|          | Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.<br>Act 2293 of the Regular Session |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1        | State of Arkansas As Engrossed: S3/29/05 S3/29/05 H4/7/05                                                                                                                                 |
| 2        | 85th General Assembly A Bill                                                                                                                                                              |
| 3        | Regular Session, 2005 SENATE BILL 1145                                                                                                                                                    |
| 4        |                                                                                                                                                                                           |
| 5        | By: Senator Critcher                                                                                                                                                                      |
| 6        |                                                                                                                                                                                           |
| 7        |                                                                                                                                                                                           |
| 8        | For An Act To Be Entitled                                                                                                                                                                 |
| 9        | AN ACT TO REGULATE THE CLOSING OF BLOCKS OF                                                                                                                                               |
| 10       | BUSINESS BY HEALTH CARRIERS; AND FOR OTHER                                                                                                                                                |
| 11       | PURPOSES.                                                                                                                                                                                 |
| 12       |                                                                                                                                                                                           |
| 13       | Subtitle                                                                                                                                                                                  |
| 14       | AN ACT TO REGULATE THE CLOSING OF BLOCKS                                                                                                                                                  |
| 15       | OF BUSINESS BY HEALTH CARRIERS.                                                                                                                                                           |
| 16       |                                                                                                                                                                                           |
| 17       |                                                                                                                                                                                           |
| 18       | BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:                                                                                                                           |
| 19       |                                                                                                                                                                                           |
| 20       | SECTION 1. Arkansas Code Title 23, Chapter 79, Subchapter 1 is amended                                                                                                                    |
| 21       | to add an additional section to read as follows:                                                                                                                                          |
| 22       | 23-79-152. Health insurance — Closing a block of business.                                                                                                                                |
| 23       | (a) As used in this section:                                                                                                                                                              |
| 24       | (1) "Block of business" means a particular policy form or                                                                                                                                 |
| 25       | contract providing health insurance coverage that includes distinct benefits,                                                                                                             |
| 26       | services, and terms issued by a carrier to one (1) or more individuals;                                                                                                                   |
| 27       | (2) "Carrier" means an entity subject to the insurance laws of                                                                                                                            |
| 28       | the State of Arkansas or the jurisdiction of the Insurance Commissioner that                                                                                                              |
| 29       | contracts or offers to contract to provide health insurance coverage,                                                                                                                     |
| 30       | including, but not limited to, an insurance company, a health maintenance                                                                                                                 |
| 31       | organization, or a hospital medical service corporation;                                                                                                                                  |
| 32       | (3) "Closed block of business" means a block of business that a                                                                                                                           |
| 33<br>24 | carrier ceases to actively offer or sell to new applicants; and                                                                                                                           |
| 34<br>25 | (4)(A) "Health insurance coverage" means benefits consisting of medical, pharmacy, surgical, hospitalization, or similar goods or services                                                |
| 35       | medical, pharmacy, surgical, hospitalization, or similar goods or services                                                                                                                |



As Engrossed: S3/29/05 S3/29/05 H4/7/05

| 1  | for the purpose of preventing, alleviating, curing, or healing human illness  |
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| 2  | provided directly or indirectly, through insurance, reimbursement, or         |
| 3  | otherwise, including items and services paid for under any policy,            |
| 4  | certificate, or agreement offered by a carrier.                               |
| 5  | (B) "Health insurance coverage" does not include policies                     |
| 6  | or certificates covering only accident, credit, disability income, long-term  |
| 7  | care, hospital indemnity, Medicare supplemental policy as defined in 42       |
| 8  | U.S.C. § 1395ss(g)(1) as it existed on January 1, 2005, a specified disease,  |
| 9  | other limited benefit health insurance, automobile medical payment insurance, |
| 10 | or claims under the Workers' Compensation Law, § 11-9-101 et seq., or the     |
| 11 | Public Employee Workers' Compensation Act, § 21-5-601 et seq.                 |
| 12 | (b) No block of business shall be closed by a carrier unless the              |
| 13 | carrier pools the experience of the closed block of business with all blocks  |
| 14 | of business that are closed for the purpose of determining the percentage     |
| 15 | premium rate increase of any contract within the closed block, with no rate   |
| 16 | penalty or surcharge beyond that which reflects the experience of the         |
| 17 | combined pool.                                                                |
| 18 | (c)(l) Unless an insurer presents evidence satisfactory to the                |
| 19 | Insurance Commissioner to the contrary, a block of business shall be presumed |
| 20 | to be closed if the block has been in existence for more than twenty-four     |
| 21 | (24) months and:                                                              |
| 22 | (A) For a period of twenty-four (24) months, the number of                    |
| 23 | contracts for the block has decreased by twelve percent (12%) or more; or     |
| 24 | (B) The block has less than one hundred (100) contracts in                    |
| 25 | the State of Arkansas.                                                        |
| 26 | (2) The fact that a block of business does not meet one (1) of                |
| 27 | the presumptions set forth in this subsection (c) shall not preclude a        |
| 28 | determination that it is closed.                                              |
| 29 | (d)(l) A carrier shall notify the commissioner in writing within              |
| 30 | thirty (30) days of:                                                          |
| 31 | (A) Its decision to close a block of business; or                             |
| 32 | (B) Falling within one (1) of the presumptions set forth                      |
| 33 | in subsection (c) of this section.                                            |
| 34 | (2) The carrier shall provide any additional information                      |
| 35 | requested by the commissioner within fifteen (15) business days of the        |
| 36 | request.                                                                      |

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| 1  | (e) A carrier shall preserve, for a period of not less than five (5)          |
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| 2  | years in an identified location that is readily accessible for review by the  |
| 3  | commissioner, all books and records relating to any action taken by the       |
| 4  | carrier under subsection (b) of this section.                                 |
| 5  | (f) No carrier with the purpose of evading this section shall:                |
| 6  | (1) Offer or sell any contract; or                                            |
| 7  | (2) Provide false or misleading information about the active or               |
| 8  | closed status of a block of business.                                         |
| 9  | (g) A carrier shall bring any block of business closed prior to the           |
| 10 | effective date of this section into compliance with the terms of this         |
| 11 | section, except the requirement in subdivision (b)(1) of this section, no     |
| 12 | later than January 1, 2007.                                                   |
| 13 | (h) A carrier may petition the commissioner for an exemption from             |
| 14 | subdivision (b)(l) of this section if complying with subdivision (b)(l) of    |
| 15 | this section will cause the carrier to be subject to administrative           |
| 16 | supervision by the commissioner or if the carrier purchased a closed block of |
| 17 | business from an insurance company that was under administrative supervision  |
| 18 | or regulatory oversight by the commissioner.                                  |
| 19 |                                                                               |
| 20 | /s/ Critcher                                                                  |
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| 23 | APPROVED: 4/14/2005                                                           |
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