

Transmittal Sheet



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SECRETARY OF STATE  
LITTLE ROCK, ARKANSAS  
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Secretary of State  
State Capitol Rm. 010  
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Name of Agency Arkansas Insurance Department

Department Legal Division

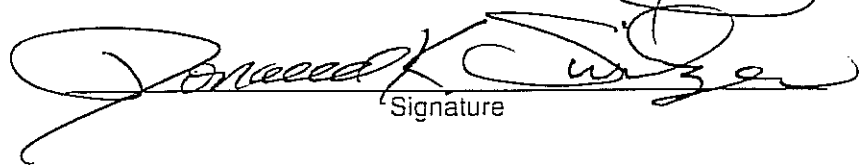
Contact Person Donald K. Switzer, Assistant Commissioner

Statutory Authority for Promulgating Rules Act 1143 of 1991, Section 3, codified as A.C.A. §§23-92-301 et seq., Acts 652 and 1155 of 1993 and Section 47 of Act 901 of 1993 amending A.C.A. §§23-63-209, and A.C.A. §§23-61-108 and 25-15-201, et seq.

Intended Effective Date		Date
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<input type="checkbox"/> 20 Days After Filing	Final Date for Public Comment . . . . .	<u>12/3/93</u>
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<u>12/29/93</u>	Reviewed by Legislative Council . . . . .	<u>11/4/93</u>
	Adopted by State Agency . . . . .	<u>12/29/93</u>

CERTIFICATION OF AUTHORIZED OFFICER

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

  
Signature

Assistant Insurance Commissioner  
Title

December 28, 1993  
Date

1  
2

RULE AND REGULATION 58  
EMPLOYEE LEASING FIRMS AND EMPLOYEE LEASING GROUPS

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26 SECTION 1. AUTHORITY

27 This Rule and Regulation is promulgated and adopted by the Insurance  
28 Commissioner for the State of Arkansas ("Commissioner") pursuant to the  
29 authority vested in the Commissioner by Section 3 of Act 1143 of 1991,  
30 codified as Arkansas Code Annotated §§ 23-92-301, et seq., by Acts 652 and  
31 1155 of 1993, by Section 47 of Act 901 of 1993, amending Arkansas Code  
32 Annotated §§ 23-63-309, and by Arkansas Code Annotated §§ 23-61-108 and  
33 25-15-201, et seq.

34 SECTION 2. PURPOSE

35 The purpose of this Rule and Regulation is to establish procedures  
36 for licensing of employee leasing firms and employee leasing firm groups  
37 and to establish minimum standards which employee leasing firms and  
38 employee leasing firm groups must meet in conducting business in this  
39 State.

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1 SECTION 3. EFFECTIVE DATE: EMERGENCY

2 Pursuant to the Commissioner's authority under Ark. Code Ann.  
3 §23-61-108, §§25-15-201, et seq., as amended by Act of 1993, Act 652  
4 of 1993, Act 901 of 1993, and other applicable laws and rules, the  
5 effective date of this Rule and Regulation is December 29, 1993, upon  
6 filing with the Arkansas Secretary of State and the Arkansas State  
7 Library.

8 SECTION 4. DEFINITIONS

9 A. "Commissioner" shall mean the Insurance Commissioner for the  
10 State of Arkansas.

11 B. "Person" shall mean an individual, an association, a company, a  
12 firm, a partnership or a corporation.

13 C. "Client" shall mean a person who obtains all or part of its work  
14 force or human labor or services from another person through an employee  
15 leasing arrangement.

16 D. "Employee Leasing Firm" shall mean any person engaged in  
17 providing services of employees pursuant to one or more employee leasing  
18 arrangements.

19 E. "Employee Leasing Firm Group" shall mean at least two (2), but  
20 no more than five (5) corporate employee leasing firms each of which are  
21 majority owned by the same controlling person, or ultimate parent.

22 F. "Controlling Person" shall mean:

23 1) An officer or director of a corporation seeking to offer  
24 employee leasing services, a shareholder holding ten (10)  
25 percent or more of the voting stock of a corporation  
26 seeking to offer employee leasing services, or a partner of  
27 a partnership seeking to offer employee leasing services;  
28 or

29 2) An individual who possesses, directly or indirectly, the  
30 power to direct or cause the direction of the management or  
31 policies of a company seeking to offer employee leasing  
32 services through the ownership of voting securities, by  
33 contract or otherwise.

34 G. "Employee Leasing Arrangement" shall mean an arrangement or  
35 agreement, under written contract or otherwise, whereby:

36 1) an employee leasing firm assigns or purports to assign  
37 human beings, or the labor or services of human beings, to  
38 clients, for whom the human beings either do perform or are  
39 expected to perform such labor or services;

40 2) the arrangement is intended to be, or is, on-going rather  
41 than temporary in nature; and

42 3) common law employment rights and responsibilities relative  
43 to the "assigned" human being, including the employer's  
44 right of direction and control of the "employee" as to the  
45 method and manner of doing the work, are shared by the  
46 employee leasing firm and the client.

47 Although it is not always necessarily true, it is generally true that in  
48 an "employee leasing arrangement" the initial source of the workforce that  
49 is to be leased or assigned to the "client" is the existing workforce of  
50 the client.

1 The term "employee leasing arrangement" is to be liberally construed  
2 so as to include any and all of such arrangements meeting the criteria  
3 hereinabove set forth, by whatever term known, by which the right to  
4 utilize the labor or services of human beings in a productive capacity is  
5 assigned or transferred from one person or entity to another. The  
6 employer's right of direction and control of the "employee" is deemed to  
7 be "shared" by the employee leasing firm and the client whenever: (i) the  
8 arrangement, agreement or contract between the client and the employee  
9 leasing firm expressly so states; or (ii) a substantive analysis of the  
10 client's manufacturing, service or business process reveals that, in fact,  
11 the client, or someone acting on his behalf and in his interest, exercises  
12 some degree of control over the "employees" as to the method and manner of  
13 the work performed.

14 H. "Temporary Employee" shall mean a person employed either through  
15 another person or directly by an employer to support or supplement the  
16 existing work force in special situations such as employee absences, and  
17 temporary skill shortages, seasonal workloads, and special assignments and  
18 projects with the expectation that the person's position will be  
19 terminated upon the completion of the task or function. Again, although  
20 it is not always true, it is generally true that the initial source of the  
21 workforce leased or assigned to a client to fill a "temporary" position is  
22 the temporary leasing agency or company and not the client. A particular  
23 relationship between a leasing entity, the worker providing the services,  
24 and the client employer will be deemed to be "temporary" when the position  
25 or job (not necessarily the worker or series of workers) is genuinely  
26 anticipated to exist only so long as the special situation or project  
27 continues. The relationship between these entities or persons shall not  
28 be considered "temporary" when the position or job is a regular, ongoing  
29 part of the employer's regular manufacturing or service process --  
30 regardless of how many different workers may be supplied by a third party  
31 over time to fill that job or position. Contracting for services to be  
32 performed by temporary employees shall not be considered the making of  
33 employee leasing arrangements. In administering this Rule and Regulation  
34 there shall be a rebuttable presumption that when: (i) the putative  
35 temporary employment has continued beyond the "special situation" which  
36 served as its genesis or reason for being; or (ii) the majority of the  
37 workers or employees providing services to a particular client during the  
38 course of any calendar year at any particular work site or job site are,  
39 in fact, provided to the employer by a third party or parties and are not  
40 considered or treated as regular full time "employees" by the client, such  
41 are not "temporary" employment relationships, but, rather, are "employee  
42 leasing arrangements."

43 I. "Independent Contractor" shall mean a person who, exercising an  
44 independent employment or engaging in an independent business enterprise,  
45 contracts with another person to do a piece of work according to the  
46 person's own methods, and without being subject to the other person's  
47 control, except as to the result of the work. Contracting for services to  
48 be performed by independent contractors shall not be considered the making  
49 of employee leasing arrangements.

1 SECTION 5. EXEMPTIONS

2 This Rule and Regulation shall not apply to a labor organization or  
3 to any political subdivision of this State or the United States or to any  
4 programs or agencies thereof. Further, this Rule and Regulation shall not  
5 apply to "temporary" employment relationships as herein defined, nor to  
6 contracts between employers and "independent contractors" as hereinabove  
7 defined.

8 SECTION 6. LICENSE REQUIRED

9 Any person who shall engage in the business of or act as an employee  
10 leasing firm or employee leasing firm group without first procuring a  
11 license, or who otherwise violates the provisions of Section 3 of Act 1143  
12 of 1991 or of this Rule and Regulation may be penalized as provided in  
13 Section 16 of this Rule and Regulation.

14 SECTION 7. APPLICATION FOR INITIAL LICENSE

15 Every applicant for an initial employee leasing firm or employee  
16 leasing firm group license shall file with the Commissioner a completed  
17 application on a form prescribed and furnished by the Commissioner

- 18 A. RESIDENT EMPLOYEE LEASING FIRMS. Applicants for license as a  
19 resident employee leasing firm shall meet the following minimum standards:
- 20 1) If an individual, the applicant shall be a resident of this  
21 State and shall have reached the age of majority.
  - 22 2) If a partnership, the applicant shall state the names and  
23 home addresses of all partners and indicate whether each  
24 partner is a general or a limited partner. The applicant  
25 shall include a copy of the Partnership Agreement, or an  
26 affidavit signed by all partners to the effect that no  
27 written partnership agreement exists. If a limited  
28 partnership, the partnership must also produce and file a  
29 certified copy of its "Certificate of Limited Partnership"  
30 obtained through the procedure at Ark. Code §4-43-201, et  
31 seq.
  - 32 3) If a corporation, the applicant shall state the names and  
33 home addresses of all officers, directors, and of the legal  
34 or equitable owners of ten percent (10%) or more of any  
35 class of the stock of the corporation. The applicant shall  
36 include a certified copy of its Articles of Incorporation  
37 filed with the Secretary of State and proof that its most  
38 recent annual corporate franchise tax has been paid to the  
39 Secretary of State.
  - 40 4) The applicant shall state the address of its principal  
41 place of business in this State and the address(es) of any  
42 other office(s) within this State through which the  
43 applicant intends to conduct business as an employee  
44 leasing firm.
  - 45 5) The applicant shall include a current list of clients with  
46 whom the applicant has, if any, employee leasing  
47 arrangements.

