

Hall of the House of Representatives
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of House Bill No. 2639

"AN ACT TO TRANSFER A PORTION OF THE STATE INSURANCE DEPARTMENT TO
THE DEPARTMENT OF FINANCE AND ADMINISTRATION."

Amendment No. 1 to House Bill No. 2639.

Amend House Bill No. 2639 as originally introduced:

Page 1, delete lines 26 through 36 and substitute the following:

"(b) Two (2) Grade 20 Insurance Examiners involved in the auditing function are transferred from the State Insurance Department to the Department of Finance and Administration.

SECTION 2. Arkansas Code § 19-5-922(b)(2), concerning use of the State Insurance Department Trust Fund, is amended to read as follows:

(2) The fund shall be used:

(A) To defray the expenses of the State Insurance Department in the discharge of its administrative and regulatory powers and duties as prescribed by law and as set out in § 23-61-701 et seq.;

(B) To defray the administrative expenses and losses incurred by the Arkansas Comprehensive Health Insurance Pool or its successor; ~~and~~

(C) To fund capital expenditures and training for fire departments certified by the Arkansas Department of Emergency Management; and

(D) To defray the personal services, maintenance, and general operation expenses of the Department of Finance and Administration in the collection, distribution, and auditing of insurance premium taxes.

SECTION 3. Arkansas Code § 23-61-702 is amended to read as follows:
23-61-702. State Insurance Department Trust Fund - Creation.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the State Insurance Department Trust Fund to be used to:

(1) Defray the expenses of the State Insurance Department in the discharge of its administrative and regulatory powers and duties as prescribed by law;

(2) Defray the administrative expenses and losses incurred by the Arkansas Comprehensive Health Insurance Pool or its successor; ~~and~~

(3) Fund capital expenditures and training for fire departments certified by the Arkansas Department of Emergency Management; and



(4) Defray the personal services, maintenance, and general operation expenses of the Department of Finance and Administration in the collection, distribution, and auditing of insurance premium taxes.

(b) No money is to be appropriated from this fund for any purpose except:

(1) As provided in subsection (a) of this section;

(2) For the personal services and operating expenses, maintenance and operations, and support of and improvements to the State Insurance Department; or

(3) At the direction of the Insurance Commissioner for the use, benefit, and support of the State Insurance Department.

(c) The fund established pursuant to this section shall be administered, disbursed, and invested under the direction of the commissioner, the Director of the Department of Finance and Administration, and the Treasurer of State as provided by law.

(d) All income derived through grants, refunds, and gifts to the fund shall be credited as income to the fund and deposited therein.

(e) Further, all moneys deposited to the fund shall not be subject to any deduction, tax, levy, or any other type of assessment except as may be provided in this subchapter.

SECTION 4. Arkansas Code § 23-63-102 is amended to read as follows:

23-63-102. Retaliation for foreign taxes, fees, restrictions, etc.

(a) When by or pursuant to the laws of any other state or foreign country any taxes, licenses, and other fees, in the aggregate, and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon Arkansas insurers or upon the agents or representatives of the insurers, which are in excess of the taxes, licenses, and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of those insurers, of the other state or country under the statutes of this state, so long as the laws of the state or country continue in force or are so applied, the same taxes, licenses, and other fees, in the aggregate, or fines, penalties, or deposit requirements, or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Insurance Commissioner, or by the Director of the Department of Finance and Administration, as authorized by law, upon those insurers, or upon the agents or representatives of those insurers, of the other state or country doing business or seeking to do business in Arkansas.

(b) Any tax, license, or other fee or other obligation imposed by any city, county, or other political subdivision or agency of another state or country on Arkansas insurers or their agents or representatives shall be deemed to be imposed by that state or country within the meaning of this section.

(c) This section shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property, nor as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance, other than property insurance. However, deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid, shall be taken into consideration by the commissioner or director in determining the propriety

and extent of retaliatory action under this section.

(d) In addition to the funds now appropriated and set aside for the use and benefit of firemen's relief and pension funds by §§ 24-11-809 and 24-11-810, there is appropriated and set aside for the use and benefit of the firemen's relief and pension funds the additional taxes, authorized by subsections (a)-(c) of this section, on all premiums collected by all fire, tornado, and marine insurance companies, corporations, or associations incorporated under the laws of any state or nation other than the State of Arkansas, in all cities and towns in the State of Arkansas, coming within the provisions of §§ 24-11-809 and 24-11-810.

