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Mike Huckabee
Governor

Mike Pickens
Commissioner

BULLETIN NO. 2-2003

TO: ALL LICENSED CASUALTY CARRIERS, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: ACT 649, THE CIVIL JUSTICE REFORM ACT OF 2003

DATE: July 7, 2003

Governor Mike Huckabee signed Act 649, The Civil Justice Reform Act of 2003, on March 25, 2003 ("Act"). The Act affects punitive damages, joint and several liability, and implements other aspects of civil justice reform. Due to an emergency clause, the Act was immediately effective and applies to all causes of action accruing on or after March 25, 2003. The Department remains concerned about the availability and affordability of professional liability coverages, especially in the medical malpractice and nursing home liability markets. This Bulletin describes the expectations of the Arkansas Insurance Department with regard to insurers incorporating the Act's provisions into rate filings. Arkansas Code Annotated § 23-67-209 describes the elements insurers must consider when setting rates. Such elements include prospective loss experience within the state, events or trends within the state, and "all other relevant factors." The Department considers Act 649 a "relevant factor" that must be considered in making rates.

For all professional liability lines, including but not limited to medical malpractice and nursing home coverages, the Department expects insurers to incorporate the Act's provisions into future rate filings. We also expect supporting analyses that reflect the impact of this Act on base rates and rating classification variables. We are hopeful insurer compliance with this Bulletin will have a positive impact on both availability and affordability in these lines.

Every licensed insurer submitting a rate filing for any professional liability line shall do the following:

1. Provide an analysis, based on actuarial principles and standards of practice, of the impact of the Act;
2. Implement any reduction to its rates consistent with that analysis; and
3. Explain the Act's impact on underwriting, such as whether any existing restrictions will be liberalized.

Every surplus line carrier selling policies to Arkansas insureds also should make appropriate rate and underwriting adjustments based upon the Act.

Act 649 is available on the Arkansas General Assembly website at <http://www.arkleg.state.ar.us/>. Please contact Associate Counsel Sara Farris at 501-371-2820 (sara.farris@mail.state.ar.us), or Property & Casualty Division, Bill Lacy at 501-371-2800 (bill.lacy@mail.state.ar.us) with questions.

This Bulletin shall be effective on the date signed by the Commissioner.

SIGNED BY
MIKE PICKENS
INSURANCE COMMISSIONER

July 7, 2003
DATE
FILED July 8, 2003