1           6) The applicant shall provide such other information which  
2           the Commissioner deems necessary to show that the applicant  
3           or the controlling persons thereof is/are of good moral  
4           character, business integrity and financial responsibility.

5           B. NON-RESIDENT EMPLOYEE LEASING FIRMS. The Commissioner may  
6 license as a non-resident employee leasing firm an individual, partnership  
7 or corporation which is domiciled in another state but which, nonetheless,  
8 maintains or plans to maintain a "substantial presence" within this  
9 State. All of such non-resident applicants must otherwise be qualified  
10 under Section 3 of Act 1143 of 1991 and this Rule and Regulation. An  
11 employee leasing firm shall be deemed to have a "substantial presence"  
12 within this State so as to require licensure if: (i) it maintains any  
13 office or business location within this State; (ii) it undertakes any  
14 marketing efforts in this State, or (iii) it has one hundred (100) or more  
15 "employees" who are domiciled within this State.

16           Each non-resident employee leasing firm applying for licensure shall  
17 file an appointment, on a form provided, of the Commissioner and his  
18 successors in office as its attorney to receive service of legal process  
19 issued against it in this State.

20           If any non-resident employee leasing firm has a substantial presence  
21 within this State but has not complied with the requirements of Section 3  
22 of Act 1143 of 1991 and this Rule and Regulation, the penalty provisions  
23 of Section 16 hereof shall apply and may be enforced by the Commissioner.

24           C. "RESTRICTED" LICENSURE AND LICENSES BY RECIPROCITY.

25           1) Restricted License. Any non-resident employee leasing firm  
26 or employee leasing firm group which has any presence within this State  
27 not rising to the level of "substantial presence" as hereinabove set forth  
28 shall, nonetheless, apply for a "Restricted License"; provided, however,  
29 that if such non-resident employee leasing firm or employee leasing group  
30 is licensed as a resident or domestic leasing firm or group under the laws  
31 of another state, if such laws of such other state are, in the reasonable  
32 opinion of the Commissioner, deemed substantially similar to the laws of  
33 this State with respect to costs and, also, the determination of  
34 "substantial presence," such applicant shall be subject to each of the  
35 requirements of Section 3 of Act 1143 of 1991 and this Rule and Regulation  
36 except for the financial assurances required by: (i) Section 8 of this  
37 Rule and Regulation, and (ii) Ark. Code Ann. § 23-92-307 as enacted by  
38 Section 3 of Act 1143 of 1991.

39           2) Reciprocal Licenses. Any employee leasing firm licensed as  
40 a resident employee leasing firm or employee leasing firm group under the  
41 laws of another State shall, if such laws be deemed by the Commissioner to  
42 be substantially similar to those of this State and if under the laws of  
43 the State of the firm's state of resident licensure a similar privilege is  
44 granted to such firms whose resident licensure is within this State, be  
45 entitled to the issuance of a "Non-Resident Reciprocal License" upon  
46 completing application and appointment of the Commissioner as agent for  
47 service of process issued within this State. Such firms shall be subject  
48 to all of the provisions of Section 3 of Act 1143 of 1991 and this Rule  
49 and Regulation.

50           D. EMPLOYEE LEASING FIRM GROUPS. The Commissioner may, in his  
51 reasonable discretion, issue a single resident or non-resident license to  
52 any employee leasing firm group comprised of at least two but not more  
53 than five employee leasing firms that are corporations if each of same is

1 owned and controlled by the same ultimate controlling person. An employee  
2 leasing group may, on behalf of each of its members, satisfy the reporting  
3 and financial assurance requirements of Section 3 of Act 1143 of 1991 on a  
4 consolidated basis. The ultimate controlling person shall complete the  
5 application and shall include a copy of the Articles of Incorporation for  
6 each employee leasing firm within the group. Further, the information  
7 required in Subdivision (A)(2) and (A)(3) of this Section shall be  
8 included as to the controlling person if such is a partnership or  
9 corporation. The applicant shall also include a guarantee, on a form  
10 approved by the Commissioner, executed by each employee leasing firm  
11 within the group guaranteeing payment of all financial obligations with  
12 respect to wages, employment taxes and employee benefits of each other  
13 member within the group.

14 Each employee leasing firm group shall be subject to a single license  
15 fee as required by Arkansas Code Annotated § 23-93-309 and by Section 12  
16 hereof. Multiple or "duplicate" copies of the license may be made  
17 available to the individual corporate employee leasing firms for a  
18 reasonable administrative charge to be set by the Commissioner.

19 E. Notice of Licensure. Upon the issuance or renewal of any  
20 employee leasing firm or employee leasing group license, the Commissioner  
21 shall immediately notify:

- 22 1) The licensee;
- 23 2) The Employment Security Department of the State of  
24 Arkansas;
- 25 3) The Arkansas Workers Compensation Commission;
- 26 4) The Plan Administrator or Plan Administrators of the  
27 Workers Compensation Insurance Plan; and
- 28 5) The Secretary of State for the State of Arkansas.

## 29 SECTION 8. FINANCIAL ASSURANCES

30 A. In addition to the requirements of Section 7 of this Rule and  
31 Regulation, every applicant for licensure as a resident or non-resident  
32 employee leasing firm or employee leasing firm group (other than for  
33 "restricted" licensure as set out above) shall, as a condition of  
34 eligibility for such license, provide financial assurances under one or  
35 more of the methods set out herein.

36 1) The applicant may post a surety bond issued by an unaffiliated  
37 corporate surety authorized to do business in this State in an amount not  
38 less than Fifty Thousand Dollars (\$50,000), the terms and conditions of  
39 which shall be approved by the Commissioner. The bond shall:

40 a) be conditioned that the licensee, and any person as an  
41 agent of the licensee, will not violate the provisions of  
42 Section 3 of Act 1143 of 1991, of this Rule and Regulation,  
43 of any orders lawfully issued by the Commissioner or fail  
44 to pay any wages due under any contract made by the  
45 licensee in the conduct of its business under its license;  
46 and

47 b) secure the performance of the licensee's responsibility to  
48 its leased employees for payment of wages.

49 2) In lieu of posting a surety bond, the applicant may deposit cash  
50 or an irrevocable letter of credit (in a form approved by the  
51 Commissioner) from a National Banking Association not affiliated with

1 applicant and approved by the Commissioner in the sum of Fifty Thousand  
2 Dollars (\$50,000); further, the applicant may make deposit of securities  
3 with a market value as determined by the Commissioner of not less than  
4 Fifty thousand Dollars (\$50,000) and make additional deposits of  
5 securities as may be required to maintain such market value. The  
6 applicant shall assign said securities to the Commissioner on a form  
7 approved by the Commissioner and execute such other documents in  
8 connection with the deposit as the Commissioner shall prescribe.

9 3) In lieu of posting a surety bond or depositing cash, cash  
10 equivalent or securities, the applicant may file with the Commissioner an  
11 audited financial statement prepared in accordance with generally accepted  
12 accounting principles by an independent certified public accountant.

13 a) The audited financial statement shall be prepared as of a  
14 date within six (6) months prior to the date of  
15 application.

16 b) The audited financial statement shall show a true minimum  
17 net worth for the applicant, subject to concurrence by the  
18 Commissioner, of not less than One Hundred Thousand Dollars  
19 (\$100,000).

20 c) During the term of its license, the licensee shall continue  
21 to file with the Commissioner an interim financial  
22 statement on a calendar semi-annual basis, prepared by a  
23 certified public accountant in accordance with generally  
24 accepted accounting principles as of a date within three  
25 (3) months prior to the end of the filing period. These  
26 interim financial statements (which need not be audited)  
27 shall show a true minimum net worth as set out above and  
28 shall be received by the Commissioner within fifteen (15)  
29 days of the end of the semi-annual period.

30 B. In addition to the requirements of Section 7 of this Rule and  
31 Regulation, every applicant for a Reciprocal License shall as a condition  
32 of eligibility file or deposit with the Commissioner such "substantially  
33 similar" financial assurances as required by the applicant's state of  
34 domicile. If such financial assurances include the filing of a financial  
35 statement and if the applicant has chosen to comply in that fashion, such  
36 statement shall be an audited financial statement prepared in accordance  
37 with generally accepted accounting principles by an independent certified  
38 public accountant.

39 1) The financial statement shall be prepared as of a date  
40 within six (6) months prior to the date of the application.

41 2) The financial statement shall show a true minimum net worth  
42 for the applicant of not less than the sum required by the  
43 laws of the applicant's state of domicile.

44 3) During the term of its license, the licensee shall continue  
45 to file with the Commissioner audited financial statements  
46 on an annual basis and with its annual application for  
47 renewal, prepared as of a date within six (6) months prior  
48 to the end of the filing period.

