2021 Arkansas Insurance Legislation Summary: General

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This is the first article in a series of summaries of Insurance legislation from the 93rd Arkansas General Assembly.

The 93rd Arkansas General Assembly convened on January 11, 2021 and entered into an extended recess on April 27, 2021. The resolution authorizing the extended recess provides for the legislature to reconvene for the following purposes:

- Considering vetoes;
- Correcting errors and oversights;
- Completing work on congressional redistricting; and
- Considering legislation related to the COVID-19 public health emergency and distribution of COVID-19 relief funds.

The legislature expects to return in the fall to complete congressional redistricting. At least two special sessions are also expected to be called later this year. One special session is expected to consider tax cuts. A second special session is expected to consider changes to the state public employee and teacher health plans.

Acts not carrying an emergency clause or a specified effective date generally take effect on the 91st day following the date of *sine die* adjournment. According to the resolution permitting the extended recess, acts not carrying an emergency clause will take effect on the 91st day following the date of recess unless the legislature reconvenes before the expiration of 90 days. The Attorney General has opined that such bills will become effective on July 28, 2021. If the General Assembly reconvenes before the expiration of the 90 days, however, the effective date of bills passed without an emergency clause will be extended by the number of days the legislature is in session.

Legislation of General Interest

A. Passed

1. HB1238 (Act 367) – The Insurance Department General Omnibus Bill makes technical and substantive changes to the Arkansas Insurance Code. Among the changes made by HB1238 are the (1) repeal of Ark. Code Ann. § 23-76-118 regarding special deposit requirements and insolvency protections for HMOs now that HMOs are members of the Arkansas Life and Health Guaranty Association; (2) exclusion of single-state Arkansas domestic insurance companies from the applicability of the Corporate Governance Annual Disclosure Law; and (3) authorization for the licensure of branch captive insurance companies.

2. HB1239 (Act 397) – Exempts non-resident adjusters who are licensed in states that engage in reciprocal licensing with Arkansas from pre-licensing education requirements and empowers

the Arkansas Insurance Commissioner to summarily suspend the license of a non-resident insurance producer, adjuster, or consultant whose home state license ceases to be active.

3. HB1240 (Act 672) – Enacts NAIC revisions to the credit for reinsurance law. Effective July 1, 2021.
4. HB1241 (Act 373) – Allows the Arkansas Insurance Department to offset delinquent tax collections against a state income tax return.
5. HB1242 (Act 371) – Requires certain long-term care insurers to file, for each line of business written in the state, a market conduct annual statement in the time frame required by the National Association of Insurance Commissioners.
6. HB1590 (Act 879) – Repeals an exemption for proceeds of life, health, accident and disability insurance from judicial process when there is a judgment for damages for personal injury involving a beneficiary convicted of a felony. Effective April 25, 2021.
7. SB153 (Act 725) – Establishes a process for waiving initial licensing fees for qualifying individuals including persons seeking insurance producer, consultant, or adjuster licenses. Effective January 1, 2022.
8. SB203 (Act 1018) – Establishes an insurance business transfer process by which an assuming insurer may assume insurance policies from a transferring insurance company without the affirmative consent of policyholders or reinsures.

B. Constitutional Amendments Referred to Voters to be considered in 2024

1. HJR1005 would require 60% approval in each chamber of the legislature to refer a constitutional amendment to voters and 60% approval by the electors to adopt a constitutional amendment or initiated act.
2. SJR10 would authorize the Speaker of the House and the Senate President Pro Tempore to call the legislature into special session by joint proclamation.
3. SJR14 would prohibit government from burdening one's freedom of religion absent a demonstration that the burden advances a compelling government interest and is the least restrictive means of furthering that interest.

Failed/Defeated/No Action in Committee

1. HB1672 – Would have required the Insurance Commissioner to pay attorneys' fees and costs if an individual licensee prevailed in an initial appeal of a Commissioner's Order suspending or terminating the individual's license but was not presented.

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View the sixth article of the series: 2021 Arkansas Insurance Legislation Summary: Act 925 Prohibits Life Insurance/Annuity Beneficiary Change through Will