SECTION 5. Arkansas Code § 23-63-1614 is amended to read as follows:
23-63-1614. Premium tax.

(a) Except as provided in this section, a captive insurance company shall pay to the ~~Insurance Commissioner~~ Director of The Department of Finance and Administration by March 1 of each year, a tax at the rate of:

(1) Four-tenths of one percent (0.4%) on the first twenty million dollars (\$20,000,000);

(2) Three-tenths of one percent (0.3%) on the next twenty million dollars (\$20,000,000);

(3) Two-tenths of one percent (0.2%) on the next twenty million dollars (\$20,000,000); and

(4) Seventy-five thousandths of one percent (.075%) on each dollar thereafter,

on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

(b)(1) Except as provided in this section, a captive insurance company shall pay to the ~~commissioner~~ Director of the Department of Finance and Administration by March 1 of each year, a tax at the rate of:

(A) Two hundred and twenty-five thousandths of one percent (.225%) on the first twenty million dollars (\$20,000,000) of assumed reinsurance premium;

(B) One hundred fifty thousandths of one percent (.150%) on the next twenty million dollars (\$20,000,000);

(C) Fifty thousandths of one percent (.050%) on the next twenty million dollars (\$20,000,000); and

(D) Twenty-five thousandths of one percent (.025%) of each dollar thereafter.

(2) No reinsurance tax applies to premiums for risks or portions of risks that are subject to taxation on a direct basis under subsection (a) of this section.

(3) A premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control, if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain business with the captive insurance company.

(c) If the aggregate taxes to be paid by a captive insurance company

calculated under subsections (a) and (b) of this section amount to less than five thousand dollars (\$5,000) in any year, the captive insurance company shall pay a tax of five thousand dollars (\$5,000) for that year.

(d) A captive insurance company failing to make returns or to pay all taxes required by this section is subject to relevant sanctions under the Arkansas Insurance Code and the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(e) Two (2) or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company.

(f) As used in this section, "common ownership and control" means:

(1) In the case of stock corporations, the direct or indirect ownership of eighty percent (80%) or more of the outstanding voting stock of two (2) or more corporations by the same shareholder or shareholders; and

(2) In the case of mutual corporations, the direct or indirect ownership of eighty percent (80%) or more of the surplus and the voting power of two (2) or more corporations by the same member or members.

(g) In the case of a branch captive insurance company, the tax under this section applies only to the branch business of the company.

(h)(1) The tax under this section constitutes all taxes collectible under the laws of this state from a captive insurance company.

(2) No other tax may be levied or collected from a captive insurance company by this state or a county, city, or municipality of this state, except ad valorem taxes on real and personal property used in the production of income.

(i) This section shall not apply to any producer reinsurance captive insurance company that invests and continuously maintains not less than fifty percent (50%) of its assets in certificates of deposit of any bank organized under the laws of the United States with a banking facility in the State of Arkansas or any federally insured bank or savings institution organized under the laws of the State of Arkansas, or in bonds, notes, warrants, or other securities, not in default, that are direct obligations of:

(1) This state;

(2) Any county, incorporated city or town, or duly organized school district or other taxing district of this state:

(A) If no default on the part of the obligor in payment of principal or interest on any of its obligations has occurred within five (5) years prior to the date of the proposed investment; or

(B) If the obligations were issued less than five (5) years prior to the date of investment, no default in payment of principal or interest has occurred on the obligations to be purchased or on any other public obligation of the obligor within five (5) years of the investment; or

(3) Any local improvement district in this state to finance local improvements authorized by law, if the principal and interest of the obligations are payable from assessments on real property within the local improvement district, and:

(A) No default on the part of the obligor in payment of principal or interest on any of its obligations has occurred within five (5) years prior to the date of the proposed investment; or

(B) If the obligations were issued less than five (5) years prior to the date of investment, no default in payment of principal or

interest has occurred on the obligations to be purchased or on any other public obligation of the obligor within five (5) years of the investment.

SECTION 6. Arkansas Code § 23-63-1615 is amended to read as follows:
23-63-1615. ~~Regulations~~ Rules.

(a) The Insurance Commissioner may promulgate ~~regulations~~ rules relating to captive insurance companies as are necessary to carry out this subchapter.