49 C. Any licensee providing any type of financial assurance as set  
50 forth in Subsections (A) or (B) above who fails to maintain the financial  
51 assurance in the prescribed amount and with the degree of fiscal integrity  
52 and reliability reasonably satisfactory to the Commissioner shall not be  
53 renewed, or in the alternative, if the deficiencies become known to the



1 Commissioner during the term of the license, the licensee shall, within  
2 thirty (30) days of receipt of notice, provide financial assurances as set  
3 out in Subsection (A) of this Section, or be subject to the penalties set  
4 out in Sections 9(C) and 16 of this Rule and Regulation.

5 SECTION 9 ACTION AGAINST BOND OR SECURITIES

6 A. If any person shall be aggrieved by the misconduct of any  
7 licensee, that person may maintain an action in his own name upon the bond  
8 of the licensee (if there be one) in any court of competent jurisdiction  
9 or in the Circuit Court of Pulaski County, Arkansas. Such an action shall  
10 not be exclusive of any other remedy available to the aggrieved person.  
11 Alternatively, the Commissioner may maintain such an action in the name of  
12 the State for the benefit of the aggrieved person.

13 1) The aggrieved person may assign the claim, and the assignee  
14 shall be entitled to any remedies available to the  
15 aggrieved person.

16 2) An assigned claim may be enforced in the name of the  
17 assignee.

18 B. If any person obtains an un-superseded judgment in its favor  
19 against a licensee maintaining a deposit of securities, cash, or cash  
20 equivalent, and the licensee does not promptly pay the judgment, the  
21 Commissioner shall upon receipt of a certified copy of the final judgment:

22 1) Notify the licensee by certified mail to pay the judgment  
23 within thirty (30) days of receipt of the notice; and

24 2) pay from the cash deposit or draw upon a letter of credit  
25 or sell at public or private sale an amount of securities  
26 sufficient to pay the judgment, if the judgment is not paid  
27 by the licensee within the thirty (30) day period.

28 C. A licensee shall have thirty (30) days after receiving notice of  
29 cancellation of its bond or notice that the cash, letter of credit or  
30 securities have been drawn upon, to replace or supplement its bond, cash,  
31 letter of credit or sold securities. Failure of the licensee to so  
32 replace shall result in summary suspension of its license, which  
33 suspension shall continue until replacement of the bond or sold  
34 securities. A licensee so suspended shall not carry on the business of an  
35 employee leasing firm while suspended.

36 D. When any licensee, regardless of the form of Financial Assurance  
37 provided, does not promptly pay an un-superseded judgment against it, the  
38 Commissioner shall provide to the licensee, a notice in writing requiring  
39 that the licensee, within thirty (30) days of receipt of notice, shall  
40 either pay the judgment in full or post supersedeas satisfactory to the  
41 Court issuing the judgment. Failure of the licensee to pay or post shall  
42 result in summary suspension of its license, which suspension shall  
43 continue until the judgment is reversed, superseded or paid. A licensee  
44 so suspended shall not carry on the business of an employee leasing firm  
45 while suspended.

46 SECTION 10. REJECTION OF APPLICATION FOR LICENSE

47 A. The Commissioner, or his authorized representative, shall reject  
48 an application for license:

- 1) where the application is not fully completed, properly executed or is otherwise deficient on its face;
- 2) where documents required to supplement the application are not included in the application packet;
- 3) where any fee required by Section 12 is not submitted or is incorrectly submitted with the application packet;
- 4) where the applicant has had an employee leasing firm or employee leasing firm group license revoked in this or any other state, unless such revocation has subsequently been rescinded or otherwise suspended and the problems remedied to the reasonable satisfaction of the Commissioner;
- 5) where the applicant, or any person named in the application, has made a material misrepresentation in the application; or
- 6) upon finding that any person named in the application, any controlling person, or any person in a management or policy-making position with any applicant, is not of good moral character, business integrity or financial responsibility, or that there is good and sufficient reason within the meaning and purpose of this Rule and Regulation or of Section 3 of Act 1143 of 1991 to reject the application.

B. The Commissioner or his authorized representative shall furnish the applicant with a written statement of the reason(s) for rejecting or revoking the application. The applicant may request a hearing before the Commissioner within thirty (30) days of receipt of the written statement. The hearing and further appeal shall proceed as provided in Arkansas Code Annotated §§23-61-301, et. seq.

#### SECTION 11. RENEWAL OF LICENSE

A. Any license issued hereunder shall remain in force, unless revoked, for one (1) year from the date of issue of license.

B. At least thirty (30) days prior to the expiration of its license, the licensee shall submit an application for renewal of license on a form and with such supplemental material as may be prescribed by the Commissioner. Late renewal applications may possibly not be processed prior to the expiration of the licensee's current license, thereby resulting in a time period of unlicensed activity. Those engaged in such unlicensed activity shall be subject to the penalties set out in Section 16 of this Rule and Regulation.

C. An application for renewal of license shall be rejected by the Commissioner, or his authorized representative, upon any ground set out in Subsection (A) of Section 10. The rejected applicant shall have the procedures of Subsection (B) of Section 10 available to review the rejection.

#### SECTION 12. FEES AND LICENSES

A. The nonrefundable fees for initial and renewal licenses of resident, nonresident, and reciprocal employee leasing firms or employee leasing firm groups shall be Five Hundred Dollars (\$500).

1 B. The nonrefundable fee for initial and renewal licenses of  
2 restricted non-resident employee leasing firms or employee leasing groups  
3 shall be Fifty Dollars (\$50).

4 C. Duplicate copies of employee leasing firm or group licenses  
5 shall be Ten Dollars (\$10).

6 SECTION 13. SUSPENSION OR REVOCATION OF LICENSE

7 A. In addition to imposition of the penalties set out in Section 16  
8 of this Rule and Regulation, the Commissioner may suspend for up to twelve  
9 (12) months, or may revoke or refuse to renew any license issued  
10 hereunder, if, after notice to the licensee of the charges against it and  
11 after hearing the Commissioner finds any one or more of the following  
12 causes exist:

- 13 1) Any cause for which issuance of the license could have been  
14 refused had it then existed and been known to the  
15 Commissioner;
- 16 2) Violation of or noncompliance with any applicable provision  
17 of Section 3 of Act 1143 of 1991, such provisions of titles  
18 11 and 23 of the Arkansas Code which may be applicable, or  
19 of this Rule and Regulation or of any order of the  
20 Commissioner;
- 21 3) Obtaining or attempting to obtain any license through  
22 misrepresentation or fraud;
- 23 4) Conviction of the licensee, a controlling person, or any  
24 person with material management and policy-making authority  
25 with the licensee, of a felony;
- 26 5) If in the conduct of business under the license, the  
27 licensee violates the provisions of Section 14 or Section  
28 15 of this Rule and Regulation; or
- 29 6) Failure to provide a complete and truthful written response  
30 to a written inquiry from the Commissioner or his  
31 authorized representative within thirty (30) days after  
32 receipt of the inquiry.

33 B. The license of a partnership or corporate employee leasing firm  
34 or employee leasing firm group may be suspended, revoked, or not renewed  
35 for any of the causes set out in Subsection (A) of this Section if such  
36 cause relates to any individual designated in the license or who otherwise  
37 exercises management or policy-making authority for the partnership or  
38 corporation.

39 C. Upon suspension or revocation of license, the Commissioner shall  
40 immediately notify:

- 41 1) The licensee, by mail addressed to the licensee at its  
42 address last of record with the Commissioner, who may  
43 appeal the decision of the Commissioner, which appeal shall  
44 proceed as provided in Arkansas Code Annotated § 23-61-307;
- 45 2) Each client of the licensee, either by mail or by  
46 publication of notice in a newspaper with state-wide  
47 circulation;
- 48 3) The Employment Security Department of the State of  
49 Arkansas;

- 1           4) The Office of the Attorney General of the State of
- 2           Arkansas;
- 3           5) The Arkansas Workers' Compensation Commission; and
- 4           6) The Secretary of State for the State of Arkansas.

5           D. The Commissioner shall not again issue any license provided for  
6 in this Rule and Regulation to any employee leasing firm or employee  
7 leasing firm group whose license has been revoked for a minimum period of  
8 one year. The Commissioner may upon conducting a reinstatement hearing at  
9 the request of the former licensee, reinstate the license only if the  
10 cause of the revocation has been corrected to the reasonable satisfaction  
11 of the Commissioner.

12 SECTION 14.        DECEPTIVE PRACTICES; PROHIBITED ACTS

13           The following act and omissions are deemed to constitute deceptive  
14 practices and are prohibited acts of employee leasing firms and employee  
15 leasing groups:

16           A. Making, issuing, circulating, or causing to be made, issued or  
17 circulated, any estimate, illustration, circular, statement, sales  
18 presentation, omission, or comparison which misrepresents the benefits,  
19 advantages, conditions, or terms of any employee leasing arrangement; or  
20 the licensing status of the firm or group under this Rule and Regulation;

21           B. Making, publishing, disseminating, circulating, or placing  
22 before the public or causing, directly or indirectly, to be made,  
23 published, disseminated, circulated, or placed before the public in a  
24 newspaper, magazine, or other publication or in the form of a notice,  
25 circular, pamphlet, letter, or poster or over any radio or television  
26 station or in any other way an advertisement, announcement, or statement  
27 containing any assertion, representation, or statement with respect to the  
28 business of employee leasing or with respect to any person in the conduct  
29 of its employee leasing business which is untrue, deceptive, or  
30 misleading;

31           C. Making, publishing, disseminating, or circulating, directly or  
32 indirectly, or aiding, abetting, or encouraging the making, publishing,  
33 disseminating, or circulating of any oral or written statement or of any  
34 pamphlet, circular, article, or literature which is false or maliciously  
35 critical of or derogatory to the financial condition of any person and  
36 which is calculated to injure that person;

