

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

SENATE BILL 132

5 By: Senator D. Johnson
6 By: Representative Vines
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 23 OF
10 THE ARKANSAS CODE CONCERNING PUBLIC UTILITIES AND
11 REGULATED INDUSTRIES; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO MAKE TECHNICAL CORRECTIONS TO TITLE 23
16 OF THE ARKANSAS CODE CONCERNING PUBLIC
17 UTILITIES AND REGULATED INDUSTRIES.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 23-61-112(a)(3), concerning the Insurance
23 Commissioner's annual report to the Governor, is amended to read as follows
24 to reinsert a conjunction that was inadvertently deleted by the 2013
25 amendment:

26 (3) The total receipts and expenses of the State Insurance
27 Department for the year; and
28

29 SECTION 2. Arkansas Code § 23-66-508(a)(3)(B), concerning the Criminal
30 Investigation Division within the State Insurance Department, is amended to
31 read as follows to clarify the wording and to clarify a reference to a state
32 entity:

33 (B) Personnel hired as law enforcement officers shall be
34 state-certified in law enforcement or ~~the~~ have equivalent ~~in~~ national or
35 military law enforcement experience as approved by the ~~commission~~ Arkansas
36 Commission on Law Enforcement Standards and Training.



1
2 SECTION 3. Arkansas Code § 23-68-135(d), concerning the liquidation
3 and distribution of an insurance company's distributable assets, is amended
4 to read as follows to correct an improperly subdivided list within a list:

5 (d) Within one hundred twenty (120) days after the entry of a
6 liquidation order and at least annually thereafter, the liquidator shall
7 submit to the court:

8 (1) A financial statement, including:

9 (A) The assets and liabilities of the insurer;

10 (B) Any change in the assets and liabilities of the
11 insurer;

12 (C) The income and expenses of the insurer; and

13 (D) All funds received or disbursed by the receiver in the
14 liquidation estate during the reporting period;

15 (2) A report indicating whether or not distributable assets are
16 available based on the financial statement; and

17 (3)(A) If distributable assets are available, a request for
18 court approval to make early access payments of the distributable assets
19 available to affected guaranty associations out of the general assets of the
20 insurer; ~~and.~~

21 ~~(4)(B)~~ The liquidator may apply to the court to make early
22 access payments more frequently than annually based on additional financial
23 information or the recovery of material assets.

24
25 SECTION 4. Arkansas Code § 23-79-109(i)(1), concerning information the
26 Insurance Commissioner may be asked to provide if he or she disapproves a
27 rate, is amended to read as follows to clarify the wording of the
28 subdivision:

29 (i)(1) If the commissioner disapproves a rate, the insurer may request
30 that the commissioner provide the insurer with ~~the filing~~ an actuarial
31 analysis, interpretation of statistical data, and other methodology that was
32 reviewed by the commissioner or his or her staff.

33
34 SECTION 5. Arkansas Code § 23-79-110(c), concerning premium rate
35 filings with the Insurance Commissioner, is amended to read as follows to
36 correct the subdividing of the subsection, to correct an internal reference,

1 and to remove an extraneous subdivision:

2 (c)(1) A rate on a particular policy form is approved when filed with
3 the commissioner if the insurer has filed a loss ratio guarantee with the
4 commissioner and complied with the terms of the loss ratio guarantee.

5 (2) A benefit is reasonable in relation to the premium so long
6 as the insurer complies with the terms of the loss ratio guarantee.

7 (3)(A) The loss ratio guarantee shall be in writing, signed by
8 an officer of the insurer, and contain at least the following:

9 ~~(A)(i)~~ A recitation of the anticipated target loss
10 ratio standards contained in the original actuarial memorandum filed with the
11 policy form when it was originally approved;

12 ~~(B)(ii)~~ A guarantee that if the new rate takes
13 effect, the loss ratios in this state for the experience period in which the
14 new rate takes effect and for each experience period thereafter until a new
15 rate is filed, shall meet or exceed the loss ratio standards referred to in
16 subdivision (a)(4) of this section; and

17 ~~(C)(iii)~~ A statement or guarantee that affected
18 policyholders in this state shall be issued a proportional refund based on
19 premium earned of the amount necessary to bring the total loss ratio up to
20 the loss ratio standards referred to in subdivision (a)(4) of this section~~+~~.

21 ~~(D)(B)~~ If nationwide loss ratios are used, then the total
22 amount refunded in this state shall equal the dollar amount necessary to
23 achieve the loss ratio standards multiplied by the total premium earned in
24 this state on the policy form and divided by the total premium earned in a
25 state on the policy form~~+~~.

26 ~~(E)(C)~~ The refund shall be made to a policyholder in this
27 state who is insured under the applicable policy form on the last day of the
28 experience period and whose refund would equal ten dollars (\$10.00) or more~~+~~.

29 ~~(F)(D)~~ The refund ~~in subdivision (c)(6)(C) of this section~~
30 shall include interest from the end of the experience period until the date
31 of payment~~+~~.

32 ~~(G)(E)~~ The payment of the refund shall be made during the
33 third quarter of the year following the experience period for which a refund
34 is determined to be due~~+~~ ~~and~~.