(b)(1) The commissioner may promulgate ~~regulations~~ rules establishing standards to ensure that a parent or affiliated company is able to exercise control of the risk management function of any controlled unaffiliated business to be insured by the pure captive insurance company.

(2) Prior to these ~~regulations~~ rules being promulgated, the commissioner may grant, by temporary order, authority to a pure captive insurance company to insure risks.

(c) The Director of the Department of Finance and Administration may promulgate rules relating to the reporting and remittance of premium taxes by captive insurance companies as are necessary to carry out this subchapter.

SECTION 7. Arkansas Code § 23-65-103 is amended to read as follows:
23-65-103. Report and tax of independently procured coverages.

(a)(1) Every insured or self-insured who in this state directly procures, causes to be procured, or continues or renews insurance in an unauthorized insurer, upon a subject of insurance resident, located, or to be performed within this state, including surplus line insurance when procured without use of a surplus lines broker pursuant to the surplus lines law of this state, within thirty (30) days after the date the insurance was so procured, continued, or renewed, shall file a written report with the ~~Insurance Commissioner~~ Director of the Department of Finance and Administration on forms designated by the ~~commissioner~~ director and furnished to the insured upon request.

(2) The report shall show:

(A) The name and address of each named insured;
(B) The name and address of the insurer;
(C) The subject of the insurance;
(D) A general description of the coverage;
(E) The amount of premium currently charged; and
(F) Such additional pertinent information as is reasonably requested by the ~~commissioner~~ director.

(3) If any insurance also covers subjects of insurance resident, located, or to be performed outside this state, a proper pro rata portion of the entire premium payable for all the insurance shall be allocated as to the subjects of insurance resident, located, or to be performed in this state, for the purposes of this section.

(b) Any insurance in an unauthorized insurer procured through negotiations or an application, in whole or in part, occurring or made within or from within this state, or for which premiums, in whole or in part, are remitted directly or indirectly from within this state, shall be deemed to be insurance procured, or continued, or renewed in this state within the intent of subsection (a) of this section.

(c)(1) For the general support of the government of this state there is levied upon the obligation, chose in action, or right represented by the

premium charged or payable for the insurance a tax at the rate of two percent (2%) of the net direct amount of the premium.

(2) The insured shall withhold the amount of the tax from the amount of premium charged by and otherwise payable to the insurer for the insurance, and within thirty (30) days after the insurance was so procured, continued, or renewed, and coincidentally with the filing with the ~~commissioner~~ director of the report provided for in subsection (a) of this section, the insured shall pay the amount of the tax to the ~~Treasurer of State through the commissioner~~ director.

(d) If the insured fails to withhold from the premium the amount of tax levied pursuant to this section, the insured shall be liable for the amount thereof and shall pay the amount to the ~~commissioner~~ director within the time stated in subsection (c) of this section.

(e) The tax imposed pursuant to this section if delinquent shall bear interest at the rate of six percent (6%) per annum, compounded annually.

(f) The tax shall be ~~collectible from the insured by civil action brought by the commissioner~~ administered and collected by the Director of the Department of Finance and Administration pursuant to the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(g) This section does not abrogate or modify and shall not be construed or deemed to abrogate or modify any provision of § 23-65-101, which is unauthorized insurance transactions prohibited, or § 23-65-102, which is suits by unauthorized insurers prohibited, or any other provision of the Arkansas Insurance Code.

(h) This section does not apply to life or accident and health insurance.

(i)(1) The tax specified in subsection (c) of this section shall not be due and payable to this state in the event the unlicensed or unauthorized insurer reports and pays premium tax to this state pursuant to § 26-57-603 et seq., or other applicable premium tax laws for these independently procured coverages.

(2) Upon receipt of duplicate payment of tax from the insured and the unlicensed or unauthorized insurer, this state shall refund to the insured the amount of the duplicate payment.

SECTION 8. Arkansas Code § 23-65-315 is amended to read as follows:
23-65-315. Tax on brokers.

(a) No later than sixty (60) days following the end of the month in which surplus line insurance was procured, the surplus lines broker shall remit to the ~~Treasurer of State, through the Insurance Commissioner~~ Director of the Department of Finance and Administration, as a tax imposed for the privilege of transacting business as a surplus lines broker in this state, a tax of four percent (4%) on the direct premiums written, less return premiums and exclusive of sums collected to cover state or federal taxes, on surplus lines insurance subject to tax transacted by the surplus lines broker during the preceding months as shown by his or her affidavit filed with the ~~commissioner~~ director.

