

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:  
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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.



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

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

(1) A financial statement, including:

- (A) The assets and liabilities of the insurer;
- (B) Any change in the assets and liabilities of the insurer;
- (C) The income and expenses of the insurer; and
- (D) All funds received or disbursed by the receiver in the liquidation estate during the reporting period;

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

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

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

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

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

SECTION 5. Arkansas Code § 23-79-110(c), concerning premium rate filings with the Insurance Commissioner, is amended to read as follows to 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.

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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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