

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: H2/11/97

A Bill

ACT 337 OF 1997
HOUSE BILL 1465

5 By: Representative Newman
6
7

For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR SPECIAL REVENUE FUNDS TO BE
10 COLLECTED AND EXPENDED SOLELY FOR THE PERSONAL SERVICES
11 AND OPERATING EXPENSES, MAINTENANCE AND OPERATIONS, AND
12 SUPPORT OF AND IMPROVEMENTS TO THE INSURANCE FRAUD
13 INVESTIGATION DIVISION OF THE ARKANSAS INSURANCE
14 DEPARTMENT; FOR THE CREATION AND ESTABLISHMENT AND
15 MAINTENANCE OF THE INSURANCE FRAUD INVESTIGATION DIVISION
16 TRUST FUND; FOR THE ASSESSMENT AND COLLECTION OF SPECIAL
17 FEES AS SPECIAL REVENUES FROM INSURERS FOR DEPOSIT INTO
18 THE INSURANCE FRAUD INVESTIGATION DIVISION TRUST FUND; AND
19 FOR OTHER PURPOSES."

Subtitle

21 "TO AUTHORIZE A SPECIAL INSURANCE FRAUD
22 ASSESSMENT FROM INSURERS AND TO CREATE,
23 ESTABLISH AND MAINTAIN AN INSURANCE
24 FRAUD INVESTIGATION TRUST FUND."
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. TITLE.

30 This Act shall known as "The Insurance Fraud Investigation Division
31 Trust Fund Act".
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33 SECTION 2. The Insurance Fraud Investigation Division Trust Fund;
34 creation.

35 (a) There is hereby established on the books of the State Treasurer,
36 the State Auditor, and the Chief Fiscal Officer of the State a fund to be

1 known as "The Insurance Fraud Investigation Division Trust Fund" to be used to
2 defray the expenses of the Insurance Fraud Investigation Division of the
3 Arkansas Insurance Department in the discharge of its administrative and
4 regulatory powers and duties as prescribed by law.

5 (b) No money is to be appropriated from this Fund for any purpose
6 except for the personal services and operating expenses, maintenance and
7 operations, and support of and improvements to the Insurance Fraud
8 Investigation Division of the Arkansas Insurance Department, and at the
9 direction of the Arkansas Insurance Commissioner for the use, benefit, and
10 support of the Insurance Fraud Investigation Division.

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

14 (d) All income derived through investment of The Insurance Fraud
15 Investigation Division Trust Fund, including but not limited to interest and
16 dividends, shall be credited as investment income to The Insurance Fraud
17 Investigation Division Trust Fund. All income derived through grants,
18 refunds, gifts, or any other sources, to The Insurance Fraud Investigation
19 Division Trust Fund shall be credited as income to The Insurance Fraud
20 Investigation Division Trust Fund and deposited therein.

21 (e) Further, all monies deposited to the aforementioned Fund shall not
22 be subject to any deduction, tax, levy, or any other type of assessment,
23 except as may be provided by law.

24

25 SECTION 3. Administrative and regulatory fee.

26 (a) Notwithstanding the provisions of Ark. Code 26-57-601, et seq.,
27 Ark. Code 23-61-701, et. seq., and other provisions of Arkansas law, all
28 licensed insurers, including but not limited to all licensed stock and mutual
29 insurance companies, reinsurers, health maintenance organizations, fraternal
30 benefit societies, hospital and medical service corporations, stipulated
31 premium insurers, farmers' mutual aid associations, and pre-paid legal
32 insurers, shall not later than June 30, 1997 for the 1996-1997 fiscal year,
33 and thereafter annually on or before June 30th for all subsequent years at the
34 time and in the manner as the Insurance Commissioner shall prescribe or at
35 times alternate from June 30th annually as the Insurance Commissioner shall
36 prescribe, pay to The Insurance Fraud Investigation Division Trust Fund, in

1 addition to the premium taxes and fees now required under existing law, a
2 nonrefundable administrative and regulatory fee as directed by the Insurance
3 Commissioner for the reasonable and necessary expenses and operation of the
4 Insurance Fraud Investigation Division. Effective for the 1996-1997 fiscal
5 year, all licensed insurers described in subsection (a) of this section shall
6 pay a one-time administrative and regulatory fee to The Insurance Fraud
7 Investigation Division Trust Fund of four hundred dollars (\$400). The
8 Insurance Commissioner may, by rule or regulation, reduce the administrative
9 and regulatory fee to The Insurance Fraud Investigation Division Trust Fund or
10 adjust the fee to a maximum of no more than one thousand dollars (\$1,000) per
11 each fiscal year following the 1996-1997 fiscal year.

12 (b) Approved but non-admitted surplus line insurers and registered risk
13 retention groups are exempt from payment of the above fee.

14
15 SECTION 4. Insurers' payment extensions; penalties for non-compliance;
16 Insurance Commissioner's waiver for impaired or insolvent insurers.