37           D. Entering into any agreement to commit or, by an concerted  
38 action, committing any act of boycott, coercion, or intimidation resulting  
39 in or tending to result in unreasonable restraint of, or monopoly in, the  
40 business of employee leasing;

41           E. Filing with any supervisory or other public official or making,  
42 publishing, disseminating, circulating, or delivering to any person, or  
43 placing before the public or causing, directly or indirectly, to be made,  
44 published, disseminated, circulated, delivered to any person, or placed  
45 before the public any false statement of financial condition of a person  
46 with intent to deceive;

47           F. Knowingly making any false entry of a material fact in any book,  
48 report, or statement of any person or knowingly omitting to make a true  
49 entry of any material fact pertaining to the business of the person in any  
50 book, report, or statement of that person;

1 G. Engaging in any act or omission which discriminates against any  
2 person on the basis of race, color, sex, age, religion, or national  
3 origin;

4 H. Permitting to be used or using, permitting to be filed or filing  
5 any name, trade name, fictitious name, or business identity which is the  
6 same as, similar to, or may be confused with the name, trade name,  
7 fictitious name, or business identity of an existing licensee, any  
8 governmental agency, or any nonprofit organization;

9 I. Using or permitting to be used in the marketing soliciting,  
10 selling, negotiating, or contracting of employee leasing arrangements the  
11 fact that any person has made financial assurances hereunder;

12 J. Engaging in any practice designed to conceal or obstruct or  
13 which has the effect of concealing or obstructing the determination by the  
14 Commissioner, by the Workers Compensation Commission, by any workers  
15 compensation insurer or by any workers compensation plan administrator of:  
16 (i) the identity and business location(s) of the client; (ii) the  
17 appropriate risk classification of the client company's business and the  
18 workplace exposure of the "shared" employees; (iii) that client's actual  
19 experience modifier; or (iv) the client's actual payroll for the leased or  
20 shared employees.

21 K. Entering into or maintaining any employee leasing arrangement by  
22 which fewer than all of the employees performing labor or services for the  
23 client are, in fact, leased to the client, as required by the mandate of  
24 Ark. Code §11-9-408(c), as amended by Act 796 of 1993, that there be no  
25 split coverages. This provision is not intended to prohibit issuance to  
26 clients of employee leasing firms or employee leasing firm groups of  
27 separate "if any" policies of workers compensation insurance designed to  
28 cover the client for the risks posed by possibly uninsured subcontractors.

29 L. Any other practice not specifically defined herein which the  
30 Commissioner, after notice and hearing, determines to be a deceptive  
31 practice.

## 32 SECTION 15. RESPONSIBILITIES OF LICENSEES

33 A. A licensed employee leasing firm or employee leasing firm group  
34 shall be deemed an employer of its leased employees and shall at a minimum  
35 perform the following employer responsibilities:

- 36 1) Pay wages and collect, report and pay employment taxes from  
37 its own accounts;
- 38 2) Pay unemployment taxes as required by Arkansas and Federal  
39 law;
- 40 3) Ensure that all of its leased employees are covered by  
41 workers' compensation insurance through a policy or plan  
42 maintained by the employee leasing firm, employee leasing  
43 firm group or the client; that each client be properly and  
44 completely identified to the insurer and noted on the  
45 policy of insurance, or be tendered its own policy of  
46 insurance, and that all rules and filings of the insurer or  
47 of the Workers Compensation Insurance Plan be followed so  
48 as to insure that the premium collected and remitted is  
49 commensurate with the workplace risk faced by the leased  
50 employees;



1 A. Any person violating any provisions of this Rule and Regulation  
2 or any provisions of Section 3 of Act 1143 of 1991 shall, after notice and  
3 hearing, be liable for a civil penalty of not less than Two Hundred Fifty  
4 Dollars (\$250) nor more than Five Thousand Dollars (\$5,000) for each  
5 violation, with each day of non-compliance constituting a separate  
6 violation.

7 B. The Commissioner shall have the power to bring an action in the  
8 Chancery Court of Pulaski County to enjoin or restrain any person from  
9 engaging in the business of or action as an employee leasing firm or  
10 employee leasing firm group who has not procured a license or who is  
11 otherwise in violation of Section 3 of Act 1143 of 1991 or this Rule and  
12 Regulation.

13 SECTION 17. POSTING OF LICENSES

14 Each license issued under this Rule and Regulation must be posted in  
15 a conspicuous place in the principal place of business of the licensee in  
16 this State. Each licensee shall display, in a place that is in clear and  
17 unobstructed public view, a notice stating that the business operated at  
18 the location is licensed and regulated by the Commissioner and that any  
19 questions or complaints should be directed to the Commissioner.

20 SECTION 18. LICENSE NOT ASSIGNABLE

21 A licensee may not conduct business under any name other than that  
22 specified in the license. A license issued under this Rule and Regulation  
23 is not assignable. A licensee may not conduct business under any  
24 fictitious or assumed name without prior written authorization from the  
25 Commissioner. A licensee may not conduct business under more than one  
26 name unless it has obtained a separate license for each name.

27 SECTION 19. EFFECT OF OTHER LAW

28 Act 1143 of 1991 and this Rule and Regulation do not exempt a client  
29 of a licensee, or any assigned employee, from any other license or  
30 regulatory requirements imposed under local, state, or federal law. An  
31 employee who is licensed, registered, or certified under law and who is  
32 assigned to a client company is considered to be an employee of the client  
33 company for the purpose of that license, registration, or certification,  
34 but otherwise remains the shared employee of the licensee and client as  
35 provided by Act 1143 of 1991 and this Rule and Regulation.

36 SECTION 20. PROPRIETARY INFORMATION

37 Under the terms of Section 3 of Act 1143 of 1991 employee leasing  
38 firms and employee leasing firm groups are required to file with the  
39 Commissioner certain documents, including but not necessarily limited to  
40 client lists, the disclosure of which would give advantage to  
41 competitors. The Commissioner shall not consider such "proprietary"  
42 material to be subject to mandatory disclosure under the Freedom of  
43 Information Act [Ark. Code Ann. §§ 25-19-101 et seq., particularly Ark.  
44 Code Ann. § 25-19-105(b)(9)(A)], but if the Commissioner be challenged as

1 to the confidentiality or disclosure of any such records and if litigation  
2 or any other proceedings be instituted to compel disclosure, the total  
3 expense of such proceedings shall be borne by the employee leasing firm or  
4 employee leasing firm group whose "proprietary" material is being sought.  
5 The Commissioner shall give notice in writing to any employee leasing firm  
6 or employee leasing firm group whose client lists or other material which  
7 the Commissioner deems to be "proprietary" are being sought under the  
8 terms of Ark. Code Ann. § 25-19-101 et seq.

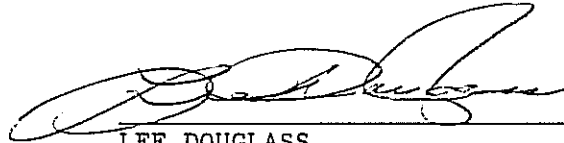
9 SECTION 21. INTERPRETATION

10 This Rule and Regulation is en pari materia with and shall be  
11 construed in accordance with Acts 652, 901 and 1155 of 1993, Acts 561 and  
12 1143 of 1991, Rule and Regulation 54, and Rule and Regulation 57.

13 SECTION 22. SEVERABILITY

14 If any provision of this Rule and Regulation, or the application  
15 thereof to any person or circumstance, is held invalid, such invalidity  
16 shall not affect other provisions or applications of this Rule and  
17 Regulation which can be given effect without the invalid provision or  
18 application, and to that end the provisions of this Rule and Regulation  
19 are severable.

20  
21  
22



LEE DOUGLASS  
INSURANCE COMMISSIONER

23  
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12-22-93  
DATE



# ARKANSAS REGISTER



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

By W. J. Bill McCuen  
Secretary of State  
State Capitol Rm. 010  
Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date 12/29/93 Code Number 054.00.93--006A

Name of Agency Arkansas Insurance Department

Department Legal Division

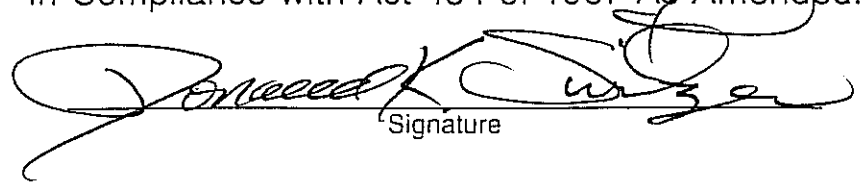
Contact Person Donald K. Switzer, Assistant Commissioner

Statutory Authority for Promulgating Rules Act 1143 of 1991, Section 3, codified as A.C.A. §§23-92-301 et seq., Acts 652 and 1155 of 1993 and Section 47 of Act 901 of 1993 amending A.C.A. §§23-63-209, and A.C.A. §§23-61-108 and 25-15-201, et seq.