(b) If a surplus lines policy covers risks or exposures only partially in this state, the tax so payable shall be computed on the proportion of the premium which is properly allocable to the risks or exposures located in this state.

(c) The tax shall be administered and collected by the director

pursuant to the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq

SECTION 9. Arkansas Code § 23-65-316 is amended to read as follows:

23-65-316. Penalty for failure to file annual statement or remit tax.

(a)(1) If any surplus lines broker fails to file his or her annual statement by March 1, he or she shall be liable for a fine of fifty dollars (\$50.00) for each day of delinquency commencing with March 1.

(2) For good cause shown and after a written request, the ~~Insurance Commissioner~~ Director of the Department of Finance and Administration may grant a reasonable extension of time within which the statement may be filed.

(3) ~~The fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction shall be administered and collected by the director pursuant to the provisions of the Arkansas Tax Procedure Act, 26-18-101 et seq.~~

(4) The ~~commissioner~~ director shall pay to the Treasurer of State any fine so collected.

(b)(1) If any surplus lines broker fails to remit the tax as provided by law when the tax is due, the surplus lines broker shall be liable for a fine of fifty dollars (\$50.00) for each day of delinquency commencing with the sixty-first day after the end of the month in which surplus lines insurance was procured.

(2) However, for good cause shown, the ~~commissioner~~ director after a written request may grant a reasonable extension of time within which the tax may be paid.

(3) ~~The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction and fine shall be administered and collected by the director pursuant to the provisions of the Arkansas Tax Procedure Act, 26-18-101 et seq.~~

(4) The ~~commissioner~~ director shall pay to the Treasurer of State any tax or fine so collected.

SECTION 10. Arkansas Code § 26-18-303(b)(16) and (17), concerning provisions against disclosure, is amended to add a new subdivision read as follows:

(16) Disclosure to county tax assessors of information that may affect personal property tax assessments, including information obtained during the course of audits or investigations concerning motor vehicles, boats, trailers, airplanes, or other items of personal property that may be subject to assessment in that county. Such information may only be released following completion of an audit or investigation by the director and following a determination by the director that there is a strong possibility the taxpayer has failed to properly assess the taxpayer's personal property in the county. In providing such information, the director shall not allow the county tax assessors to examine any tax returns or audit records; ~~and~~

(17) Disclosure to a capital development company organized under the Arkansas Capital Development Company Act, § 15-4-1001 et seq., of the name and tax identification number of and amount of any tax credit received by a taxpayer as a result of the purchase of an equity interest in a capital development company; and

(18) Disclosure of information to the Insurance Commissioner for purposes of administering insurance premium taxes as required by Arkansas law.

SECTION 11. Arkansas Code § 26-57-603 is amended to read as follows:
26-57-603. Tax reports generally.

(a) Each authorized, each formerly authorized, and each unauthorized insurer as defined in § 23-60-102(12) shall file with the ~~Insurance Commissioner~~ Director of the Department of Finance and Administration on or before March 1 of each year a report in form as prescribed by the ~~Insurance Commissioner~~ director showing, except as to wet marine and foreign trade insurance as defined in § 26-57-605(d), total direct premium income including policy, membership, and other fees, and all other considerations for insurance, from all kinds and classes of insurance, whether designated as premium or otherwise, written by it during the preceding calendar year on account of policies and contracts covering property, subjects, or risks located, resident, or to be performed in this state, with proper proportionate allocation of premium as to such persons, property, subjects, or risks in this state insured under policies or contracts covering persons, property, subjects, or risks located or resident in more than one (1) state, after deducting from the total direct premium income dividends and similar returns paid or credited to policyholders other than as to life insurance, applicable cancellations, returned premiums, the unabsorbed portion of any deposit premium, and the amount of reduction in, or refund of, premiums allowed to industrial life policyholders for payment of premiums directly to an office of the insurer.

(b) No deduction shall be made of the cash surrender values of policies.

(c) Considerations received on annuity contracts shall not be included in total direct premium income and shall not be subject to tax.

