



Arkansas Insurance Department

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Mike Huckabee 97 NOV -3 PM 2:08 Governor
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Divisions

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SECRETARY OF STATE
STATE OF ARKANSAS

Docket # : 054,00.97-001

October 29, 1997

TO: ALL LICENSED INSURERS, ALL LICENSED HEALTH MAINTENANCE ORGANIZATIONS, ALL LICENSED HOSPITAL OR MEDICAL SERVICE CORPORATIONS, ALL LICENSED LIMITED ADJUSTERS, ALL REGISTERED MET'S AND MEWA'S AND SELF-INSURED PLANS, ALL REGISTERED THIRD PARTY ADMINISTRATORS (TPA'S), ALL SELF-INSURED ENTITIES, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: PROPOSED RULE AND REGULATION, "LIMITED ADJUSTERS' LICENSES"

NOTICE OF PUBLIC HEARING

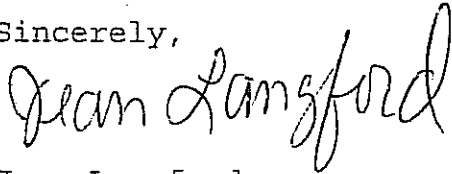
Pursuant to Arkansas Code Section 23-64-102 (4)(E), as amended by Act 1004 of 1997, and Sections 23-61-108, 25-15-203, et seq., and other applicable laws, NOTICE is hereby given that a Public hearing will be held on December 3, 1997, at 9:00 a.m. in the First Floor Hearing Room, Arkansas Insurance Department, at 1200 West Third (Third and Cross Streets), Little Rock, Arkansas.

1. The Public Hearing will be held to determine whether the Insurance Commissioner should adopt the new Proposed Rule on Act 1004 of 1997, "Limited Adjusters' Licenses". A copy of the new Proposed Rule is attached for review.
2. All interested persons are encouraged to attend the Public Hearing and may appear and present (orally or in writing) statements, arguments, or opinions on the Proposed Rule.
3. Persons wishing to testify should notify the undersigned as soon as possible; and are requested to submit intended statements in writing. All comments at the Public Hearing, as well as written

comments on the proposed Rule are allowed and encouraged

Please direct your inquiries to the undersigned at (501) 371-2820, or to Director Fred Stiffler, Agent Licensing, at (501) 371-2750.

Sincerely,

A handwritten signature in cursive script that reads "Jean Langford". The signature is written in dark ink and is positioned below the word "Sincerely,".

Jean Langford
Chief Counsel
Legal Division

Enclosure: "Limited Adjusters' Licenses" Rule

**PROPOSED
RULE AND REGULATION
LIMITED ADJUSTERS' LICENSES**

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SHARON HINEST
SECRETARY OF STATE
STATE OF ARKANSAS

BY _____

SECTION 1. PURPOSE

The purpose of this Rule and Regulation is to set out the minimum qualifications for licensure of limited adjusters under the provisions of Ark. Code Ann. §23-64-102(4)(E), as amended by Arkansas Act 1004 of 1997, effective July 1, 1997.

SECTION 2. AUTHORITY AND SCOPE

This Rule is promulgated under the Commissioner's authority in Ark. Code Ann. Sections 23-61-108, 23-63-106, 23-64-102 (4)(E) as amended by Act 1004 of 1997, and 25-15-201, et seq. This Rule shall apply to all applicants for license as a limited adjuster on and after the effective date of this Rule.

SECTION 3. DEFINITIONS

As used in this Rule,

1. "Commissioner" shall mean the Insurance Commissioner of the State of Arkansas; and
2. "Department" shall mean the Arkansas Insurance Department;
3. "Limited Adjusters" shall mean individual persons who are sponsored by and are employees of self-insured (self-funded) entities for purposes of the adjustment of claims for or on behalf of that self-insured sponsoring entity, as defined in Section 23-64-102 (4)(E), as amended by Act 1004 of 1997.
4. "Rule and Regulation" shall mean the rules and regulations promulgated by the Arkansas Insurance Department unless the context requires otherwise.

SECTION 4. LICENSE REQUIRED

A. ELIGIBILITY.

- (1) On and after the effective date of this Rule, self-insured or self-funded entities may sponsor their employees for limited adjusters' licenses with this Department. In order to be eligible for licensure, the individual persons must be current, full time employees of the sponsoring self-insured or self-funded entity, not independent contractors for such sponsors.