Intended Effective Date	Date
<input type="checkbox"/> Emergency	10/11/93; 10/12/93; 10/18/93; 10/25/93; and 10/26/93
<input type="checkbox"/> 20 Days After Filing	Final Date for Public Comment . . . . . <u>12/3/93</u>
<input checked="" type="checkbox"/> Other	Filed With Legislative Council . . . . . <u>10/4/93</u>
<u>12/29/93</u>	Reviewed by Legislative Council . . . . . <u>11/4/93</u>
	Adopted by State Agency . . . . . <u>12/29/93</u>

## CERTIFICATION OF AUTHORIZED OFFICER

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

  
Signature

Assistant Insurance Commissioner  
Title

December 28, 1993  
Date

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W. J. "BILL" M...  
STATE OF ARKANSAS  
LITTLE ROCK, ARKANSAS

BY \_\_\_\_\_

## CERTIFICATE

I, the undersigned Insurance Commissioner of Arkansas, do hereby certify that the foregoing \_\_\_\_\_ document \_\_\_\_\_ hereto attached contain a true and complete copy of

ARKANSAS INSURANCE DEPARTMENT

RULE AND REGULATION 58

EMPLOYEE LEASING FIRMS AND

EMPLOYEE LEASING GROUPS

SIGNED DECEMBER 22, 1993

and that the \_\_\_\_\_ original \_\_\_\_\_ is now among the files of my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this department at the City of Little Rock, Arkansas, this \_\_\_\_\_ day of December \_\_\_\_\_

19 93

*See Douglas*

INSURANCE COMMISSIONER

By \_\_\_\_\_

*Maedke*

ASSISTANT COMMISSIONER

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RULE AND REGULATION 58  
EMPLOYEE LEASING FIRMS AND EMPLOYEE LEASING GROUPS

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26 SECTION 1. AUTHORITY

27 This Rule and Regulation is promulgated and adopted by the Insurance  
28 Commissioner for the State of Arkansas ("Commissioner") pursuant to the  
29 authority vested in the Commissioner by Section 3 of Act 1143 of 1991,  
30 codified as Arkansas Code Annotated §§ 23-92-301, et seq., by Acts 652 and  
31 1155 of 1993, by Section 47 of Act 901 of 1993, amending Arkansas Code  
32 Annotated §§ 23-63-309, and by Arkansas Code Annotated §§ 23-61-108 and  
33 25-15-201, et seq.

34 SECTION 2. PURPOSE

35 The purpose of this Rule and Regulation is to establish procedures  
36 for licensing of employee leasing firms and employee leasing firm groups  
37 and to establish minimum standards which employee leasing firms and  
38 employee leasing firm groups must meet in conducting business in this  
39 State.

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1 SECTION 3. EFFECTIVE DATE: EMERGENCY

2 Pursuant to the Commissioner's authority under Ark. Code Ann.  
3 §23-61-108, §§25-15-201, et seq., as amended by Act 1106 of 1993, Act 652  
4 of 1993, Act 901 of 1993, and other applicable laws and rules, the  
5 effective date of this Rule and Regulation is December 29, 1993, upon  
6 filing with the Arkansas Secretary of State and the Arkansas State  
7 Library.

8 SECTION 4. DEFINITIONS

9 A. "Commissioner" shall mean the Insurance Commissioner for the  
10 State of Arkansas.

11 B. "Person" shall mean an individual, an association, a company, a  
12 firm, a partnership or a corporation.

13 C. "Client" shall mean a person who obtains all or part of its work  
14 force or human labor or services from another person through an employee  
15 leasing arrangement.

16 D. "Employee Leasing Firm" shall mean any person engaged in  
17 providing services of employees pursuant to one or more employee leasing  
18 arrangements.

19 E. "Employee Leasing Firm Group" shall mean at least two (2), but  
20 no more than five (5) corporate employee leasing firms each of which are  
21 majority owned by the same controlling person, or ultimate parent.

22 F. "Controlling Person" shall mean:

23 1) An officer or director of a corporation seeking to offer  
24 employee leasing services, a shareholder holding ten (10)  
25 percent or more of the voting stock of a corporation  
26 seeking to offer employee leasing services, or a partner of  
27 a partnership seeking to offer employee leasing services;  
28 or

29 2) An individual who possesses, directly or indirectly, the  
30 power to direct or cause the direction of the management or  
31 policies of a company seeking to offer employee leasing  
32 services through the ownership of voting securities, by  
33 contract or otherwise.

34 G. "Employee Leasing Arrangement" shall mean an arrangement or  
35 agreement, under written contract or otherwise, whereby:

36 1) an employee leasing firm assigns or purports to assign  
37 human beings, or the labor or services of human beings, to  
38 clients, for whom the human beings either do perform or are  
39 expected to perform such labor or services;

40 2) the arrangement is intended to be, or is, on-going rather  
41 than temporary in nature; and

42 3) common law employment rights and responsibilities relative  
43 to the "assigned" human being, including the employer's  
44 right of direction and control of the "employee" as to the  
45 method and manner of doing the work, are shared by the  
46 employee leasing firm and the client.

47 Although it is not always necessarily true, it is generally true that in  
48 an "employee leasing arrangement" the initial source of the workforce that  
49 is to be leased or assigned to the "client" is the existing workforce of  
50 the client.

1 The term "employee leasing arrangement" is to be liberally construed  
2 so as to include any and all of such arrangements meeting the criteria  
3 hereinabove set forth, by whatever term known, by which the right to  
4 utilize the labor or services of human beings in a productive capacity is  
5 assigned or transferred from one person or entity to another. The  
6 employer's right of direction and control of the "employee" is deemed to  
7 be "shared" by the employee leasing firm and the client whenever: (i) the  
8 arrangement, agreement or contract between the client and the employee  
9 leasing firm expressly so states; or (ii) a substantive analysis of the  
10 client's manufacturing, service or business process reveals that, in fact,  
11 the client, or someone acting on his behalf and in his interest, exercises  
12 some degree of control over the "employees" as to the method and manner of  
13 the work performed.

14 H. "Temporary Employee" shall mean a person employed either through  
15 another person or directly by an employer to support or supplement the  
16 existing work force in special situations such as employee absences, and  
17 temporary skill shortages, seasonal workloads, and special assignments and  
18 projects with the expectation that the person's position will be  
19 terminated upon the completion of the task or function. Again, although  
20 it is not always true, it is generally true that the initial source of the  
21 workforce leased or assigned to a client to fill a "temporary" position is  
22 the temporary leasing agency or company and not the client. A particular  
23 relationship between a leasing entity, the worker providing the services,  
24 and the client employer will be deemed to be "temporary" when the position  
25 or job (not necessarily the worker or series of workers) is genuinely  
26 anticipated to exist only so long as the special situation or project  
27 continues. The relationship between these entities or persons shall not  
28 be considered "temporary" when the position or job is a regular, ongoing  
29 part of the employer's regular manufacturing or service process --  
30 regardless of how many different workers may be supplied by a third party  
31 over time to fill that job or position. Contracting for services to be  
32 performed by temporary employees shall not be considered the making of  
33 employee leasing arrangements. In administering this Rule and Regulation  
34 there shall be a rebuttable presumption that when: (i) the putative  
35 temporary employment has continued beyond the "special situation" which  
36 served as its genesis or reason for being; or (ii) the majority of the  
37 workers or employees providing services to a particular client during the  
38 course of any calendar year at any particular work site or job site are,  
39 in fact, provided to the employer by a third party or parties and are not  
40 considered or treated as regular full time "employees" by the client, such  
41 are not "temporary" employment relationships, but, rather, are "employee  
42 leasing arrangements."

43 I. "Independent Contractor" shall mean a person who, exercising an  
44 independent employment or engaging in an independent business enterprise,  
45 contracts with another person to do a piece of work according to the  
46 person's own methods, and without being subject to the other person's  
47 control, except as to the result of the work. Contracting for services to  
48 be performed by independent contractors shall not be considered the making  
49 of employee leasing arrangements.

1 SECTION 5. EXEMPTIONS

2 This Rule and Regulation shall not apply to a labor organization or  
3 to any political subdivision of this State or the United States or to any  
4 programs or agencies thereof. Further, this Rule and Regulation shall not  
5 apply to "temporary" employment relationships as herein defined, nor to  
6 contracts between employers and "independent contractors" as hereinabove  
7 defined.

8 SECTION 6. LICENSE REQUIRED

9 Any person who shall engage in the business of or act as an employee  
10 leasing firm or employee leasing firm group without first procuring a  
11 license, or who otherwise violates the provisions of Section 3 of Act 1143  
12 of 1991 or of this Rule and Regulation may be penalized as provided in  
13 Section 16 of this Rule and Regulation.

14 SECTION 7. APPLICATION FOR INITIAL LICENSE

15 Every applicant for an initial employee leasing firm or employee  
16 leasing firm group license shall file with the Commissioner a completed  
17 application on a form prescribed and furnished by the Commissioner

18 A. RESIDENT EMPLOYEE LEASING FIRMS. Applicants for license as a  
19 resident employee leasing firm shall meet the following minimum standards:

- 20 1) If an individual, the applicant shall be a resident of this  
21 State and shall have reached the age of majority.
- 22 2) If a partnership, the applicant shall state the names and  
23 home addresses of all partners and indicate whether each  
24 partner is a general or a limited partner. The applicant  
25 shall include a copy of the Partnership Agreement, or an  
26 affidavit signed by all partners to the effect that no  
27 written partnership agreement exists. If a limited  
28 partnership, the partnership must also produce and file a  
29 certified copy of its "Certificate of Limited Partnership"  
30 obtained through the procedure at Ark. Code §4-43-201, et  
31 seq.
- 32 3) If a corporation, the applicant shall state the names and  
33 home addresses of all officers, directors, and of the legal  
34 or equitable owners of ten percent (10%) or more of any  
35 class of the stock of the corporation. The applicant shall  
36 include a certified copy of its Articles of Incorporation  
37 filed with the Secretary of State and proof that its most  
38 recent annual corporate franchise tax has been paid to the  
39 Secretary of State.
- 40 4) The applicant shall state the address of its principal  
41 place of business in this State and the address(es) of any  
42 other office(s) within this State through which the  
43 applicant intends to conduct business as an employee  
44 leasing firm.
- 45 5) The applicant shall include a current list of clients with  
46 whom the applicant has, if any, employee leasing  
47 arrangements.