(d) Each authorized, unauthorized, or formerly authorized domestic, foreign, and alien insurer shall pay to the ~~State Treasurer through the commissioner~~ director, to be deposited with the Treasurer of State as required by § 26-57-610, as a tax imposed for the privilege of transacting business in this state, a tax upon the net premiums and net considerations, except as provided in § 26-57-605. The tax shall be computed thereon at a rate of two and one-half percent (2 1/2%). The premiums written shall be reported at such times and in such form and context as prescribed by the ~~commissioner~~ director; and the taxes shall be paid on a quarterly estimate basis as prescribed by the ~~commissioner~~ director and shall be reconciled annually at the time of filing the annual report required in subsections (a)-(c) of this section.

(e) That portion of the tax paid by an insurer in accordance with § 24-11-809 shall be separately specified in the report in such manner as may be prescribed by the ~~Insurance Commissioner~~ director to enable the ~~commissioner~~ director to make a proper apportionment of the funds.

SECTION 12. Arkansas Code § 26-57-604 is amended to read as follows:
26-57-604. Remittance of tax.

(a) Coincident with the filing of the tax report, each authorized life or accident and health insurer, including licensed health maintenance organizations, may apply for a credit for the noncommissioned salaries and

wages of the insurer's Arkansas employees which are paid in connection with its insurance operations. The credit may be applied as an offset against the premium tax imposed in § 26-57-603(d) on life and accident and health insurance.

(1) In no event shall the offset reduce the accident and health premium tax due by more than eighty percent (80%). In no event shall the offset reduce the life premium tax due by more than seventy percent (70%). The taxes shall be reported and paid on a quarterly estimated basis as prescribed by the ~~Insurance Commissioner~~ Director of the Department of Finance and Administration and shall be reconciled annually at the time of filing the annual report required in § 26-57-603(a)-(c).

(2) Furthermore, an employee must be employed for six (6) months in the facilities for the salary or wages to be eligible to qualify for the life or disability premium tax credit.

(3)(A) Except as provided in subdivision (a)(3)(B) of this section, on or before March 1 of each year, any such authorized life or accident and health insurer, including health maintenance organizations, desiring to qualify under this provision shall furnish the appropriate data and request on forms prescribed by the ~~Insurance Commissioner~~ director. For purposes of calculating the taxes under §§ 23-63-102 - 23-63-104, an insurer qualifying for a credit under this section shall compute the tax due under §§ 23-63-102 - 23-63-104, if any, by using an Arkansas premium tax rate of two and one-half percent (2 1/2%).

(B) Subdivision (a)(3)(A) of this section shall only apply for tax years beginning prior to January 1, 2000. On or before March 1 of 2000 and each year thereafter, any such authorized life or disability insurer, including health maintenance organizations, desiring to qualify this provision shall furnish the appropriate data and request on forms prescribed by the ~~Insurance Commissioner~~ director. However, for purposes of calculating the taxes under §§ 23-63-102 - 23-63-104, an insurer qualifying for a credit under this section shall compute the tax due under §§ 23-63-102 - 23-63-104, if any, by using an Arkansas premium tax rate of two and one-half percent (2 1/2%) without regard to the credit specified in this section.

(b) Each insurer other than those in § 26-57-603(d) and subsection (a) of this section shall pay to the ~~Treasurer of State through the Insurance Commissioner~~ director, to be deposited with the Treasurer of State as required by § 26-57-610, as a tax imposed for the privilege of transacting business in this state, a tax at the rate of two and one-half percent (2 1/2%) upon the net premiums and net considerations on all kinds of insurance, except as provided in § 26-57-605. The taxes shall be paid on a quarterly estimate basis as prescribed by the ~~Insurance Commissioner~~ director and shall be reconciled annually at the time of filing the annual report required in § 26-57-603(a)-(c).

SECTION 13. Arkansas Code § 26-57-605 is amended to read as follows:
26-57-605. Wet marine and foreign trade insurers - Report and remittance of tax.

(a) As to wet marine and foreign trade insurance written in this state during the preceding calendar year, on or before March 1 of each year, each authorized, unauthorized, or formerly authorized insurer shall file its report with the ~~commissioner~~ Director of the Department of Finance and Administration, on forms as prescribed by ~~him~~ the director, of its gross

underwriting profit thereon.

(b) As a tax imposed for the privilege of transacting such insurance in this state, a tax of three-quarters of one percent (3/4 of 1%) of the gross underwriting profit shall be reported and paid on a quarterly estimate basis at such times and upon forms as shall be prescribed by the ~~commissioner~~ director and reconciled annually at the time of filing the annual report.