1 (2) Eligibility for such licensure shall cease upon the effective date of
2 termination for any reason by either party of the applicant or licensee's
3 employment with the sponsoring self-insured or self-funded entity.
4

5 (3) The applicant shall be of legal age of majority or have the disabilities of
6 minority removed by a court of law for all general purposes, and provide
7 evidence of same.
8

9 (4) The applicant must be a resident of the State of Arkansas or a resident of
10 another state which will permit residents of Arkansas to act as an adjuster or
11 limited adjuster in the other state, or a nonresident who meets or will meet the
12 requirements imposed on a resident of this State.
13

14 (5) The applicant must be a high school graduate or have obtained his GED
15 (General Education Diploma). The applicant must be deemed by the
16 Commissioner to be competent, trustworthy, financially responsible, and of good
17 personal and business reputation, and not otherwise ineligible under the
18 provisions of Arkansas Act 217 of 1997, and other applicable laws.
19

20 (6) The applicant must pass a written examination as to his competence to
21 act as a limited adjuster for the self-insured employer, with such examination
22 based on the types of self-insurance claims which the applicant shall be
23 adjusting. The Commissioner may specify that the applicant must pass an
24 examination for property, casualty or workers' compensation claims as is
25 administered under Ark. Code Ann. Section 23-64-209 or other laws for
26 adjusters, and may specify that the applicant must pass an examination for life
27 and disability claims as is administered under Ark. Code Ann. Section 23-64-203
28 or other laws for life and disability insurance agents, or other examinations as the
29 Commissioner may prescribe in his license application instructions. The
30 Commissioner may give, conduct, and grade all examinations, or he may arrange
31 to have examinations administered and graded by an independent testing service
32 as specified by contract, in a fair and impartial manner, and without unfair
33 discrimination as between individuals examined. An oral or other type
34 examination may for good cause be substituted for a written examination of the
35 applicant on his written request, and if deemed necessary by any applicable
36 laws, including but not limited to the American with Disabilities Act (ADA). The
37 Commissioner shall require a waiting period of eight (8) weeks before
38 reexamination of an applicant who has twice failed to pass previous similar
39 examinations.
40

41 (7) The applicant for the limited adjuster license or renewal license shall not
42 be required to obtain pre-licensure education hours under Ark. Code Ann.
43 Sections 23-64-202 and 203 or Department Rule and Regulation 31, nor
44 continuing education hours under Sections 23-64-301, et seq. or Department
45 Rule and Regulation 50.
46

1 (8) The employees of self-insured plans or entities or employees of corporate
2 subsidiaries or affiliates of the self-insured plan or entity are eligible for the
3 limited adjuster license provided under this Rule and Regulation.
4

5 B. APPLICATION. Each applicant for the limited adjuster's license shall complete
6 and submit the written application form, in format prescribed by or acceptable to
7 the Commissioner, accompanied by a letter or other documentation from the
8 sponsor confirming active full-time employment of the applicant, and
9 accompanied by the fees for adjusters' licenses established by Ark. Code Ann.
10 §23-61-401 and Department Rule and Regulation 57. Such fees shall be
11 payable by check or money order to "The State Insurance Department Trust
12 Fund", and are nonrefundable.
13

14 C. LICENSE ISSUANCE AND ANNUAL RENEWAL.

15 (1) The Commissioner may issue the limited adjuster's license for property
16 insurance, casualty insurance, worker's compensation insurance, life insurance,
17 disability insurance, or any combination thereof to individuals meeting all
18 applicable qualifications of this Rule and Regulation, including successful
19 examinations and payment of proper fees. The Commissioner shall issue a
20 license on a form he shall prescribe to the limited adjuster upon successful
21 completion of these requirements by the applicant. The term of the limited
22 adjuster license shall be one year. Within one year from issuance date, the
23 license shall be renewable on or before June 30th annually, and annually before
24 June 30th thereafter.
25

26 (2) The limited adjuster shall at the anniversary remit the annual renewal fee
27 for adjusters under Rule & Regulation 57, or have his self-insured employer remit
28 it to the Department by check or money order payable to "The State Insurance
29 Department Trust Fund".
30

31 (3) With the renewal the applicant shall submit a letter or other evidence from
32 the self-insured employer confirming that the applicant is eligible for licensure
33 because he is a full-time employee of the employer. Alternately, the limited
34 adjuster may continue his license upon submission of proof by letter or other
35 documentation that he has a new employer and he is employed full-time in the
36 same capacity as a claims representative for the new employer which is a self-
37 insured entity transacting business in Arkansas, so long as the limited adjuster
38 demonstrates to the Commissioner's satisfaction that he continues to meet the
39 eligibility requirements for such license under Act 1004 of 1997 and this Rule and
40 Regulation, and other applicable laws.
41

42 (4) The limited adjuster or his self-insured employer shall also pay the Rule
43 57 fee of \$35 (ARF Fee) on or before the licensee's birthday as required in Act
44 1004 of 1997.
45

1 D. LICENSE CONTINUATION. Licenses of individual persons granted limited
2 adjuster's licenses by the Commissioner under his discretionary authority
3 pursuant to Ark. Code Ann. §23-61-103(a)(b) and other applicable laws before
4 the effective date of this Rule shall continue in full force and effect, but subject to
5 the provisions of this Rule after it is effective, and without the necessity to
6 requalify hereunder except as to the effect or impact of licensing provisions as to
7 felons under Arkansas Act 217 of 1997.

