

**SUMMARY**

ARKANSAS INSURANCE DEPARTMENT PROPOSED RULE 126  
INSURANCE BUSINESS TRANSFER

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To: Arkansas Legislative Council & Arkansas Bureau of Legislative Research  
From: Jim Brader, General Counsel, Arkansas Insurance Department  
CC: Alan McClain, Arkansas Insurance Commissioner;  
Russ Galbraith, Deputy Insurance Commissioner;  
Jennifer Bruce, Public and Legislative Affairs Director  
Steven Porch, General Counsel, Arkansas Commerce Department  
Date: June 11, 2021

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**LEGISLATIVE AUTHORITY FOR RULE**

Act 1018 of 2021 attached. Also, see Ark. Code Ann. §§ 23-69-502 through 512.

**BACKGROUND AND PURPOSE OF RULE**

The Insurance Business Transfer (“IBT”) rule implements Act 1018 of 2021, which creates a process for one insurance company (“transferring insurer”) to develop and implement a plan, subject to approval by the Insurance Commissioner, to transfer some or all of its rights, obligations, and risks on a group of insurance policies, typically older “legacy” policies, another company (“assuming insurer”).

Such a transfer results in a novation of the transferred contracts of insurance or reinsurance resulting in the assuming insurer becoming directly liable to the policyholders or reinsurers of the transferring insurer and extinguishing the transferring insurer’s insurance obligations or risks under the contracts. The transfer must be reviewed and approved by both the Insurance Commissioner and a circuit court, who both evaluate the transfer to avoid any adverse impact to policyholders.

The proposed statutory process to accomplish such a transfer and novation includes filing a plan with the Insurance Commissioner, providing notice to all policyholders holding policies that are part of the subject business; the chief insurance regulator in each

jurisdiction in which the applicant holds or has ever held a certificate of authority, and in which policies that are part of the subject business were issued or policyholders currently reside; national guaranty associations and reinsurers who have impacted agreements; and by publication in a newspaper of general circulation in the state in which the applicant has its principal place of business, and any other publication as required by the Commissioner.

An independent expert will be appointed by the Commissioner who will conduct a thorough review of the plan, including examination of financial audits and statements, and will offer an opinion on the financial condition of the transferring insurer and the likely effect, if any, on the policyholders. The Commissioner then accept or rejects the plan. If accepted, the plan is submitted to a circuit court in Pulaski County through a petition by the transferring applicant, the Commissioner as a party, and a hearing is then to be scheduled following a public comment period. Assuming the implementation plan is acceptable and the Court finds no materially adverse effects on policyholders, an implementation order is the final result.