(c)(1) The gross underwriting profit shall be ascertained by deducting from the net premiums, which are the gross premiums less all return premiums and premiums for reinsurance, on wet marine and foreign trade insurance contracts, the net losses paid, which are the gross losses paid less salvage and recoveries on reinsurance ceded, during the calendar year under those contracts.

(2) In the case of insurers issuing participating contracts, the gross underwriting profit shall not include for computation of the tax prescribed by this section the amounts refunded or paid as participation dividends by the insurers to the holders of the contracts.

(d) For the purpose of this subchapter, "wet marine and foreign trade insurance" shall include only:

(1) Insurances upon vessels, crafts, hulls, and of interests therein, of, or with relations thereto;

(2) Insurance of marine builder's risks, marine war risks, and contracts of marine protection and indemnity insurance;

(3) Insurance of freights and disbursements pertaining to a subject of insurance coming within this definition; and

(4) Insurance of personal property and interests therein, in course of exportation from or importation into any country, or in course of transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, trans-shipment, or reshipment incident thereto.

SECTION 14. Arkansas Code § 26-57-606 is amended to read as follows:

26-57-606. Foreign automobile insurance companies - Annual reports.

Each alien and foreign insurance company insuring motor vehicles in this state shall annually file a report with the ~~Insurance Commissioner~~ Director of the Department of Finance and Administration showing the total premiums collected on collision, comprehensive, and liability insurance written on motor vehicles, the licensed address of which is a city or town in the state, and the total premium taxes paid thereon to the state. The report shall show separately the premiums collected upon insurance policies or contracts for motor vehicles addressed in each city or town in this state and the amount of premium taxes paid to the State of Arkansas on such premiums.

SECTION 15. Arkansas Code § 26-57-607 is amended to read as follows:

26-57-607. Failure to report and pay tax.

(a) The Insurance Commissioner may, in his discretion, suspend or revoke the certificate of authority of any insurer or health maintenance organization that fails to report and pay the premium tax levied under §§ 26-57-604 and 26-57-605 on the date due or during any reasonable extension of time which may have been expressly granted by the ~~Insurance Commissioner~~ Director of the Department of Finance and Administration for good cause upon the insurer's request.

(b) The Director of the Department of Finance and Administration shall, by December 31 of each year, provide the Insurance Commissioner with a

list of all insurers and health maintenance organizations that fail to report or pay the tax when due.

~~(b)(c)~~ In addition, any Any insurer or health maintenance organization that fails to report or pay the tax when due shall be subject to a penalty of one hundred dollars (\$100) for each day of the delinquency. The penalty shall be collected by the commissioner, if necessary, by a civil suit therefor brought by the commissioner in the Circuit Court of Pulaski County, unless the penalty is waived by the commissioner upon a showing by the insurer or organization of good cause for its failure to file its report or tax payment on or before the date due director, subject to the provisions of the Arkansas Tax Procedure Act, § 26-18-101 et seq.

SECTION 16. Arkansas Code § 26-57-610 is amended to read as follows:
26-57-610. Disposition of taxes.

The ~~Insurance Commissioner~~ Director of the Department of Finance and Administration shall deposit all taxes collected under the provisions of §§ 26-57-604 and 26-57-605 in the State Treasury, and on the last business day of each month, the Treasurer of State shall classify such taxes as to the following types of revenues and credit the net amounts respectively thereof as indicated in this section:

(1) The taxes based on premiums collected as special revenues to be distributed to the respective cities, incorporated towns, and fire protection districts in this state for credit to the respective firemen's relief and pension funds;

(2) All other taxes collected under §§ 26-57-604 and 26-57-605 shall be classified as general revenues, and the net amount thereof shall be credited to the various State Treasury funds participating in general revenues in the respective proportions to each as provided by, and to be used for, the respective purposes set forth in the Revenue Stabilization Law of Arkansas, § 19-5-101 et seq.

SECTION 17. Arkansas Code § 26-57-611 is amended to read as follows:
26-57-611. Disposition of nonallocated funds.

The ~~commissioner~~ Director of the Department of Finance and Administration shall deposit all premium taxes collected under this subchapter which are not allocated and appropriated for the various funds under § 11-9-101 et seq. for the Arkansas Fire and Police Pension Review Board and firemen's relief and pension funds under §§ 24-11-809, 24-11-810, and 26-57-609 and for the Arkansas Fire and Police Pension and Review Board and police officer's pension and relief funds under § 24-11-301 in the State Treasury as general revenues.

