

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Senator Bradford**  
5  
6

# **A Bill**

**ACT 652 OF 1993**  
**SENATE BILL 342**

## **For An Act To Be Entitled**

8 "AN ACT TO PROVIDE FOR SPECIAL REVENUE FUNDS TO BE  
9 COLLECTED SOLELY FOR AND EXPENDED SOLELY FOR THE PERSONAL  
10 SERVICES AND OPERATING EXPENSES, MAINTENANCE AND  
11 OPERATIONS, AND SUPPORT OF AND IMPROVEMENTS TO THE  
12 ARKANSAS INSURANCE DEPARTMENT; FOR THE CREATION AND  
13 ESTABLISHMENT AND MAINTENANCE OF THE STATE INSURANCE  
14 DEPARTMENT TRUST FUND; FOR THE ASSESSMENT AND COLLECTION  
15 OF ADMINISTRATIVE AND FINANCIAL REGULATION FEES AS SPECIAL  
16 REVENUES FROM INSURERS, HEALTH MAINTENANCE ORGANIZATIONS,  
17 FARMERS MUTUAL AID ASSOCIATIONS, HOSPITAL AND MEDICAL  
18 SERVICE CORPORATIONS, FRATERNAL BENEFIT SOCIETIES, AND  
19 STIPULATED PREMIUM INSURERS FOR DEPOSIT INTO THE STATE  
20 INSURANCE DEPARTMENT TRUST FUND; FOR COLLECTION OF SUCH  
21 ADMINISTRATIVE AND FINANCIAL REGULATORY FEES AS SPECIAL  
22 REVENUES FROM INSURERS AND OTHER SIMILAR LICENSEES IN LIEU  
23 OF AMOUNTS COLLECTED UNDER CURRENT LAW FOR EXAMINATION  
24 EXPENSES FOR EXAMINER SALARIES; FOR THE ASSESSMENT AND  
25 COLLECTION OF ADMINISTRATIVE AND REGULATORY FEES AS  
26 SPECIAL REVENUES FROM INSURANCE AGENTS, AGENCIES, BROKERS,  
27 ADJUSTERS, SURPLUS LINE BROKERS, TPA'S AND SIMILAR  
28 LICENSEES OR REGISTRANTS FOR DEPOSIT INTO THE STATE  
29 INSURANCE DEPARTMENT TRUST FUND; FOR THE ASSESSMENT AND  
30 COLLECTION OF ADMINISTRATIVE AND REGULATORY FEES FROM  
31 PROFESSIONAL BAIL BOND COMPANIES AS SPECIAL REVENUES FOR  
32 DEPOSIT INTO THE STATE INSURANCE DEPARTMENT TRUST FUND; TO  
33 ALLOW THE INSURANCE COMMISSIONER TO SPECIFY BY RULE AND  
34 REGULATION AFTER NOTICE AND A PUBLIC HEARING THE AMOUNT  
35 AND PAYMENT DUE DATE OF CERTAIN ADMINISTRATIVE AND  
36 REGULATORY FEES; AND FOR OTHER PURPOSES."

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**Subtitle**

"The State Insurance Department Trust Fund Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. ACT TITLE. This Act shall be known as The State Insurance Department Trust Fund Act ("Act").

SECTION 2. The State Insurance Department Trust Fund; Creation.

(a) There is hereby established on the books of the State Treasurer, the State Auditor, and the Chief Fiscal Officer of the State a fund to be known as "The State Insurance Department Trust Fund" to be used to defray the expenses of the Arkansas Insurance Department in the discharge of its administrative and regulatory powers and duties as prescribed by law.

(b) No money is to be appropriated from this Fund for any purpose except for the personal services and operating expenses, maintenance and operations, and support of and improvements to the Arkansas insurance department, and at the direction of the Arkansas Insurance Commissioner for the use, benefit, and support of the Arkansas Insurance Department.

(c) The Fund established pursuant to this Section shall be administered, disbursed, and invested under the direction of the Arkansas Insurance Commissioner and the State Treasurer.

(d) All income derived through investment of The State Insurance Department Trust Fund, including but not limited to interest and dividends, shall be credited as investment income to The State Insurance Department Trust Fund. All income derived through grants, refunds and gifts to The State Insurance Department Trust Fund shall be credited as income to The State Insurance Department Trust Fund and deposited therein.

(e) Further, all monies deposited to the aforementioned Fund shall not be subject to any deduction, tax, levy, or any other type of assessment, except as may be provided in this Act.