1           6) The applicant shall provide such other information which  
2           the Commissioner deems necessary to show that the applicant  
3           or the controlling persons thereof is/are of good moral  
4           character, business integrity and financial responsibility.

5           B. NON-RESIDENT EMPLOYEE LEASING FIRMS. The Commissioner may  
6 license as a non-resident employee leasing firm an individual, partnership  
7 or corporation which is domiciled in another state but which, nonetheless,  
8 maintains or plans to maintain a "substantial presence" within this  
9 State. All of such non-resident applicants must otherwise be qualified  
10 under Section 3 of Act 1143 of 1991 and this Rule and Regulation. An  
11 employee leasing firm shall be deemed to have a "substantial presence"  
12 within this State so as to require licensure if: (i) it maintains any  
13 office or business location within this State; (ii) it undertakes any  
14 marketing efforts in this State, or (iii) it has one hundred (100) or more  
15 "employees" who are domiciled within this State.

16           Each non-resident employee leasing firm applying for licensure shall  
17 file an appointment, on a form provided, of the Commissioner and his  
18 successors in office as its attorney to receive service of legal process  
19 issued against it in this State.

20           If any non-resident employee leasing firm has a substantial presence  
21 within this State but has not complied with the requirements of Section 3  
22 of Act 1143 of 1991 and this Rule and Regulation, the penalty provisions  
23 of Section 16 hereof shall apply and may be enforced by the Commissioner.

24           C. "RESTRICTED" LICENSURE AND LICENSES BY RECIPROCITY.

25           1) Restricted License. Any non-resident employee leasing firm  
26 or employee leasing firm group which has any presence within this State  
27 not rising to the level of "substantial presence" as hereinabove set forth  
28 shall, nonetheless, apply for a "Restricted License"; provided, however,  
29 that if such non-resident employee leasing firm or employee leasing group  
30 is licensed as a resident or domestic leasing firm or group under the laws  
31 of another state, if such laws of such other state are, in the reasonable  
32 opinion of the Commissioner, deemed substantially similar to the laws of  
33 this State with respect to costs and, also, the determination of  
34 "substantial presence," such applicant shall be subject to each of the  
35 requirements of Section 3 of Act 1143 of 1991 and this Rule and Regulation  
36 except for the financial assurances required by: (i) Section 8 of this  
37 Rule and Regulation, and (ii) Ark. Code Ann. § 23-92-307 as enacted by  
38 Section 3 of Act 1143 of 1991.

39           2) Reciprocal Licenses. Any employee leasing firm licensed as  
40 a resident employee leasing firm or employee leasing firm group under the  
41 laws of another State shall, if such laws be deemed by the Commissioner to  
42 be substantially similar to those of this State and if under the laws of  
43 the State of the firm's state of resident licensure a similar privilege is  
44 granted to such firms whose resident licensure is within this State, be  
45 entitled to the issuance of a "Non-Resident Reciprocal License" upon  
46 completing application and appointment of the Commissioner as agent for  
47 service of process issued within this State. Such firms shall be subject  
48 to all of the provisions of Section 3 of Act 1143 of 1991 and this Rule  
49 and Regulation.

50           D. EMPLOYEE LEASING FIRM GROUPS. The Commissioner may, in his  
51 reasonable discretion, issue a single resident or non-resident license to  
52 any employee leasing firm group comprised of at least two but not more  
53 than five employee leasing firms that are corporations if each of same is

1 owned and controlled by the same ultimate controlling person. An employee  
2 leasing group may, on behalf of each of its members, satisfy the reporting  
3 and financial assurance requirements of Section 3 of Act 1143 of 1991 on a  
4 consolidated basis. The ultimate controlling person shall complete the  
5 application and shall include a copy of the Articles of Incorporation for  
6 each employee leasing firm within the group. Further, the information  
7 required in Subdivision (A)(2) and (A)(3) of this Section shall be  
8 included as to the controlling person if such is a partnership or  
9 corporation. The applicant shall also include a guarantee, on a form  
10 approved by the Commissioner, executed by each employee leasing firm  
11 within the group guaranteeing payment of all financial obligations with  
12 respect to wages, employment taxes and employee benefits of each other  
13 member within the group.

14 Each employee leasing firm group shall be subject to a single license  
15 fee as required by Arkansas Code Annotated § 23-93-309 and by Section 12  
16 hereof. Multiple or "duplicate" copies of the license may be made  
17 available to the individual corporate employee leasing firms for a  
18 reasonable administrative charge to be set by the Commissioner.

19 E. Notice of Licensure. Upon the issuance or renewal of any  
20 employee leasing firm or employee leasing group license, the Commissioner  
21 shall immediately notify:

- 22 1) The licensee;
- 23 2) The Employment Security Department of the State of  
24 Arkansas;
- 25 3) The Arkansas Workers Compensation Commission;
- 26 4) The Plan Administrator or Plan Administrators of the  
27 Workers Compensation Insurance Plan; and
- 28 5) The Secretary of State for the State of Arkansas.

29 SECTION 8. FINANCIAL ASSURANCES

30 A. In addition to the requirements of Section 7 of this Rule and  
31 Regulation, every applicant for licensure as a resident or non-resident  
32 employee leasing firm or employee leasing firm group (other than for  
33 "restricted" licensure as set out above) shall, as a condition of  
34 eligibility for such license, provide financial assurances under one or  
35 more of the methods set out herein.

36 1) The applicant may post a surety bond issued by an unaffiliated  
37 corporate surety authorized to do business in this State in an amount not  
38 less than Fifty Thousand Dollars (\$50,000), the terms and conditions of  
39 which shall be approved by the Commissioner. The bond shall:

40 a) be conditioned that the licensee, and any person as an  
41 agent of the licensee, will not violate the provisions of  
42 Section 3 of Act 1143 of 1991, of this Rule and Regulation,  
43 of any orders lawfully issued by the Commissioner or fail  
44 to pay any wages due under any contract made by the  
45 licensee in the conduct of its business under its license;  
46 and

47 b) secure the performance of the licensee's responsibility to  
48 its leased employees for payment of wages.

49 2) In lieu of posting a surety bond, the applicant may deposit cash  
50 or an irrevocable letter of credit (in a form approved by the  
51 Commissioner) from a National Banking Association not affiliated with



1 applicant and approved by the Commissioner in the sum of Fifty Thousand  
2 Dollars (\$50,000); further, the applicant may make deposit of securities  
3 with a market value as determined by the Commissioner of not less than  
4 Fifty thousand Dollars (\$50,000) and make additional deposits of  
5 securities as may be required to maintain such market value. The  
6 applicant shall assign said securities to the Commissioner on a form  
7 approved by the Commissioner and execute such other documents in  
8 connection with the deposit as the Commissioner shall prescribe.

9 3) In lieu of posting a surety bond or depositing cash, cash  
10 equivalent or securities, the applicant may file with the Commissioner an  
11 audited financial statement prepared in accordance with generally accepted  
12 accounting principles by an independent certified public accountant.

13 a) The audited financial statement shall be prepared as of a  
14 date within six (6) months prior to the date of  
15 application.

16 b) The audited financial statement shall show a true minimum  
17 net worth for the applicant, subject to concurrence by the  
18 Commissioner, of not less than One Hundred Thousand Dollars  
19 (\$100,000).

20 c) During the term of its license, the licensee shall continue  
21 to file with the Commissioner an interim financial  
22 statement on a calendar semi-annual basis, prepared by a  
23 certified public accountant in accordance with generally  
24 accepted accounting principles as of a date within three  
25 (3) months prior to the end of the filing period. These  
26 interim financial statements (which need not be audited)  
27 shall show a true minimum net worth as set out above and  
28 shall be received by the Commissioner within fifteen (15)  
29 days of the end of the semi-annual period.

30 B. In addition to the requirements of Section 7 of this Rule and  
31 Regulation, every applicant for a Reciprocal License shall as a condition  
32 of eligibility file or deposit with the Commissioner such "substantially  
33 similar" financial assurances as required by the applicant's state of  
34 domicile. If such financial assurances include the filing of a financial  
35 statement and if the applicant has chosen to comply in that fashion, such  
36 statement shall be an audited financial statement prepared in accordance  
37 with generally accepted accounting principles by an independent certified  
38 public accountant.

39 1) The financial statement shall be prepared as of a date  
40 within six (6) months prior to the date of the application.

41 2) The financial statement shall show a true minimum net worth  
42 for the applicant of not less than the sum required by the  
43 laws of the applicant's state of domicile.

44 3) During the term of its license, the licensee shall continue  
45 to file with the Commissioner audited financial statements  
46 on an annual basis and with its annual application for  
47 renewal, prepared as of a date within six (6) months prior  
48 to the end of the filing period.

49 C. Any licensee providing any type of financial assurance as set  
50 forth in Subsections (A) or (B) above who fails to maintain the financial  
51 assurance in the prescribed amount and with the degree of fiscal integrity  
52 and reliability reasonably satisfactory to the Commissioner shall not be  
53 renewed, or in the alternative, if the deficiencies become known to the

1 Commissioner during the term of the license, the licensee shall, within  
2 thirty (30) days of receipt of notice, provide financial assurances as set  
3 out in Subsection (A) of this Section, or be subject to the penalties set  
4 out in Sections 9(C) and 16 of this Rule and Regulation.

5 SECTION 9 ACTION AGAINST BOND OR SECURITIES

6 A. If any person shall be aggrieved by the misconduct of any  
7 licensee, that person may maintain an action in his own name upon the bond  
8 of the licensee (if there be one) in any court of competent jurisdiction  
9 or in the Circuit Court of Pulaski County, Arkansas. Such an action shall  
10 not be exclusive of any other remedy available to the aggrieved person.  
11 Alternatively, the Commissioner may maintain such an action in the name of  
12 the State for the benefit of the aggrieved person.

