYMENT. (1) The amount of the fee
40 shall be reported on a form prescribed by the Commissioner, and the
41 form, Form CFRF and accompanying fee payment shall be tendered to the
42 Accounting Division of the Department. The fee shall be in the form of
43 cash, a company check or law firm check, certified or cashier's check or
44 money order payable to THE STATE INSURANCE DEPARTMENT TRUST FUND, and
45 shall be mailed or delivered with the Form to the Department, 1123 South
46 University Avenue, Suite 400, Little Rock, Arkansas 72204; ATTN.:
47 Accounting Division.

1 (2) No other Code or Rule fees, licensure fees, fines or taxes
2 shall accompany the filing and payment of these fees and any penalties
3 required under this Regulation; however, if by error any other fees,
4 fines or taxes accompany or are included with this fee payment, the
5 unrelated payment(s) shall be deposited pursuant to the other applicable
6 law or rule.

7 (D) PAYMENT UPON VOLUNTARY WITHDRAWAL. Any insurer voluntarily
8 withdrawing from the State of Arkansas, or voluntarily surrendering its
9 Arkansas certificate of authority for cancellation, shall report and pay
10 the fees owed under this Rule for the final report or calendar year of
11 withdrawal before the Department cancels or expires the Arkansas license
12 and before the Department releases any security deposit of the
13 withdrawing insurer.

14 (E) TRUST FUND DEPOSIT UPON RECEIPT. Upon receipt, the
15 Commissioner shall deposit the fees and/or penalties imposed by this
16 Rule directly into the Trust Fund as special revenues, pursuant to Act
17 652 of 1993.

18 (F) FEES IN ADDITION TO OTHER REQUIRED PAYMENTS. The fees paid
19 by insurers as required under Section 3 of Act 652 of 1993 and this Rule
20 are due and payable in addition to any other licensure, exam,
21 appointment or registration, product or service fee, fine or tax or
22 assessment required by any other Arkansas Code or any Rule section.

23 (G) DOMESTIC INSURERS' CREDITS FOR FEES PAID IN OTHER
24 JURISDICTIONS. Pursuant to Section 44 of the Omnibus Act of 1993,
25 insurers domiciled in Arkansas on and after the effective date of the
26 Omnibus Act, April 6, 1993, are entitled to list as a credit against
27 their Arkansas premium taxes the retaliatory amount of fees paid in
28 other states of licensure because of this State's imposition of the
29 administrative and financial regulation fee under Section 3 of Act 652
30 of 1993 and this Rule. For fees paid in 1993, a credit may be listed on
31 the insurer's annual premium tax form due on or before March 1, 1994;
32 thereafter and in subsequent years, the credit may be taken on the
33 insurer's annual premium tax report due March 1st annually. In no event
34 shall any such credits be allowed against quarterly estimated premium
35 tax payments or referenced in such reports.

36 (H) FEES IN LIEU OF EXAMINERS' COMPENSATION. (1) As to
37 Department examinations of insurers commenced on and after March 24,
38 1993, after an insurer has paid the fee imposed by this Rule and Act 652
39 of 1993, proof of its payment of the fee on the Department records shall
40 be evidence of its payment in lieu of insurers' remittance of examiners'
41 salaries, wages or compensation at or after a Department examination.
42 The examiners' salaries, wages or compensation shall be due and payable
43 as to any examination of any insurer which has not paid its fee imposed
44 by this Rule and Act 652 of 1993.

45 (2) This provision shall be in addition to any other section
46 providing a remedy for nonpayment or noncompliance available to the
47 Commissioner under Act 652 of 1993 or this Rule. Any insurer undergoing
48 Department examination shall continue to be liable for the payment of
49 and shall pay the examiners' reasonable expenses for food, lodging and
50 travel pursuant to Section 12 of Act 652 of 1993 and Ark. Code Ann.
51 §§23-61-201, et seq., regardless of payment or nonpayment of the fee or
52 any penalties imposed under this Rule.