SECTION 3. Administrative and Financial Regulation Fee: Insurers.  
Notwithstanding the provisions of Ark. Code Ann. §26-57-602 and other

1 provisions of Arkansas law, all licensed insurers, including but not limited  
2 to all licensed stock and mutual insurance companies, health maintenance  
3 organizations ("HMO's"), fraternal benefit societies, hospital and medical  
4 service corporations, stipulated premium insurers, and farmers' mutual aid  
5 associations ("FMAA's"), shall not later than June 30, 1993 for the 1992-1993  
6 fiscal year, and thereafter annually on or before June 30th for all subsequent  
7 years at the time and in the manner as the Insurance Commissioner shall  
8 prescribe or at times alternate from June 30th annually as the Insurance  
9 Commissioner shall prescribe, pay to The State Insurance Department Trust Fund  
10 a nonrefundable administrative and financial regulation fee. This fee shall  
11 be based upon the insurer's direct premiums and co-payments written in the  
12 State of Arkansas during the preceding calendar year, as evidenced by the  
13 insurer's Annual Statement filed March 1 annually with the State Insurance  
14 Department pursuant to the Insurance Code. Such administrative and financial  
15 regulation fees shall be paid in the following amounts based upon the  
16 following schedule:

17 ARKANSAS DIRECT WRITTEN PREMIUMS	ANNUAL ADMINISTRATIVE AND
18 AND CO-PAYMENTS OF INSURERS,	FINANCIAL REGULATION
19 HMO'S, FMAA'S, ETC.	FEE DUE STATE OF ARKANSAS
20 (total preceding calendar year)	
21 \$0	\$ 500
22 01-499,999	750
23 500,000-2,499,999	1,000
24 2,500,500-4,999,999	2,500
25 5,000,000-7,499,999	5,000
26 7,500,000-9,999,999	7,500
27 10,000,000-19,999,999	10,000
28 20,000,000-29,999,999	12,000
29 30,000,000-49,999,999	15,000
30 50,000,000-74,999,999	17,500
31 75,000,000-99,999,999	20,000
32 100,000,000 AND UP	25,000

33 In no event shall the annual financial regulation fee imposed in this Section  
34 and assessed to support the maintenance and operation of the Arkansas  
35 Insurance Department exceed \$25,000 for any one insurer in any one year.

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2 SECTION 4. Insurers' Payment Extensions; Penalties for Non-compliance;  
3 Commissioner's Waiver for Impaired or Insolvent Insurers.

4 (a) The Insurance Commissioner may grant any licensed insurer an  
5 extension for reporting and/or payment of the annual administrative and  
6 financial regulation fee for good cause shown, upon the written application of  
7 the licensed insurer received at the Insurance Department on or before each  
8 annual due date. Absent the Commissioner's approval of such time extensions  
9 for good cause, licensed insurers failing timely to report and/or pay the  
10 administrative/financial regulation fee shall be subject to a penalty of one  
11 hundred dollars (\$100) a day for each day of delinquency, payable to The State  
12 Insurance Department Trust Fund. The Insurance Commissioner may pursue any  
13 appropriate legal remedies on behalf of The State Insurance Department Trust  
14 Fund to collect the administrative and financial regulation fees and penalties  
15 due and unpaid from any delinquent insurer. Further, the Insurance  
16 Commissioner may in his discretion order suspension of the delinquent  
17 insurer's Arkansas certificate of authority after notice and hearing until  
18 payment of all such fees and penalties is remitted to The State Insurance  
19 Department Trust Fund. Absent grant of his waiver for good cause shown, the  
20 Commissioner may revoke the Arkansas Certificate of Authority of any  
21 delinquent insurer consistently refusing and failing without good cause to  
22 remit payment of these fees and penalties to the Fund pursuant to this Act.

23 (b) The Insurance Commissioner may in his discretion waive all or any  
24 part of the administrative and financial regulation fee due annually from a  
25 licensed insurer upon the suspension or revocation of the insurer's Arkansas  
26 certificate of authority, or upon issuance of a court order placing the  
27 company into conservation, rehabilitation or liquidation in any state, or upon  
28 the Commissioner's finding that the insurer is impaired or insolvent, or its  
29 operations are hazardous to the insurance-buying public of this State. Upon  
30 the reinstatement or activation of the insurer's Arkansas certificate of  
31 authority in good standing, the Commissioner's waiver automatically terminates  
32 and the insurer shall be liable for payment of the administrative and  
33 financial regulation fee on the next succeeding March 1st, without retroactive  
34 reimbursement for the amount of the fees which would normally have accrued  
35 during the waiver period.

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2 SECTION 5. Insurers' Regulation Fees; Deposit into the State Insurance  
3 Department Trust Fund as Special Revenues.

4 The Insurance Commissioner shall deposit all administrative and  
5 financial regulation fees and any penalties assessed under this Act directly  
6 into The State Insurance Department Trust Fund as special revenues.

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8 SECTION 6. Professional Bail Bond Companies.

