

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

As Engrossed: H3/20/97

A Bill

HOUSE BILL 1948

4
5 By: Representative Vess

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 17-19-111 TO
10 DEFRAID COSTS INCURRED IN THE COLLECTION OF FEES DUE AND
11 OWING TO THE STATE INSURANCE DEPARTMENT TRUST FUND; AND
12 FOR OTHER PURPOSES."

Subtitle

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14 "TO DEFRAID COSTS INCURRED IN THE
15 COLLECTION OF FEES DUE AND OWING TO THE
16 STATE INSURANCE DEPARTMENT TRUST FUND"

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

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21 SECTION 1. Arkansas Code Annotated § 17-19-111 is amended to read as
22 follows:

23 "17-19-111. Fees.

24 (a) Notwithstanding any other provisions of this chapter to the
25 contrary, and notwithstanding any other provisions of Arkansas law to the
26 contrary, professional bail bond companies are hereby required to charge and
27 collect and remit the following fees for direct deposit as special revenues
28 into the State Insurance Department Trust Fund for the support, personnel,
29 maintenance, and operations of the State Insurance Department, in addition to
30 any other fees, taxes, premium taxes, levies, or other assessments imposed in
31 connection with the issuance of bail bonds by professional bail bond companies
32 under Arkansas law.

33 (b)(1) In addition to the bail or appearance bond premium or
34 compensation allowed under § 17-19-301, each licensed professional bail bond
35 company shall charge and collect as a nonrefundable fee for the State
36 Insurance Department Trust Fund an additional ten dollar (\$10.00) fee per bail

1 bond for giving bond for each and every bail and appearance bond issued by the
2 licensed professional bail bond company by or through its individual
3 licensees.

4 (2) The fees shall be collected quarterly and then reported and
5 filed with the Insurance Commissioner no later than fifteen (15) calendar days
6 after the end of each quarter.

7 (3) The notarized quarterly reporting form and a notarized annual
8 reconciliation form as to all such fees collected for the State Insurance
9 Department Trust Fund shall be filed by each professional bail bond company on
10 forms prescribed by the Insurance Commissioner, and at such times and in the
11 manner as the Insurance Commissioner shall prescribe in conformity with this
12 section. A paper processing charge of fifteen dollars (\$15.00) shall be
13 collected on each bail bond in order to defray the suretys costs incurred by
14 the quarterly and annual reporting requirements contained herein and to
15 further defray the suretys costs incurred in the collection of all fees due,
16 owing, and collected on behalf of the State Insurance Department Trust Fund
17 and the suretys costs incurred in the preparation of all required reports
18 submitted in conformance with the standards established by the American
19 Institute of Certified Public Accountants.

20 (c)(1) The Insurance Commissioner may in his discretion grant an
21 extension for the filing of the report and fees for good cause shown upon
22 timely written request.

23 (2) Absent an extension for good cause shown, each licensed
24 professional bail bond company failing to report or pay these fees shall be
25 liable to the State Insurance Department Trust Fund for a monetary penalty of
26 one hundred dollars (\$100) per day for each day of delinquency.

27 (3) The Insurance Commissioner may pursue any appropriate legal
28 remedies on behalf of the State Insurance Department Trust Fund to collect any
29 delinquent fees and penalties owed as special revenues.

30 (d)(1) Upon collection of the fees and any monetary penalties, the
31 Insurance Commissioner shall deposit all fees and penalties directly into the
32 State Insurance Department Trust Fund as special revenues.

33 (2) The fees and penalties shall be in addition to all other
34 fees, licensure or registration fees, taxes, assessments, levies, or penalties
35 payable to any federal or state office, court, agency, board, or commission or
36 other public official or officer of the state, or its political subdivisions,

1 including counties, cities, or municipalities by professional bail bond
2 companies.

3 (3)(A) Each individual bail bondsman is required to assist in
4 collection of the fees, but is exempt from the duty and responsibility of
5 payment of the fees to the State Insurance Department Trust Fund unless he
6 misappropriates or converts such moneys to his own use or the use of others
7 not entitled to the fees.

8 (B) In such a case, the Insurance Commissioner shall
9 proceed on behalf of the State Insurance Department Trust Fund with any civil
10 or criminal remedies at his disposal against the individual responsible.

11 (C) Upon criminal conviction of the individual responsible
12 for fraudulent conversion of the moneys due the State Insurance Department
13 Trust Fund, the individual responsible shall pay restitution to the trust
14 fund, and the court shall incorporate a finding to that effect in its order.

15 (D) Absent substantial evidence to the contrary, the
16 violations of the individual may be attributed to the employing bail bond
17 company, and any criminal or civil court may in its discretion and upon
18 substantial evidence order the employing bail bond company to pay restitution
19 to the State Insurance Department Trust Fund on behalf of the responsible
20 individual and shall incorporate any such finding into its order.

21 (e) For purposes of any statutory security deposit Arkansas law
22 requires of professional bail bond companies, including, but not limited to,
23 the deposit under § 17-19-205, the payment of the fees required by this
24 section is considered to be a duty of the licensee, so as to allow the
25 Insurance Commissioner on behalf of the State Insurance Department Trust Fund
26 to make a claim against any such deposit for the fees required by this section
27 and any penalties owed thereon, up to the limit of any such security deposit.

28 (f) Under no circumstances shall the fees or penalties thereon held in
29 or for deposit into the State Insurance Department Trust Fund as special
30 revenues be subject to any tax, levy, or assessment of any kind, including,
31 but not limited to, any bond forfeiture claims, any garnishment or general
32 creditors' claims, any remedies under title 19 of this Code, or other
33 provisions of Arkansas law."

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35 SECTION 2. All provisions of this act of a general and permanent nature
36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

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3 SECTION 3. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 4. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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/s/Rep. Vess

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