17 (a) The Insurance Commissioner may grant any licensed insurer an
18 extension for payment of the annual administrative and regulatory fee for good
19 cause shown, upon written application of the licensed insurer received at the
20 Insurance Department on or before each annual due date. Absent the Insurance
21 Commissioner's approval of such time extensions for good cause, licensed
22 insurers failing timely to pay the administrative and regulatory fee shall be
23 subjected to a penalty of one hundred dollars (\$100.00) per day for each day
24 of delinquency, payable to The Insurance Fraud Investigation Division Trust
25 Fund. The Insurance Commissioner may pursue any appropriate legal remedies to
26 collect the administrative and regulatory fees and penalties due and unpaid
27 from any insurer. Further, the Insurance Commissioner may in his discretion
28 order suspension of the delinquent insurer's Arkansas certificate of authority
29 after notice and hearing until payment of all such fees and penalties is
30 remitted to The Insurance Fraud Investigation Division Trust Fund. Absent
31 grant of his waiver for good cause shown, the Insurance Commissioner may
32 revoke the Arkansas certificate of authority of any delinquent insurer
33 consistently refusing and failing without good cause to remit payment of these
34 fees and penalties to the Fund pursuant to the act.

35 (b) The Insurance Commissioner may in his discretion waive all or any
36 part of the administrative and regulatory fee due annually from a licensed

1 insurer upon the suspension or revocation of the insurer's Arkansas
2 certificate of authority, or upon issuance of a court order placing the
3 company into conservation, rehabilitation or liquidation in any state, or upon
4 the Insurance Commissioner's finding that the insurer is impaired or
5 insolvent. Upon the reinstatement or activation of the insurer's certificate
6 of authority in good standing, the Insurance Commissioner's waiver
7 automatically terminates and the insurer shall be liable for payment of the
8 administrative and regulatory fee on the next succeeding March 1st, without
9 retroactive reimbursement for the amount of the fees which would normally have
10 accrued during the waiver period.

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12 SECTION 5. Insurer's administrative and regulatory fees; deposit into
13 The Insurance Fraud Investigation Division Trust Fund.

14 The Insurance Commissioner shall deposit all administrative and
15 financial regulatory fees and any penalties assessed under this act, as well
16 as any other income received for purposes set out in subsection (a) of section
17 2 of this act, into The Insurance Fraud Investigation Division Trust Fund as
18 special revenues.

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20 SECTION 6. The Insurance Commissioner may promulgate reasonable rules
21 and regulations deemed necessary for the administration of this act.

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23 SECTION 7. The Insurance Fraud Investigation Division Trust Fund;
24 Department vouchers and State Auditor warrants.

25 All fees, penalties, and revenues provided in this Act received as
26 special revenues for The Insurance Fraud Investigation Division Trust Fund and
27 deposited therein shall be deemed for all purposes special revenues of The
28 Insurance Fraud Investigation Division Trust Fund and of the Arkansas
29 Insurance Department for the sole support, operation and maintenance of the
30 Insurance Fraud Investigation Division of the Arkansas Insurance Department,
31 and, when paid into the State Treasury by the Insurance Commissioner, shall be
32 maintained by the State Treasury as The Insurance Fraud Investigation Division
33 Trust Fund, separate from all other funds, and available only for the payment
34 of the expenses of the Insurance Fraud Investigation Division of the Arkansas
35 Insurance Department pursuant to the appropriations therefore. The State
36 Auditor shall, upon proper voucher from the Insurance Commissioner, issue his

1 warrant on the State Treasurer in payment of all salaries and other expenses
2 incurred in the administration of this act.

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4 SECTION 8. All provisions of this act of a general and permanent nature
5 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
6 Revision Commission shall incorporate the same in the Code.

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8 SECTION 9. If any provision of this act or the application thereof to
9 any person or circumstance is held invalid, such invalidity shall not affect
10 other provisions or applications of the act which can be given effect without
11 the invalid provision or application, and to this end the provisions of this
12 act are declared to be severable.

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14 SECTION 10. All laws and parts of laws in conflict with this act are
15 hereby repealed.

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17 SECTION 11. Emergency. It is hereby found and determined by the
18 General Assembly of the State of Arkansas that the Arkansas Insurance Code is
19 in immediate need of revision to protect the insurance-buying consumers of
20 this State; that the provisions of this act are essential to the operations
21 and activities of the Insurance Fraud Investigation Division of the Arkansas
22 Insurance Department which are intended to provide protection to the
23 insurance-buying consumers of this State and delay in the effective date of
24 this act would work irreparable harm upon the proper administration and
25 provision of essential government programs. Therefore an emergency is
26 declared to exist and this act being immediately necessary for the
27 preservation of the public peace, health and safety shall become effective on
28 the date of its approval by the Governor. If the bill is neither approved nor
29 vetoed by the Governor, it shall become effective on the expiration of the
30 period of time during which the Governor may veto the bill. If the bill is
31 vetoed by the Governor and the veto is overridden, it shall become effective
32 on the date the last house overrides the veto.

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/s/Rep. Newman

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APPROVED: 3-03-97

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