53 SECTION 5. PAYMENT EXTENSIONS AND WAIVERS; PENALTY FOR NONCOMPLIANCE.

1 (A) TIME EXTENSION. In his discretion and for good cause shown,
2 the Insurance Commissioner may grant an extension for reporting and/or
3 payment of the fee required by this Rule for any insurer applying for an
4 extension with written notice received by the Commissioner not less than
5 ten (10) days prior to the due date prescribed by this Rule.

6 (B) WAIVER; CESSATION OF WAIVER. (1) The Commissioner in his
7 discretion may waive all or any part of the fee assessed under this Rule
8 due from an insurer if: (a) the insurer's Arkansas certificate of
9 authority is suspended or revoked; or (b) if the Commissioner finds that
10 the insurer is impaired or insolvent, or its continuing operations are
11 hazardous to the insurance-buying public of the State; or (c) if the
12 insurer is under domiciliary department supervision, or court-ordered
13 conservation, rehabilitation, or liquidation in any state.

14 (2) Any insurer or its domiciliary state insurance department,
15 or domiciliary state conservator, rehabilitator, or liquidator may
16 request waiver in writing; but the Commissioner shall not consider
17 waivers for insurers which fail to give the advance written notice
18 required by this Rule. Upon activation or reinstatement of any
19 suspended insurer's Arkansas certificate of authority, the insurer shall
20 automatically commence reporting and payment of the fee on the next due
21 date following reinstatement or activation, and annually thereafter
22 during continued active licensure in this State. Trust Fund
23 reimbursement for fees which would have been assessed during the waiver
24 period but for the Commissioner's approval of the waiver shall not be
25 required.

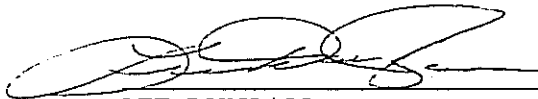
26 (C) PENALTY. (1) Upon failure of the insurer to report or pay
27 the fees or penalties required by Act 652 of 1993 and this Rule when
28 due, absent an extension or waiver which the Commissioner has granted,
29 the Commissioner shall assess and collect a monetary penalty of one
30 hundred dollars (\$100) a day for each day of delinquency.

31 (2) The Commissioner, after notice and a hearing, may also
32 suspend the Arkansas certificate of authority of any insurer until
33 delinquent fees and the monetary penalty under this Rule are paid to the
34 Trust Fund. After notice and a hearing, the Commissioner may suspend or
35 revoke the Arkansas certificate of authority of any insurer upon his
36 finding that the insurer has without good cause failed to report and/or
37 pay the fees.

38 (D) OTHER LEGAL REMEDIES FOR COLLECTION. Upon the failure of
39 any insurer to report and/or pay the fee at any time pursuant to this
40 Rule, the Commissioner may bring an action in the Pulaski County Circuit
41 Court or Federal District Court or other court as appropriate in the
42 name of and on behalf of the Trust Fund to recover any fees and monetary
43 penalties owed by the non-complying insurer. Any such action shall be
44 additional to other remedies available to the Commissioner. The
45 Commissioner shall demand and collect from the insurer payment or
46 reimbursement of any Department examiner's salary, wages or compensation
47 accruing during the course of an examination of the insurer which
48 coincides with the reporting period when the fee is due and is not
49 paid. All costs of such an action, including reasonable attorney fees
50 and expenses, shall be payable by the insurer failing to pay the subject
51 fee and/or penalty and may be included as part of any judgment. The
52 doctrine of election of remedies shall not be applicable under this
53 Rule, and the Commissioner shall, upon a violation by an insurer, have
54 authority to sanction and restrict the insurer's license and authority

1 to transact business as well as to seek such judicial recourse as he
2 deems necessary on behalf of the people of the State.

3 SECTION 6. SEVERABILITY. If any provision of this Rule or the
4 application thereof to any insurer, person or circumstance is held
5 invalid, such invalidity shall not affect other provisions or
6 applications of this Rule which can be given effect without the invalid
7 provisions or application; and to this end, the provisions of this Rule
8 are declared to be severable.



LEE DOUGLASS
INSURANCE COMMISSIONER
STATE OF ARKANSAS

Sept. 10, 1993

SEPTEMBER 10, 1993

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