13 1) The aggrieved person may assign the claim, and the assignee  
14 shall be entitled to any remedies available to the  
15 aggrieved person.

16 2) An assigned claim may be enforced in the name of the  
17 assignee.

18 B. If any person obtains an unsuperseded judgment in its favor  
19 against a licensee maintaining a deposit of securities, cash, or cash  
20 equivalent, and the licensee does not promptly pay the judgment, the  
21 Commissioner shall upon receipt of a certified copy of the final judgment:

22 1) Notify the licensee by certified mail to pay the judgment  
23 within thirty (30) days of receipt of the notice; and

24 2) pay from the cash deposit or draw upon a letter of credit  
25 or sell at public or private sale an amount of securities  
26 sufficient to pay the judgment, if the judgment is not paid  
27 by the licensee within the thirty (30) day period.

28 C. A licensee shall have thirty (30) days after receiving notice of  
29 cancellation of its bond or notice that the cash, letter of credit or  
30 securities have been drawn upon, to replace or supplement its bond, cash,  
31 letter of credit or sold securities. Failure of the licensee to so  
32 replace shall result in summary suspension of its license, which  
33 suspension shall continue until replacement of the bond or sold  
34 securities. A licensee so suspended shall not carry on the business of an  
35 employee leasing firm while suspended.

36 D. When any licensee, regardless of the form of Financial Assurance  
37 provided, does not promptly pay an unsuperseded judgment against it, the  
38 Commissioner shall provide to the licensee, a notice in writing requiring  
39 that the licensee, within thirty (30) days of receipt of notice, shall  
40 either pay the judgment in full or post supersedeas satisfactory to the  
41 Court issuing the judgment. Failure of the licensee to pay or post shall  
42 result in summary suspension of its license, which suspension shall  
43 continue until the judgment is reversed, superseded or paid. A licensee  
44 so suspended shall not carry on the business of an employee leasing firm  
45 while suspended.

46 SECTION 10. REJECTION OF APPLICATION FOR LICENSE

47 A. The Commissioner, or his authorized representative, shall reject  
48 an application for license:

- 1) where the application is not fully completed, properly executed or is otherwise deficient on its face;
- 2) where documents required to supplement the application are not included in the application packet;
- 3) where any fee required by Section 12 is not submitted or is incorrectly submitted with the application packet;
- 4) where the applicant has had an employee leasing firm or employee leasing firm group license revoked in this or any other state, unless such revocation has subsequently been rescinded or otherwise suspended and the problems remedied to the reasonable satisfaction of the Commissioner;
- 5) where the applicant, or any person named in the application, has made a material misrepresentation in the application; or
- 6) upon finding that any person named in the application, any controlling person, or any person in a management or policy-making position with any applicant, is not of good moral character, business integrity or financial responsibility, or that there is good and sufficient reason within the meaning and purpose of this Rule and Regulation or of Section 3 of Act 1143 of 1991 to reject the application.

B. The Commissioner or his authorized representative shall furnish the applicant with a written statement of the reason(s) for rejecting or revoking the application. The applicant may request a hearing before the Commissioner within thirty (30) days of receipt of the written statement. The hearing and further appeal shall proceed as provided in Arkansas Code Annotated §§23-61-301, et. seq.

#### SECTION 11. RENEWAL OF LICENSE

A. Any license issued hereunder shall remain in force, unless revoked, for one (1) year from the date of issue of license.

B. At least thirty (30) days prior to the expiration of its license, the licensee shall submit an application for renewal of license on a form and with such supplemental material as may be prescribed by the Commissioner. Late renewal applications may possibly not be processed prior to the expiration of the licensee's current license, thereby resulting in a time period of unlicensed activity. Those engaged in such unlicensed activity shall be subject to the penalties set out in Section 16 of this Rule and Regulation.

C. An application for renewal of license shall be rejected by the Commissioner, or his authorized representative, upon any ground set out in Subsection (A) of Section 10. The rejected applicant shall have the procedures of Subsection (B) of Section 10 available to review the rejection.

#### SECTION 12. FEES AND LICENSES

A. The nonrefundable fees for initial and renewal licenses of resident, nonresident, and reciprocal employee leasing firms or employee leasing firm groups shall be Five Hundred Dollars (\$500).

1 B. The nonrefundable fee for initial and renewal licenses of  
2 restricted non-resident employee leasing firms or employee leasing groups  
3 shall be Fifty Dollars (\$50).

4 C. Duplicate copies of employee leasing firm or group licenses  
5 shall be Ten Dollars (\$10).

6 SECTION 13. SUSPENSION OR REVOCATION OF LICENSE

7 A. In addition to imposition of the penalties set out in Section 16  
8 of this Rule and Regulation, the Commissioner may suspend for up to twelve  
9 (12) months, or may revoke or refuse to renew any license issued  
10 hereunder, if, after notice to the licensee of the charges against it and  
11 after hearing the Commissioner finds any one or more of the following  
12 causes exist:

- 13 1) Any cause for which issuance of the license could have been  
14 refused had it then existed and been known to the  
15 Commissioner;
- 16 2) Violation of or noncompliance with any applicable provision  
17 of Section 3 of Act 1143 of 1991, such provisions of titles  
18 11 and 23 of the Arkansas Code which may be applicable, or  
19 of this Rule and Regulation or of any order of the  
20 Commissioner;
- 21 3) Obtaining or attempting to obtain any license through  
22 misrepresentation or fraud;
- 23 4) Conviction of the licensee, a controlling person, or any  
24 person with material management and policy-making authority  
25 with the licensee, of a felony;
- 26 5) If in the conduct of business under the license, the  
27 licensee violates the provisions of Section 14 or Section  
28 15 of this Rule and Regulation; or
- 29 6) Failure to provide a complete and truthful written response  
30 to a written inquiry from the Commissioner or his  
31 authorized representative within thirty (30) days after  
32 receipt of the inquiry.

33 B. The license of a partnership or corporate employee leasing firm  
34 or employee leasing firm group may be suspended, revoked, or not renewed  
35 for any of the causes set out in Subsection (A) of this Section if such  
36 cause relates to any individual designated in the license or who otherwise  
37 exercises management or policy-making authority for the partnership or  
38 corporation.

39 C. Upon suspension or revocation of license, the Commissioner shall  
40 immediately notify:

- 41 1) The licensee, by mail addressed to the licensee at its  
42 address last of record with the Commissioner, who may  
43 appeal the decision of the Commissioner, which appeal shall  
44 proceed as provided in Arkansas Code Annotated § 23-61-307;
- 45 2) Each client of the licensee, either by mail or by  
46 publication of notice in a newspaper with state-wide  
47 circulation;
- 48 3) The Employment Security Department of the State of  
49 Arkansas;

- 1           4) The Office of the Attorney General of the State of
- 2           Arkansas;
- 3           5) The Arkansas Workers' Compensation Commission; and
- 4           6) The Secretary of State for the State of Arkansas.

5       D. The Commissioner shall not again issue any license provided for  
6 in this Rule and Regulation to any employee leasing firm or employee  
7 leasing firm group whose license has been revoked for a minimum period of  
8 one year. The Commissioner may upon conducting a reinstatement hearing at  
9 the request of the former licensee, reinstate the license only if the  
10 cause of the revocation has been corrected to the reasonable satisfaction  
11 of the Commissioner.

12 SECTION 14.       DECEPTIVE PRACTICES; PROHIBITED ACTS

13       The following act and omissions are deemed to constitute deceptive  
14 practices and are prohibited acts of employee leasing firms and employee  
15 leasing groups:

16       A. Making, issuing, circulating, or causing to be made, issued or  
17 circulated, any estimate, illustration, circular, statement, sales  
18 presentation, omission, or comparison which misrepresents the benefits,  
19 advantages, conditions, or terms of any employee leasing arrangement; or  
20 the licensing status of the firm or group under this Rule and Regulation;

21       B. Making, publishing, disseminating, circulating, or placing  
22 before the public or causing, directly or indirectly, to be made,  
23 published, disseminated, circulated, or placed before the public in a  
24 newspaper, magazine, or other publication or in the form of a notice,  
25 circular, pamphlet, letter, or poster or over any radio or television  
26 station or in any other way an advertisement, announcement, or statement  
27 containing any assertion, representation, or statement with respect to the  
28 business of employee leasing or with respect to any person in the conduct  
29 of its employee leasing business which is untrue, deceptive, or  
30 misleading;

31       C. Making, publishing, disseminating, or circulating, directly or  
32 indirectly, or aiding, abetting, or encouraging the making, publishing,  
33 disseminating, or circulating of any oral or written statement or of any  
34 pamphlet, circular, article, or literature which is false or maliciously  
35 critical of or derogatory to the financial condition of any person and  
36 which is calculated to injure that person;

37       D. Entering into any agreement to commit or, by an concerted  
38 action, committing any act of boycott, coercion, or intimidation resulting  
39 in or tending to result in unreasonable restraint of, or monopoly in, the  
40 business of employee leasing;

41       E. Filing with any supervisory or other public official or making,  
42 publishing, disseminating, circulating, or delivering to any person, or  
43 placing before the public or causing, directly or indirectly, to be made,  
44 published, disseminated, circulated, delivered to any person, or placed  
45 before the public any false statement of financial condition of a person  
46 with intent to deceive;

47       F. Knowingly making any false entry of a material fact in any book,  
48 report, or statement of any person or knowingly omitting to make a true  
49 entry of any material fact pertaining to the business of the person in any  
50 book, report, or statement of that person;

1 G. Engaging in any act or omission which discriminates against any  
2 person on the basis of race, color, sex, age, religion, or national  
3 origin;

4 H. Permitting to be used or using, permitting to be filed or filing  
5 any name, trade name, fictitious name, or business identity which is the  
6 same as, similar to, or may be confused with the name, trade name,  
7 fictitious name, or business identity of an existing licensee, any  
8 governmental agency, or any nonprofit organization;

9 I. Using or permitting to be used in the marketing soliciting,  
10 selling, negotiating, or contracting of employee leasing arrangements the  
11 fact that any person has made financial assurances hereunder;

12 J. Engaging in any practice designed to conceal or obstruct or  
13 which has the effect of concealing or obstructing the determination by the  
14 Commissioner, by the Workers Compensation Commission, by any workers  
15 compensation insurer or by any workers compensation plan administrator of:  
16 (i) the identity and business location(s) of the client; (ii) the  
17 appropriate risk classification of the client company's business and the  
18 workplace exposure of the "shared" employees; (iii) that client's actual  
19 experience modifier; or (iv) the client's actual payroll for the leased or  
20 shared employees.