8
9 E. LAWS APPLICABLE. Except where they conflict with this Rule, the provisions of
10 the Insurance Code, Ark. Code Ann. §§23-60-101, et seq., and the
11 Commissioner's Rules and Regulations shall apply to limited adjuster licenses
12 and applicants.

13 14 SECTION 5. LICENSE TERMINATION OR NONRENEWAL

15
16 A. The Commissioner may suspend or revoke upon notice and a hearing, or
17 nonrenew or refuse to continue without notice and a hearing the license of any
18 limited adjuster who has failed to comply with the license continuation provisions
19 of Ark. Code Ann. Section 23-64-215, as amended by Act 1004 of 1997,
20 including failure of the limited adjuster to remit or timely remit the annual fees or
21 ARF fees to the Commissioner. Alternately the Commissioner may in his
22 discretion impose a monetary penalty in the amounts contained in Ark. Code
23 Ann. Section 23-64-216, as amended by Act 1004 of 1997.

24
25 B. The Commissioner may immediately terminate, cancel or expire any license of a
26 limited adjuster without notice or a hearing upon adequate proof that the limited
27 adjuster is no longer a full-time employee of the self-insured employer; or upon
28 adequate proof that the self-insured employer has terminated its self-insurance
29 plan or has gone out of business, or no longer has insured employees within the
30 State of Arkansas; or upon adequate proof that the limited adjuster is no longer
31 employed as an adjuster or claims representative for the self-insured entity or
32 employer but has been hired in a new capacity by such employer.

33
34 C. The Commissioner may suspend, revoke, or nonrenew or refuse to continue the
35 license of any limited adjuster who is in violation of or noncompliance with the
36 provisions of the Unfair Trade Practices laws of the State under Ark. Code Ann.
37 Sections 23-66-201, et seq., and Sections 23-66-301, et seq., or with the license
38 provisions under Ark. Code Ann. Sections 23-64-101, et seq., 23-64-201, et seq.,
39 particularly Section 23-64-216 as amended by Act 1004 of 1997, or is in violation
40 of the laws of the State of Arkansas, the Insurance Code or rules and regulations
41 of the Commissioner.

42
43 D. Administrative proceedings under this Rule and Regulation shall be conducted
44 under the Administrative Procedure Act, Ark. Code Ann §25-15-201, et seq. as
45 applicable, or under the provisions of the Insurance Code under Ark. Code Ann.
46 Sections 23-61-301, et seq.

- 1
2 E. The Commissioner may not again issue any license to an applicant or limited
3 adjuster whose other insurance license under the Insurance laws has been
4 suspended or revoked, or whose limited adjuster license under this Rule and
5 Regulation has been revoked.
6
7 F. Upon any revocation, suspension, cancellation, expiration or lapse, the limited
8 adjuster license shall be returned to the Department as the property of the State
9 of Arkansas.

10
11 **SECTION 6. TPA REGISTRATION NOT REQUIRED**
12

13 The applicants or renewal applicants for the limited adjuster license shall not be
14 deemed to be "third party administrators" ("TPA's") under the provisions of Ark. Code
15 Ann. Sections 23-92-201, et seq., nor shall such applicants or renewal applicants be
16 required to obtain the TPA registration from the Commissioner. Third party
17 administrators registered or licensed by the Commissioner shall not be required to
18 obtain the limited adjuster license under the provisions of Act 1004 of 1997 or this Rule
19 and Regulation. The licenses for limited adjuster and third party administrators shall be
20 deemed mutually exclusive by the Department.
21

22 **SECTION 7. EFFECTIVE DATE**
23

24 The provisions of this Rule and Regulation shall be effective on and after
25 _____, upon signature and statutory filing by the Commissioner.
26

27 **SECTION 8. SEVERABILITY**
28

29 Any section or provision of this Rule and Regulation held by a court to be invalid
30 or unconstitutional shall not affect the validity of any other section or provision of this
31 Rule.
32
33
34
35

36 _____ (signature upon approval)

37 MIKE PICKENS
38 INSURANCE COMMISSIONER
39 STATE OF ARKANSAS
40
41

42 _____
43 DATE
44