9 Arkansas Code 17-17-301 is hereby amended to read as follows:

10 "17-17-301. Professional bail bond companies: bail bond premium  
11 amounts; certain replacement bail bonds; administrative and financial  
12 regulation fees; fee payment extensions; penalties for non-compliance;  
13 commissioner's fee waivers for impaired or insolvent companies; fee deposits  
14 into the state insurance department trust fund as special revenues; additional  
15 security deposit required of companies.

16 (a) With the exception of other provisions of this section, the premium  
17 or compensation for giving bond or depositing money or property as bail on any  
18 bond shall be ten percent (10%), except that the amount may be rounded up to  
19 the nearest five-dollar (\$5.00) amount.

20 (b) The minimum compensation for giving bond or depositing money or  
21 property as bail on any bond shall be not less than *thirty-five dollars*  
22 *(\$35.00)*.

23 (c) If a bail bond or appearance bond, issued by a licensee under this  
24 chapter, must be replaced with another bail bond or appearance bond because of  
25 the licensee's violation of any provision of the laws of this state or any  
26 rule, regulation or order of the Commissioner, the licensee who violated the  
27 provision and who caused the replacement to be required shall pay all the  
28 premium amount for the replacement bond, in an amount not to exceed the amount  
29 of the original bond, without any contribution from the respective defendant  
30 or principal.

31 (d) (1) In addition to the ten percent (10%) bail or appearance bond  
32 premium or compensation allowed in subsection (a) of this section, and  
33 commencing on the first day of the first month after the effective date of  
34 this Act, each licensed professional bail bond company shall charge and  
35 collect as a nonrefundable administrative and regulatory fee for The State

1 Insurance Department Trust Fund an additional *ten dollar (\$10) per bond fee*  
2 for giving bond for each and every bail and appearance bond issued by the  
3 licensed professional bail bond company by or through its individual  
4 licensees. The administrative and regulatory fees payable by these companies  
5 to The State Insurance Department Trust Fund for the support and operation of  
6 the Insurance Department, and collected by the bail bond companies as required  
7 by this section, shall be reported and filed with the Insurance Commissioner  
8 no later than fifteen (15) calendar days after the end of each calendar  
9 quarter, contemporaneous with the professional bail bond company's filing of  
10 its quarterly bail bond report with the Insurance Department. A notarized  
11 annual reconciliation of all such fees collected in the preceding calendar  
12 year for The State Insurance Department Trust Fund shall be filed by each  
13 licensed professional bail bond company at a time and on forms prescribed by  
14 the Insurance Commissioner. The Commissioner may in his discretion grant an  
15 extension for good cause shown upon timely written request. The Commissioner  
16 may in his discretion waive or excuse such fee payments for professional bail  
17 bond companies under Department examination for financial instability; or for  
18 companies whose licenses are suspended due to the impaired or insolvent  
19 condition of the company; or if the professional bail bond company is  
20 seriously and severely undercapitalized in the view of the Commissioner. In  
21 no event shall the administrative and regulatory fees payable by the bail bond  
22 companies to The State Insurance Department Trust Fund exceed *ten dollars*  
23 *(\$10) per bond as required by this Act, exclusive of statutory licensure fees*  
24 *elsewhere in this chapter.*

25           (2) Absent an extension the Commissioner granted for good cause to  
26 a company, and in addition to any license suspension or revocation the  
27 Insurance Commissioner may in his discretion order after notice and a hearing,  
28 a professional bail bond company failing timely to report and/or pay this  
29 regulatory fee to The State Insurance Department Trust Fund by and through the  
30 Insurance Commissioner shall be liable to The State Insurance Department Trust  
31 Fund for a monetary penalty of one hundred dollars (\$100) per day for each day  
32 of delinquency. The Insurance Commissioner may pursue any appropriate legal  
33 remedies on behalf of The State Insurance Department Trust Fund to collect any  
34 delinquent fees and penalties owed pursuant to this Section as special  
35 revenues to the Trust Fund.

1           (3) Upon collection of the regulatory fees and any monetary  
2 penalties payable to The State Insurance Department Trust Fund and assessed  
3 under this section, the Insurance Commissioner shall deposit all fees and  
4 penalties directly into The State Insurance Department Trust Fund as special  
5 revenues. The administrative and regulatory fee imposed on professional bail  
6 bond companies under this section shall be in addition to all other fees,  
7 taxes and assessments, and penalties licensed professional bail bond companies  
8 pay the State of Arkansas through the Insurance Department or other state  
9 agencies under other laws.