SECTION 18. Arkansas Code § 26-57-612 is amended to read as follows:
26-57-612. Quarterly premium taxes.

Any insurer, health maintenance organization, or other entity which is required by any section of the Arkansas Code to report and pay quarterly premium taxes, and has a total quarterly premium tax due of twenty-five dollars (\$25.00) or less may defer payment of such sum to the following quarter or quarters of that calendar year, provided such tax payment is remitted to the ~~Insurance Department~~ Director of the Department of Finance and Administration no later than March 1 of the following year coincident with the required filing of the annual statement.

SECTION 19. Arkansas Code § 26-57-614 is amended to read as follows:
26-57-614. Fire protection services - Additional tax.

(a) It is hereby found and determined by the General Assembly of the State of Arkansas that additional funding is needed to improve the fire protection services in this state. It is further found and determined that the public policy of this state is to provide adequate fire protection services for property of citizens through the use of properly trained and equipped fire fighters, and that the provisions of this section and §§ 14-284-401 - 14-284-409 are necessary in furtherance of the public health and safety.

(b) In addition to the premium taxes collected from insurers under other provisions of Arkansas law, each authorized insurer and each formerly authorized insurer shall pay to the Fire Protection Premium Tax Fund a tax at the rate of one-half of one percent (0.5%) on net direct written premiums for coverages upon real and personal property, including, but not limited to, fire, allied lines, farm owner and homeowner multiple peril, vehicle physical damage, and vehicle collision, or any combination thereof.

(c) This tax shall be collected by the ~~Insurance Commissioner~~ Director of the Department of Finance and Administration from the insurers at the same time and in the same manner as provided in the premium tax sections of the laws of this state under § 26-57-601 et seq. and deposited into the Fire Protection Premium Tax Fund.

(d) Assessments upon which this premium tax is based shall be made on forms prescribed by the ~~Arkansas Insurance Commissioner~~ director.

(e) Premium tax payments shall be made upon company checks payable to the Fire Protection Premium Tax Fund.

(f) The provisions of this section and § 14-284-401 et seq. are intended to be supplemental to current provisions of Arkansas law, and shall not be construed as repealing or superseding any other laws applicable thereto.

SECTION 20. Arkansas Code § 26-57-615(b), concerning the domiciled insurers' premium tax credit for certain fees payable to other jurisdictions, is amended to read as follows:

(b)(1) Credits for fees paid in states of licensure other than Arkansas in calendar 1993 shall be allowed insurers domiciled in this state pursuant to subsection (a) of this section against annual Arkansas premium taxes reported and paid on March 1, 1994, and, in subsequent years, such credits permitted in subsection (a) of this section shall be reported annually on March 1.

(2) The ~~Insurance Commissioner~~ Director of the Department of Finance and Administration shall prescribe the forms for reporting such credits and further shall examine insurer claims for credit made under this section.

(3)(A) If the ~~Insurance Commissioner~~ director shall determine that any amount for which a credit shall have been claimed was not legally due to another state, or that an error exists in the amount of the credit shown on such return, or the amount claimed is a refund or refunded, the ~~Insurance Commissioner~~ director shall take appropriate action under ~~any and all civil and administrative Arkansas laws at his disposal, including suspension or revocation of the Arkansas certificate of authority of the~~

~~noncomplying insurer~~ the Arkansas Tax Procedure Act, § 26-18-101 et seq., for collection and recovery of the premium tax due resulting from the disallowance of a claim for credit made under this section or to disallow any such claim for refund.

(B) The director shall report any invalid claim of credit claimed under this section to the Insurance Commissioner, who is authorized to suspend or revoke the Arkansas certificate of authority of the noncomplying insurer until the premium tax due resulting from the disallowance of the claim, including applicable penalties and interest, is remitted by the noncomplying insurer to the director.

SECTION 21. Arkansas Code Title 26, Chapter 57, Subchapter 6 is amended to add an additional section to read as follows:

25-57-617. Administration.

The provisions of this subchapter shall be administered in accordance with the Arkansas Tax Procedure Act, § 26-18-101 et seq., unless otherwise specified in this subchapter.”

AND

Page 2, delete line 1

The Amendment was read _____
By: Representative Stovall
MBM/JGH - 03-31-2005 12:56
MBM369 _____ Chief Clerk