

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

# A Bill

**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

1 REGULATORY FEES; AND FOR OTHER PURPOSES."

2

3

**Subtitle**

4 "The State Insurance Department Trust Fund Act."

5

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

7

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

10

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

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

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

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

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

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

34

35 SECTION 3. Administrative and Financial Regulation Fee: Insurers.

1 Notwithstanding the provisions of Ark. Code Ann. §26-57-602 and other  
 2 provisions of Arkansas law, all licensed insurers, including but not limited  
 3 to all licensed stock and mutual insurance companies, health maintenance  
 4 organizations ("HMO's"), fraternal benefit societies, hospital and medical  
 5 service corporations, stipulated premium insurers, and farmers' mutual aid  
 6 associations ("FMAA's"), shall not later than June 30, 1993 for the 1992-1993  
 7 fiscal year, and thereafter annually on or before June 30th for all subsequent  
 8 years at the time and in the manner as the Insurance Commissioner shall  
 9 prescribe or at times alternate from June 30th annually as the Insurance  
 10 Commissioner shall prescribe, pay to The State Insurance Department Trust Fund  
 11 a nonrefundable administrative and financial regulation fee. This fee shall  
 12 be based upon the insurer's direct premiums and co-payments written in the  
 13 State of Arkansas during the preceding calendar year, as evidenced by the  
 14 insurer's Annual Statement filed March 1 annually with the State Insurance  
 15 Department pursuant to the Insurance Code. Such administrative and financial  
 16 regulation fees shall be paid in the following amounts based upon the  
 17 following schedule:

18 ARKANSAS DIRECT WRITTEN PREMIUMS	ANNUAL ADMINISTRATIVE AND
19 AND CO-PAYMENTS OF INSURERS,	FINANCIAL REGULATION
20 HMO'S, FMAA'S, ETC.	FEE DUE STATE OF ARKANSAS
21 (total preceding calendar year)	
22 \$0	\$ 500
23 01-499,999	750
24 500,000-2,499,999	1,000
25 2,500,500-4,999,999	2,500
26 5,000,000-7,499,999	5,000
27 7,500,000-9,999,999	7,500
28 10,000,000-19,999,999	10,000
29 20,000,000-29,999,999	12,000
30 30,000,000-49,999,999	15,000
31 50,000,000-74,999,999	17,500
32 75,000,000-99,999,999	20,000
33 100,000,000 AND UP	25,000

34 In no event shall the annual financial regulation fee imposed in this Section  
 35 and assessed to support the maintenance and operation of the Arkansas

1 Insurance Department exceed \$25,000 for any one insurer in any one year.

2

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

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

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

1 during the waiver period.

2

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

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

8

9 SECTION 6. Professional Bail Bond Companies.

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

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

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

21 (b) The minimum compensation for giving bond or depositing money or  
22 property as bail on any bond shall be not less than *thirty-five dollars*  
23 *(\$35.00)*.

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

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

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

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

1 revenues to the Trust Fund.

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

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

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

1 his discretion fine, suspend or revoke the license of the employing  
2 professional bail bond company if it assisted the individual in such  
3 fraudulent conduct.

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

22

23           SECTION 7. Administrative and Regulatory Fees: Other Licensees.

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



1 §§23-65-301, et seq., §§23-73-101, et seq., §§23-74-101, et seq., §§23-76-101,  
2 et seq., §§23-91-201, et seq., §§23-92-201, et seq., and §§23-94-101, et seq.,  
3 excluding insurers, health maintenance organizations, hospital and medical  
4 service corporations, fraternal benefit societies, and farmers' mutual aid  
5 associations, risk retention and purchasing groups, stipulated premium  
6 insurers and similar insurer-type entities.

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

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

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

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

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

27

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

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

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

17

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

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

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

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

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

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

1 document or publication per each transaction pursuant to this section and the  
2 Commissioner's companion rule and regulation exceed the maximums listed  
3 herein.

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

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

22

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

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

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

34 (c) Further in his discretion the Insurance Commissioner may establish  
35 and collect as special revenues additional or increased fees and penalties not

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

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

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

17

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

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

33

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

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

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

24           "(f) (1) Notwithstanding the provisions of Ark. Code Ann. §§23-64-101,  
25 et seq., other sections of the State Insurance State Code, and other Arkansas  
26 laws, commencing upon January 1, 1994, in an orderly program to be devised and  
27 implemented by the Insurance Commissioner and on forms as he shall prescribe,  
28 the Insurance Commissioner shall begin issuance of a license, permit or  
29 registration with accompanying number to each applicant for a license as an  
30 agent, solicitor, broker, adjuster, consultant, for permit as an amusement  
31 rider operator, and for registration as a third party administrator ("TPA"),  
32 pending completion of all other requirements of the Insurance Code at the  
33 point in application processing as the Commissioner shall prescribe; and such  
34 number shall be maintained for that applicant throughout his licensed, or  
35 permitted or registered tenure with the Arkansas Insurance Department. Each

1 insurance agent's license and number shall be maintained no longer than five  
2 (5) years after the applicant is granted inactive status for all his issued  
3 and outstanding licenses by the Insurance Department per its procedure, absent  
4 proper license and license number reactivation by the Insurance Commissioner  
5 at the end of such five (5) year period, or until such license has been  
6 surrendered or revoked. The number shall be maintained for other permittees  
7 and registrants as referenced in this subsection until such permits or  
8 registrations expire or are canceled or revoked.

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

27

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

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



1 thousand dollars (\$100,00) of said taxes into The State Insurance Department  
2 Trust Fund used for the maintenance, operation, and support of the State  
3 Insurance Department; provided, however, that the total of these transferred  
4 funds combined together with the transferred funds provided in § 11-9-305(d)  
5 for the maintenance, operation and support of the State Insurance Department  
6 shall not exceed one hundred thousand (\$100,000) in any one (1) fiscal year.  
7 Said transfer from the funds created in § 11-9-301 shall be in the same  
8 proportions that deposits were made into the three (3) funds as set forth in §  
9 11-9-306 (a)-(c)."

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

13

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

19

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

22

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

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*/s/ Senator Bradford*