10           (4) *Upon failure of the bail bond company to remit the fees*  
11 *timely, the Insurance Commissioner may pursue civil legal remedies against the*  
12 *non-complying bail bond company on behalf of The State Insurance Department*  
13 *Trust Fund to recover the balance of the fees and any penalties owed. In his*  
14 *discretion the Insurance Commissioner may also fine, suspend or revoke the*  
15 *license of any professional bail bond company failing to remit or pay timely*  
16 *the fees required by this Section.*

17           (5) Other than sole proprietors licensed as professional bail bond  
18 companies, individual bail bondsmen are exempt from the duty and  
19 responsibility of payment of the administrative and regulatory fees to The  
20 State Insurance Department Trust Fund; except that the individual licenses of  
21 such individual employees of the professional bail bond company may be  
22 suspended or revoked by the Commissioner pursuant to the administrative  
23 procedures provided in this Chapter if the individual licensee fails to comply  
24 with his duties in proper collection of the bail bond premiums earmarked for  
25 later payment to the Trust Fund pursuant to this subsection; if he converts  
26 such monies to his own use; or commits other infractions in regard to  
27 collection of such premium amounts. In these instances, the violations of the  
28 individual may in the Commissioner's discretion be attributed to the employing  
29 professional bail bond company for good cause shown, and its license may be  
30 sanctioned by the Commissioner pursuant to the administrative procedures  
31 provided in this Chapter. Further, upon criminal conviction of the  
32 individual bondsman for theft of property in connection with fraudulent  
33 conversion of these premium amounts due The State Insurance Department Trust  
34 Fund, the Insurance Commissioner shall revoke the individual's license, and in  
35 his discretion fine, suspend or revoke the license of the employing

1 professional bail bond company if it assisted the individual in such  
2 fraudulent conduct.

3           (6) For purposes of §17-17-205 requiring the professional bail  
4 bond company's deposit of a letter of credit or certificate of deposit for the  
5 faithful performance of its duties, the company's payment of the  
6 administrative and regulatory fee as required by this subsection shall be  
7 considered to be and shall be a duty of the licensee, so as to allow the  
8 Insurance Commissioner to make a claim against the security deposit required  
9 in §17-17-205 on behalf of The State Insurance Department Trust Fund for the  
10 balance of any owed and unpaid administrative and regulatory fees the  
11 professional bail bond company still owes to The State Insurance Department  
12 Trust Fund and the Insurance Commissioner shall promptly proceed to make  
13 claims against such security deposits on behalf of the Trust Fund, up to the  
14 limit of the company's deposit for any remaining fee balance due, in the  
15 manner provided in this subchapter for any claim against the deposit required  
16 herein. Under no circumstances shall such deposits held for the Trust Fund,  
17 or fees or any monies deposited into The Trust Fund be subject to any levy or  
18 assessment of any kind, including forfeiture claims, misconduct claims or  
19 general creditor claims of the bail bond company, subject to garnishment or  
20 other creditors' remedies under Title 17 or other provisions of Arkansas law."  
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22           SECTION 7. Administrative and Regulatory Fees: Other Licensees.

23           (a) Fees payable from other licensees. In addition to and  
24 notwithstanding all other current and future statutory fees, assessments or  
25 penalties paid by licensees or registrants in connection with the issuance and  
26 renewal of their Arkansas licenses or registrations as required under the  
27 Arkansas Insurance Code or other Arkansas laws, new and additional or  
28 increased nonrefundable administrative and regulatory fees are hereby imposed  
29 against all licensed resident and non-resident agents, agencies, brokers,  
30 surplus line and purchasing group brokers, risk retention agents, third party  
31 administrators, and similar licensees or registrants for each and every  
32 individual, firm or corporation licensed or registered by the Arkansas  
33 Insurance Department pursuant to the provisions of the Insurance Code and in  
34 particular the provisions of §§23-64-101, et seq., §§23-64-201, et seq.,  
35 §§23-65-301, et seq., §§23-73-101, et seq., §§23-74-101, et seq., §§23-76-101,



1 et seq., §§23-91-201, et seq., §§23-92-201, et seq., and §§23-94-101, et seq.,  
2 excluding insurers, health maintenance organizations, hospital and medical  
3 service corporations, fraternal benefit societies, and farmers' mutual aid  
4 associations, risk retention and purchasing groups, stipulated premium  
5 insurers and similar insurer-type entities.