35 ~~(H)(F)~~ Refunds of less than ten dollars (\$10.00) shall be
36 aggregated by the insurer and paid to the State Insurance Department.

1 (4)(A) If the annual earned premium volume in this state under a
2 policy form is less than one million dollars (\$1,000,000) and therefore not
3 actuarially credible, the loss ratio guarantee shall be based on the
4 nationwide loss ratio for the policy form.

5 (B) If the total earned premium in this state is less than
6 one million dollars (\$1,000,000), the experience period shall be extended
7 until the end of the calendar year in which one million dollars (\$1,000,000)
8 of earned premium is attained.

9 (5)(A) An insurer shall submit a guarantee that the loss ratio
10 in this state or nationally, if applicable, for the year at issue shall be
11 independently audited at the insurer's expense.

12 (B) An audit shall be made in the second quarter of the
13 year following the end of the experience period and the audited results
14 reported to the commissioner at or before the date for filing the policy
15 experience exhibit.

16 ~~(6) An insurer shall file with the commissioner the following~~
17 ~~with a loss ratio guarantee.~~

18 ~~(7)~~(6) As used in this section:

19 (A)(i) "Experience period" means the period for a given
20 rate filing for which a loss ratio guarantee is made beginning on the first
21 day of the calendar year during which the rate first takes effect and ending
22 on the last day of the calendar year during which the insurer earns one
23 million dollars (\$1,000,000) in premium on the form in this state or if the
24 annual premium earned on the form in Arkansas is less than one million
25 dollars (\$1,000,000) nationally.

26 (ii) Successive experience periods shall be
27 determined beginning on the first day following the end of the preceding
28 experience period; and

29 (B) "Loss ratio" means the ratio of incurred claims to
30 earned premium by number of years of policy duration for the combined
31 durations.

32 ~~(8)(A)~~(7)(A) An insurer whose rates on a policy form are
33 approved according to a loss ratio guarantee shall provide a notice to an
34 affected policyholder that advises that rates may be increased more than one
35 (1) time a year.

36 (B) The notice shall be delivered to a new policyholder

1 with policies subject to the loss ratio guarantee at or before the time of
2 delivery of the policy.

3
4 SECTION 6. Arkansas Code § 23-86-122 is amended to read as follows to
5 add language necessary to limit the scope of the application of the defined
6 term, to further subdivide the section for clarity, to correct the use of
7 terms, and to make stylistic changes:

8 23-86-122. Prior approval process for experimental and investigational
9 surgical products and medical devices.

10 (a)~~(1)~~ As used in this section:

11 (1) "Health carrier" means a:

12 (A) ~~health~~ Health maintenance organization;~~;~~

13 (B) ~~hospital~~ Hospital medical service corporation, ~~or; and~~

14 (C) ~~a disability~~ Disability insurance company;~~;~~

15 (2) "Health carrier" includes a:

16 (A) ~~self-insured~~ Self-insured governmental or church plan;

17 and

18 (B) ~~third-party administrators that administer or~~
19 ~~adjust~~ Third-party administrator that administers or adjusts disability
20 benefits for a disability insurer, hospital medical service corporation,
21 health maintenance organization, self-insured governmental plan, or self-
22 insured church plan~~;~~ and

23 (3) "Health carrier" does not include:

24 (A) An automobile insurer paying medical or hospital
25 benefits under § 23-89-202(1) or a self-insured employer health benefits
26 plan; or

27 (B) A person, company, or organization licensed or
28 registered to issue or that issues ~~any~~ an insurance policy or insurance
29 contract in this state as described in §§ 23-62-102 and 23-62-104 – 23-62-107
30 providing medical or hospital benefits for accidental injury or disability.

31 (b) A health carrier that excludes or denies coverage for a specific
32 surgical product or medical device approved for marketing by the United
33 States Food and Drug Administration as experimental or investigational, or
34 both, shall develop a process by which a surgeon, before utilizing the ~~device~~
35 ~~or treatment~~ surgical product or medical device, may present medical evidence
36 to obtain a review for the individual patient for coverage of the surgical

1 product or medical device.

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3 SECTION 7. Arkansas Code § 23-112-103(18)(B), concerning the
4 definition of "low speed vehicle", is amended to read as follows to clarify
5 the wording:

6 (B) ~~Whose speed attainable~~ That has an attainable speed in
7 one (1) mile ~~is~~ of more than twenty miles per hour (20 m.p.h.) ~~and~~ but not
8 more than twenty-five miles per hour (25 m.p.h.) on a paved level surface;
9 and

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11 SECTION 8. DO NOT CODIFY. The enactment and adoption of this act
12 shall not repeal, expressly or impliedly, the acts passed at the regular
13 session of the Ninetieth General Assembly. All such acts shall have full
14 force and effect and, so far as those acts intentionally vary from or
15 conflict with any provision contained in this act, those acts shall have the
16 effect of subsequent acts and as amending or repealing the appropriate parts
17 of the Arkansas Code of 1987.

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20 APPROVED: 04/06/2015