

**ARKANSAS INSURANCE BULLETINS AND RELATED MATERIALS
BULLETINS**

Bulletin 14-2009
September 18, 2009

TO: All Licensed Life And Health Insurance Companies, Life Insurance Producers, National Association Of Insurance Commissioners, Securities Brokers And Other Interested Parties

FROM: Jay Bradford, Insurance Commissioner

A. Heath Abshire, Securities Commissioner

DATE: September 18, 2009

RE: JOINT BULLETIN - SALES OR INVESTMENT ADVICE RELATED TO SECURITIES PRODUCTS BY INSURANCE PRODUCERS

The Arkansas Insurance Department and the Arkansas Securities Department are joining together to make this notice public to all insurance producers/agents. The recommendation to replace securities such as mutual funds, stocks, bonds and various other investment vehicles defined as securities under the Arkansas Securities Act is the offering of investment advice. It is unlawful to offer investment advice unless one is registered (licensed) with the Arkansas Securities Department as an investment adviser or investment adviser representative. You should not rely on any contract or application that may represent that an investment product may be replaced without the appropriate securities registration.

Pursuant to Ark. Code Ann. §§ 23-64-21 6(a)(1) and 23-64-5 12(a)(8), the Insurance Commissioner intends to take action against insurance producers who improperly engage in transactions involving securities. Legislation passed in 2009 gives the Insurance Commissioner additional authority to issue an order to cease and desist the activity prior to a hearing being held as related to these matters. The Commissioner may also issue an Emergency Suspension Order and/or a Revocation Order on the producer's license subject to the activity. Fines may be assessed against the producer up to \$5,000 per violation.

The Arkansas Securities Act grants the Securities Commissioner the authority to take action, including the issuance of a cease and desist order and injunctive relief through the courts, including ancillary relief such as accountings, receivership, disgorgement and civil fines up to the amount of money received. In accordance with legislation passed in the last legislative session, the Securities Commissioner will be able to levy fines in addition to issuing cease and desist orders. In the normal case, fines are limited to \$10,000 per violation or an amount equal to the total amount of money received in connection with each violation. In the case of a violation involving a senior citizen sixty-five years old or older, the fine can be as much as \$20,000 per violation or twice the amount of money received per violation.

This bulletin is intended to notify you of some potential pitfalls that could subject you to civil litigation by investors and action by the Insurance Commissioner and Securities Commissioner, including criminal prosecution. Please protect yourself and your clients.