6 (b) The fees shall be payable to The State Insurance Department Trust  
7 Fund for the support and operation of the Arkansas Insurance Department and in  
8 no event shall any one fee required by subsection (a) of this Section of this  
9 Act exceed a maximum of fifty dollars (\$50.00) per license or registration;  
10 provided however that such fees due for the period commencing immediately upon  
11 passage of this Act and ending June 30, 1994 shall be paid to the Trust Fund  
12 in the amount of thirty-five dollars (\$35.00) per license or registration for  
13 individuals and thirty-five dollars (\$35.00) for corporations and partnerships  
14 (agencies) on a schedule as the Commissioner shall direct for this period  
15 only; the fees due per each license as required by this Section commencing on  
16 and after July 1, 1994, and annually thereafter, shall be due in an amount and  
17 at such times or upon such schedule as the Commissioner shall prescribe in a  
18 companion rule and regulation to this Act after notice and a public hearing,  
19 so long as the companion rule does not provide for any one fee set pursuant to  
20 this section of the Act to exceed the maximum amount of fifty dollars (\$50)  
21 per license.

22 (c) Commencing immediately on and after passage of this Act, all new  
23 applicants for original or initial licensure or registration pursuant to the  
24 provisions of any of the Insurance Code subchapters recited in subsection (a)  
25 of this Section shall pay the annual administrative and regulatory fee per  
26 each license or registration to accompany the application for such license or  
27 registration upon filing with this Department. For the first imposition and  
28 payment of these new or increased fees immediately following passage of this  
29 Act and on or before July 1, 1994, all current licensees and registrants  
30 holding any one or more subsisting licenses or registrations pursuant to any  
31 of the provisions of the Insurance Code subchapters recited in subsection (a)  
32 of this section shall pay the administrative and regulatory fee as directed by  
33 the Commissioner pursuant to the provisions of this Section, so long as the  
34 fee per each license does not exceed fifty dollars (\$50.00).

35 (d) Penalties. Upon the failure of the applicant or licensee or

1 registrant timely to report and/or pay any of the additional administrative  
2 and regulatory fees assessed in this Section of the Act, the fee payable to  
3 The State Insurance Department Trust Fund shall be in twice the amount  
4 required in this Section. Additionally without an abuse of discretion, the  
5 Commissioner in his discretion may deny licensure or renewal licensure or  
6 registration or renewal registration to a new applicant, licensee or  
7 registrant; or may suspend or revoke current licensees or registrants required  
8 by this section to pay the administrative and regulatory fee. The  
9 Commissioner may also pursue other civil legal remedies for collection of the  
10 fees and penalties due and unpaid from applicants and licensees and  
11 registrants pursuant to this Section.

12 (e) Fee deposits: the state insurance department trust fund. Upon  
13 collection, the Insurance Commissioner shall deposit all such administrative  
14 and regulatory fees and penalties directly into The State Insurance Department  
15 Trust Fund as special revenues.

16 (f) Suspended licensees; continued payment obligations. For the  
17 licensees enumerated in this section whose licenses are subsequently suspended  
18 for violations of Arkansas laws or the Commissioner's rules or orders, the  
19 administrative and regulatory fees are due and owing upon the normal due date  
20 prescribed in the Commissioner's companion rule to this Act, including those  
21 licensees under a license suspension ordered by the Commissioner for timely  
22 failure to pay this regulatory fee; and license reinstatement shall not  
23 proceed, automatically or otherwise, pursuant to the Insurance Code unless and  
24 until the licensee pays all outstanding and owing regulatory fees imposed by  
25 this Act.

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27 SECTION 8. Fees Payable by Agents on Inactive License Status.

28 In addition to all other fees assessed as general or special revenues in  
29 connection with agent licensure and renewal licensure under the provisions of  
30 §23-61-401, and §§23-64-101, et seq. and §§23-64-201, et seq., and other  
31 applicable provisions of Arkansas law, resident insurance agents, during any  
32 period for which their licenses have been placed on inactive status with the  
33 Commissioner's approval if and as required, shall pay to The State Insurance  
34 Department Trust Fund as special revenues a nonrefundable administrative and  
35 financial regulation fee for each year their resident license remains on

1 inactive status. The initial administrative and financial regulation fee  
2 shall be payable by the resident agent to The State Insurance Department  
3 Trust Fund and filed with the Insurance Commissioner not later than thirty  
4 (30) days after approval of inactive agent license status is granted.  
5 Thereafter, until the license is reactivated, canceled, or revoked, the  
6 administrative and financial regulation fee shall be paid by the resident  
7 agent to The State Insurance Department Trust Fund through the Commissioner  
8 not later than July 1 annually. The fee shall be in an amount as required by  
9 Section 7 of this Act for current licensees. Upon the inactive resident  
10 agent's failure to pay the regulation fee on a timely basis, absent an  
11 extension granted for good cause by the Commissioner upon written request, his  
12 Arkansas license(s) shall be immediately canceled or expired by the  
13 Commissioner. The Commissioner shall deposit all such fees required by this  
14 Section directly into The State Insurance Department Trust Fund as special  
15 revenues.

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17 SECTION 9. Fees for Various Other Departmental Services and Products.