21 K. Entering into or maintaining any employee leasing arrangement by  
22 which fewer than all of the employees performing labor or services for the  
23 client are, in fact, leased to the client, as required by the mandate of  
24 Ark. Code §11-9-408(c), as amended by Act 796 of 1993, that there be no  
25 split coverages. This provision is not intended to prohibit issuance to  
26 clients of employee leasing firms or employee leasing firm groups of  
27 separate "if any" policies of workers compensation insurance designed to  
28 cover the client for the risks posed by possibly uninsured subcontractors.

29 L. Any other practice not specifically defined herein which the  
30 Commissioner, after notice and hearing, determines to be a deceptive  
31 practice.

32 SECTION 15. RESPONSIBILITIES OF LICENSEES

33 A. A licensed employee leasing firm or employee leasing firm group  
34 shall be deemed an employer of its leased employees and shall at a minimum  
35 perform the following employer responsibilities:

- 36 1) Pay wages and collect, report and pay employment taxes from  
37 its own accounts;
- 38 2) Pay unemployment taxes as required by Arkansas and Federal  
39 law;
- 40 3) Ensure that all of its leased employees are covered by  
41 workers' compensation insurance through a policy or plan  
42 maintained by the employee leasing firm, employee leasing  
43 firm group or the client; that each client be properly and  
44 completely identified to the insurer and noted on the  
45 policy of insurance, or be tendered its own policy of  
46 insurance, and that all rules and filings of the insurer or  
47 of the Workers Compensation Insurance Plan be followed so  
48 as to insure that the premium collected and remitted is  
49 commensurate with the workplace risk faced by the leased  
50 employees;

- 1           4) If approved as a self-insurer by the Workers Compensation  
2           Commission under the terms of Ark. Code Ann. § 11-9-404,  
3           report all compensable injuries to the Arkansas Workers  
4           Compensation Insurance Plan Administrator in such a manner  
5           as to identify the "client" company for whom the injured  
6           employee was performing the labor or services; if written  
7           by either a voluntary writer of workers compensation  
8           insurance or another workers compensation carrier under the  
9           Workers Compensation Insurance Plan, all compensable  
10          injuries shall be reported to the insurer and to the  
11          Arkansas Workers Compensation Insurance Plan Administrator  
12          in the same manner; such reporting shall be done on a  
13          regular, periodic basis as shall be required by the  
14          procedures of the said Plan Administrator;
- 15          5) Be entitled with the client as joint employer to  
16          exclusivity of remedy under workers' compensation and  
17          employers' liability provisions of a policy or plan that  
18          either has secured; and
- 19          6) Sponsor and maintain employee benefit and welfare plans for  
20          its leased employees.
- 21          B. A licensed employee leasing firm or employee leasing group shall  
22          also perform the following general responsibilities as a licensee:
- 23                1) Inform every employee in writing of the nature of the  
24                "shared" employment relationship with the licensee;
- 25                2) Submit to the Commissioner, within sixty (60) days of the  
26                end of each calendar quarter, a certification by an  
27                independent certified public accountant that for such  
28                quarter all applicable payroll taxes have been paid on a  
29                timely basis;
- 30                3) Submit to the Commissioner, within thirty (30) days of the  
31                end of each calendar year, a complete list of the names and  
32                addresses of the licensee's clients;
- 33                4) Maintain and make available for the Commissioner's or his  
34                authorized representative's inspection any and all records  
35                concerning the licensee's conduct of business under its  
36                license, which records shall be maintained for a period of  
37                three (3) years after termination of the employment  
38                relationship or employee leasing arrangement;
- 39                5) Notify the Commissioner in writing of a change, addition or  
40                termination of a place of business or business address  
41                within ten (10) days of such;
- 42                6) Notify the Commissioner in writing within twenty (20) days  
43                of any changes among partners, directors, officers,  
44                members, controlling persons, or any other individuals  
45                designated in the license, or a change or movement of ten  
46                percent (10%) or more in ownership; and
- 47                7) Within thirty (30) days of the addition or termination of a  
48                client, provide in writing to its workers' compensation  
49                insurance carrier, the Commissioner, the Arkansas Workers'  
50                Compensation Commission, and the Arkansas Employment  
51                Security Division, the name and address of such clients.

52 SECTION 16. PENALTIES

1 A. Any person violating any provisions of this Rule and Regulation  
2 or any provisions of Section 3 of Act 1143 of 1991 shall, after notice and  
3 hearing, be liable for a civil penalty of not less than Two Hundred Fifty  
4 Dollars (\$250) nor more than Five Thousand Dollars (\$5,000) for each  
5 violation, with each day of non-compliance constituting a separate  
6 violation.

7 B. The Commissioner shall have the power to bring an action in the  
8 Chancery Court of Pulaski County to enjoin or restrain any person from  
9 engaging in the business of or action as an employee leasing firm or  
10 employee leasing firm group who has not procured a license or who is  
11 otherwise in violation of Section 3 of Act 1143 of 1991 or this Rule and  
12 Regulation.

13 SECTION 17. POSTING OF LICENSES

14 Each license issued under this Rule and Regulation must be posted in  
15 a conspicuous place in the principal place of business of the licensee in  
16 this State. Each licensee shall display, in a place that is in clear and  
17 unobstructed public view, a notice stating that the business operated at  
18 the location is licensed and regulated by the Commissioner and that any  
19 questions or complaints should be directed to the Commissioner.

20 SECTION 18. LICENSE NOT ASSIGNABLE

21 A licensee may not conduct business under any name other than that  
22 specified in the license. A license issued under this Rule and Regulation  
23 is not assignable. A licensee may not conduct business under any  
24 fictitious or assumed name without prior written authorization from the  
25 Commissioner. A licensee may not conduct business under more than one  
26 name unless it has obtained a separate license for each name.

27 SECTION 19. EFFECT OF OTHER LAW

28 Act 1143 of 1991 and this Rule and Regulation do not exempt a client  
29 of a licensee, or any assigned employee, from any other license or  
30 regulatory requirements imposed under local, state, or federal law. An  
31 employee who is licensed, registered, or certified under law and who is  
32 assigned to a client company is considered to be an employee of the client  
33 company for the purpose of that license, registration, or certification,  
34 but otherwise remains the shared employee of the licensee and client as  
35 provided by Act 1143 of 1991 and this Rule and Regulation.

36 SECTION 20. PROPRIETARY INFORMATION

37 Under the terms of Section 3 of Act 1143 of 1991 employee leasing  
38 firms and employee leasing firm groups are required to file with the  
39 Commissioner certain documents, including but not necessarily limited to  
40 client lists, the disclosure of which would give advantage to  
41 competitors. The Commissioner shall not consider such "proprietary"  
42 material to be subject to mandatory disclosure under the Freedom of  
43 Information Act [Ark. Code Ann. §§ 25-19-101 et seq., particularly Ark.  
44 Code Ann. § 25-19-105(b)(9)(A)], but if the Commissioner be challenged as



1 to the confidentiality or disclosure of any such records and if litigation  
2 or any other proceedings be instituted to compel disclosure, the total  
3 expense of such proceedings shall be borne by the employee leasing form or  
4 employee leasing firm group whose "proprietary" material is being sought.  
5 The Commissioner shall give notice in writing to any employee leasing firm  
6 or employee leasing firm group whose client lists or other material which  
7 the Commissioner deems to be "proprietary" are being sought under the  
8 terms of Ark. Code Ann. § 25-19-101 et seq.

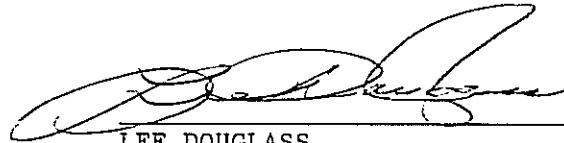
9 SECTION 21. INTERPRETATION

10 This Rule and Regulation is en pari materia with and shall be  
11 construed in accordance with Acts 652, 901 and 1155 of 1993, Acts 561 and  
12 1143 of 1991, Rule and Regulation 54, and Rule and Regulation 57.

13 SECTION 22. SEVERABILITY

14 If any provision of this Rule and Regulation, or the application  
15 thereof to any person or circumstance, is held invalid, such invalidity  
16 shall not affect other provisions or applications of this Rule and  
17 Regulation which can be given effect without the invalid provision or  
18 application, and to that end the provisions of this Rule and Regulation  
19 are severable.

20  
21  
22



LEE DOUGLASS  
INSURANCE COMMISSIONER

23  
24

12-22-93  
DATE