18 (a) (1) Notwithstanding other provisions of this Act and notwithstanding  
19 other provisions of the Arkansas Insurance Code or other applicable Arkansas  
20 laws, the Insurance Commissioner shall by companion rule to this Act prescribe  
21 the amount and manner of payment of new, additional or increased but  
22 nonrefundable fees due as special revenues to The State Insurance Department  
23 Trust Fund for the following services, documents or publications provided by  
24 the Arkansas Insurance Department including but not limited to: filing by  
25 insurers of each agent appointment termination form; application for or  
26 issuance of original certification to be a course provider for agent  
27 pre-licensing or continuing education in this State; application for or  
28 issuance of renewal certification to be a course providers for agent  
29 pre-licensing or continuing education in this State; filing fees for  
30 applications filed for original examinations and re-take examinations  
31 administered by the Department; filing of initial and renewal insurer  
32 appointments of resident insurance agencies, corporations or  
33 firms/partnerships; for annual renewal of each certificate of registration  
34 issued to a third party administrator; a filing and processing fee for filing  
35 legal process with the Department wherein the Insurance Commissioner is

1 serving as official agent for service of process; filing and processing fees  
2 for filing specimen insurance policy and contract forms of all types with the  
3 Department; filing fee for obtaining Department lists of various kinds of  
4 licensees or registrants; and similar Department services and products.

5 (2) In the event the Insurance Commissioner is required by laws enacted  
6 contemporaneous with or subsequent to this Act to perform other duties or  
7 incur other obligations, and in the event current revenues of the Department  
8 including but not limited to those revenues produced by this Act are not  
9 sufficient for the Commissioner to perform those new or additional duties  
10 efficiently and promptly or to the extent the Insurance Commissioner deems  
11 necessary, then the Insurance Commissioner shall enact new or additional or  
12 increased fees for Departmental services, documents and publications; but such  
13 fees shall only be adopted and imposed in a rule and regulation promulgated by  
14 the Insurance Commissioner after notice and a hearing pursuant to the  
15 Administrative Procedure Act and other applicable sections of the Insurance  
16 Code and other laws.

17 (3) The fees described in this section of the Act and prescribed in  
18 amount and frequency of payment in the Commissioner's companion rule to this  
19 Act shall be payable to The State Insurance Department Trust Fund as special  
20 revenues for the support and operation of the Arkansas Insurance Department.

21 (b) *The fees for various Department services, documents or publications*  
22 *shall be divided into two categories, Category A fees and Category B fees, and*  
23 *shall be so specified in the companion rule to this Act. Category A fees at a*  
24 *maximum of fifteen hundred dollars (\$1,500) per transaction shall consist of*  
25 *those fees representing material or substantive corporate transactions of*  
26 *licensees, including but not limited to holding company changes in control of*  
27 *insurers or similar entities, corporate mergers and consolidation, bulk or*  
28 *assumptive reinsurance transactions; as well as Department products and*  
29 *services which would require a substantial commitment of Department resources*  
30 *per transaction. Category B fees at a maximum of fifty dollars (\$50) per*  
31 *transaction shall consist of those fees representing other transactions of*  
32 *licensees; as well as Department products and services which would not require*  
33 *a substantial commitment of Department resources per transaction. In no event*  
34 *shall any one Category A or Category B fee for any Department service,*  
35 *document or publication per each transaction pursuant to this section and the*

1 Commissioner's companion rule and regulation exceed the maximums listed  
2 herein.

3 (c) The reference to insurers in the above chart is deemed to include  
4 hospital and medical service corporations, fraternal benefit societies,  
5 farmers mutual aid associations, health maintenance organizations, legal  
6 insurers, and stipulated premium insurers. The Commissioner may from time to  
7 time alter the fee amounts by rule and regulation amendment pursuant to the  
8 Administrative Procedure Act, but in no event shall such fee amendments  
9 necessary for continued support and operation of the Department exceed the  
10 limitations set forth in this section of the Act.

11 (d) On and after the effective date of this Act, insurers obligated to  
12 secure or renew agent appointments using Department Forms 1-48 for their agent  
13 representatives on the licensing records of the Arkansas Insurance Department  
14 pursuant to the provisions of Ark. Code Ann. §§23-64-201, et seq., on a new or  
15 biennial renewal basis, shall no longer collect such licensure expenses  
16 directly or indirectly from the agent licensee or exact any form of  
17 reimbursement for the statutory appointment fees, or pass such costs along to  
18 the agent licensee directly or indirectly as any other type of charge,  
19 notwithstanding the provision of any agency, brokerage or employment contract  
20 or agreement with such agent to the contrary.

21

22 SECTION 10. Insurance Commissioner's Authority, Powers and Duties.

23 (a) The Commissioner shall be duly authorized to promulgate rules and  
24 regulations necessary to effectuate the purposes of this Act.

25 (b) Upon his determination and finding that Department appropriations or  
26 funding are insufficient to operate the Arkansas Insurance Department  
27 efficiently or to allow the Commissioner to perform all his statutorily  
28 mandated duties and tasks, the Insurance Commissioner may in his discretion,  
29 by rule and regulation following notice and a public hearing, increase the  
30 amounts of the fees, license fees, fines, penalties and revenues as provided  
31 in this Act for deposit into The State Insurance Department Trust Fund as  
32 special revenues.

33 (c) Further in his discretion the Insurance Commissioner may establish  
34 and collect as special revenues additional or increased fees and penalties not  
35 otherwise specified in this Act, for direct deposit into The State Insurance

1 Department Trust Fund as special revenues, if the fees and revenues provided  
2 by this Act are insufficient, in connection with all other revenues  
3 appropriated to and funded for the Arkansas Insurance Department, to defray  
4 all the expenses of the Arkansas Insurance Department in the efficient  
5 discharge of its administrative and regulatory powers and duties as prescribed  
6 by law. *Any special revenues and fees established by the Commissioner by the*  
7 *authority of this Section 10 shall be classified in and meet the criteria of*  
8 *the Category A or Category B fees specified by Section 9 of this Act.*

9 (d) Upon collection by the Insurance Commissioner, these funds shall be  
10 deposited as special revenues directly into The State Insurance Department  
11 Trust Fund.

12 (e) The Commissioner may from time to time alter the amounts of the fees  
13 specified in the companion rule(s) to this Act by amending the rule(s)  
14 pursuant to the procedures of the Administrative Procedure Act, as necessary  
15 to the continued support and operation of the Department.

16

17 SECTION 11. Trust Fund; Department Vouchers and State Auditor Warrants.

18 All fees, license fees and additional or increased license or  
19 registration fees, fines, penalties and revenues provided in this Act received  
20 as special revenues for The State Insurance Department Trust Fund and  
21 deposited therein shall be deemed for all purposes revenues of The State  
22 Insurance Department Trust Fund and of the Arkansas Insurance Department for  
23 the sole support, operation and maintenance of the Arkansas Insurance  
24 Department, and, when paid into the State Treasury by the Insurance  
25 Commissioner, shall be maintained by the State Treasury as The State Insurance  
26 Department Trust Fund, separate from all other funds, and available only for  
27 the payment of the expenses of the Arkansas Insurance Department pursuant to  
28 the appropriations therefor. The State Auditor shall, upon proper voucher  
29 from the Insurance Commissioner, issue his warrant on the State Treasurer in  
30 payment of all salaries and other expenses incurred in the administration of  
31 this Act.

32

33 SECTION 12. Fees Additional to all Others Currently Payable; One  
34 Exception Thereto.

35 The fees assessed or imposed by this Act upon insurers as defined or

1 referenced in Section 3 of this Act, and the fees assessed or imposed in  
2 Section 6 through Section 10 of this Act upon professional bail bond  
3 companies, insurers, insurance agents, brokers, and other licensees or  
4 registrants are imposed in addition to all other fees, assessments, premium  
5 and privilege taxes, penalties, and other such payments such licensees or  
6 registrants pay the State of Arkansas through the State Insurance Department  
7 or other state or governmental agencies pursuant to applicable Arkansas laws;  
8 except that insurers' payments of these administrative and financial  
9 regulation fees in Section 3 of this Act are expressly and in pertinent part  
10 to be paid in lieu of payment of Department examiners' salary, wages and  
11 compensation due at or after each examination conducted on the insurer by the  
12 Department's examiners pursuant to the provisions of §§23-61-201, et seq., and  
13 in particular §23-61-206; therefore insurers shall still be liable for payment  
14 of and shall pay Department examiners' expenses for food, lodging and travel  
15 as directed under §§23-61-201, et seq. In this regard the provisions of  
16 Section 3 of this Act are in fact deemed to supersede the provisions of  
17 §23-61-206 in pertinent part but only as to examiners' salaries, wages and  
18 compensation (excluding expense reimbursement due and liable for food, lodging  
19 and travel expenses).

20

21         SECTION 13. Arkansas Code 23-64-216 is hereby amended by adding new  
22 subsection (f) at the end of the existing section as follows:

23         "(f) (1) Notwithstanding the provisions of Ark. Code Ann. §§23-64-101,  
24 et seq., other sections of the State Insurance State Code, and other Arkansas  
25 laws, commencing upon January 1, 1994, in an orderly program to be devised and  
26 implemented by the Insurance Commissioner and on forms as he shall prescribe,  
27 the Insurance Commissioner shall begin issuance of a license, permit or  
28 registration with accompanying number to each applicant for a license as an  
29 agent, solicitor, broker, adjuster, consultant, for permit as an amusement  
30 rider operator, and for registration as a third party administrator ("TPA"),  
31 pending completion of all other requirements of the Insurance Code at the  
32 point in application processing as the Commissioner shall prescribe; and such  
33 number shall be maintained for that applicant throughout his licensed, or  
34 permitted or registered tenure with the Arkansas Insurance Department. Each  
35 insurance agent's license and number shall be maintained no longer than five

1 (5) years after the applicant is granted inactive status for all his issued  
2 and outstanding licenses by the Insurance Department per its procedure, absent  
3 proper license and license number reactivation by the Insurance Commissioner  
4 at the end of such five (5) year period, or until such license has been  
5 surrendered or revoked. The number shall be maintained for other permittees  
6 and registrants as referenced in this subsection until such permits or  
7 registrations expire or are canceled or revoked.

8 (2) Notwithstanding other provisions of the Insurance Code and other  
9 Arkansas laws, and commencing on January 1, 1994, in an orderly program to be  
10 devised and implemented by the Insurance Commissioner, and on forms as  
11 he shall prescribe, the Insurance Commissioner shall begin issuance of a  
12 number for each person, firm or corporation holding an active and subsisting  
13 license as an agent, broker, solicitor, consultant, or adjuster, or permit as  
14 an amusement ride operator, or registration as a third party administrator,  
15 who currently do not have the identifying number. Such identifying number  
16 shall be maintained for that person, firm or corporation throughout the  
17 licensed, permitted or registered tenure with the Arkansas Insurance  
18 Department. Each insurance agent's license number shall be maintained no  
19 longer than five (5) years after inactive license status is granted for all  
20 his issued and outstanding licenses by the Insurance Department per its  
21 procedure, absent proper license and number reactivation by the Insurance  
22 Commissioner at the end of the five (5) year period, or until such license has  
23 been surrendered or revoked. The number shall be maintained for other  
24 permittees and registrants as referenced in this subsection until such permits  
25 or registrations expire or are canceled or revoked."

26  
27 *SECTION 14. Subsection (c) of Arkansas Code 11-9-303 is hereby amended,*  
28 *to change only the reference of the "General Revenue Fund Account" to "The*  
29 *State Insurance Department Trust Fund", to read as follows:*

30 *"(c) This tax shall be collected by the Insurance Commissioner from the*  
31 *carriers at the same time and in the same manner as provided in the premium*  
32 *tax sections of the law of this state and deposited into the funds created in*  
33 *§ 11-9-301. Immediately upon deposit into the funds created in §11-9-301, the*  
34 *Chief Fiscal Officer of the State shall transfer the first one hundred*  
35 *thousand dollars (\$100,00) of said taxes into The State Insurance Department*



1 Trust Fund used for the maintenance, operation, and support of the State  
2 Insurance Department; provided, however, that the total of these transferred  
3 funds combined together with the transferred funds provided in § 11-9-305(d)  
4 for the maintenance, operation and support of the State Insurance Department  
5 shall not exceed one hundred thousand (\$100,000) in any one (1) fiscal year.  
6 Said transfer from the funds created in § 11-9-301 shall be in the same  
7 proportions that deposits were made into the three (3) funds as set forth in §  
8 11-9-306 (a)-(c)."

9 SECTION 15. All provisions of this act of a general and permanent  
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
11 Code Revision Commission shall incorporate the same in the Code.

12

13 SECTION 16. If any provision of this act or the application thereof to  
14 any person or circumstance is held invalid, such invalidity shall not affect  
15 other provisions or applications of the act which can be given effect without  
16 the invalid provision or application, and to this end the provisions of this  
17 act are declared to be severable.

18

19 SECTION 17. All laws and parts of laws in conflict with this act are  
20 hereby repealed.

21

22 SECTION 18. EMERGENCY. It is hereby found and determined by the  
23 General Assembly of the State of Arkansas that current revenues supporting the  
24 operation and activities of the Arkansas Insurance Department are insufficient  
25 for efficient and productive operation of the Insurance Department in view of  
26 its myriad duties to protect the insurance-buying consumers of this State and  
27 to regulate the Arkansas activities of insurers, insurance agents and similar  
28 licensees, and professional bail bond companies. The provisions of this Act  
29 are essential to the operations of the Arkansas Insurance Department and delay  
30 in the effective date of this Act could work irreparable harm upon the proper  
31 administration and provision of essential governmental programs. Therefore an  
32 emergency is hereby declared to exist and this Act being necessary for the  
33 immediate preservation of the public peace, health and safety shall be in full  
34 force and effect from and after its passage and approval.

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*/s/ Senator Bradford*

APPROVED: 3/24/93