

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

*As Engrossed: S2/19/99*

# A Bill

HOUSE BILL 1347

4  
5 By: Representative Glover  
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## For An Act To Be Entitled

9 "AN ACT TO AMEND THE ARKANSAS INSURANCE CODE, CODIFIED  
10 IN ARKANSAS CODE 23-61-101, ET SEQ., TO  
11 MAKE CONFIDENTIAL AND PRIVILEGED ACTUARIAL OPINIONS  
12 AND REPORTS ACCOMPANYING INSURER RATE AND FORM  
13 FILINGS; AND FOR OTHER PURPOSES."

## Subtitle

15 "TO AMEND THE ARKANSAS INSURANCE CODE TO  
16 MAKE CONFIDENTIAL ACTUARIAL REPORTS  
17 SUBMITTED TO THE DEPARTMENT FOR FORM AND  
18 RATE FILINGS COMPLIANCE."  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code §23-61-103 is hereby amended to read as  
25 follows:

26 "23-61-103. Commissioner – Powers and duties.

27 (a) The commissioner shall enforce the provisions of this code and  
28 shall execute the duties imposed upon him by this code.

29 (b) The commissioner shall have the powers and authority expressly  
30 conferred upon him by or reasonably implied from the provisions of this code.

31 (c)(1) The commissioner may conduct such examinations and investigations  
32 of insurance matters, in addition to examinations and investigations expressly  
33 authorized, as he may deem proper to determine whether any person has violated  
34 any provision of this code or to secure information useful in the lawful  
35 administration of any such provision. The cost of these additional  
36 examinations or investigations shall be borne by the state.

1           (2) Notwithstanding any other provision of law, active  
2 investigatory  
3 or examination files as maintained by the State Insurance Department shall be  
4 deemed confidential and privileged and shall not be made open  
5 to the public until:

6                   (A) The matter under investigation or examination is deemed  
7 closed by the commissioner; or

8                   (B) Referred to any law enforcement authority and made  
9 subject to public disclosure by such authority.

10           (3) At such time that any matter investigated or examined has been  
11 set for an administrative hearing pursuant to § 23-61-304 or § 25-15-208,  
12 investigation or examination information shall be made available as provided  
13 in § 25-15-208.

14           ~~(4) Subsection (c)(2) of this section does not prohibit release by~~  
15 ~~the commissioner of active investigatory or examination files:~~

16                   ~~(A) At the discretion of the commissioner, to a person or~~  
17 ~~persons that the commissioner determines to be aggrieved or affected by the~~  
18 ~~examination or investigation; or~~

19                   ~~(B) To state, federal or local law enforcement or regulatory~~  
20 ~~agencies, or private organizations established for tracking or~~  
21 ~~preventing insurance violations or to the National Association of~~  
22 ~~Insurance Commissioners (N.A.I.C.).~~

23           (4) Unless otherwise exempted by § 23-61-103 (c)(5), actuarial  
24 formulas and assumptions certified by a qualified actuary are confidential and  
25 privileged when submitted to comply with a rate or form filing requirement of  
26 the Arkansas Insurance Department, including but not limited to any actuarial  
27 report required, submitted, or attached to any filing made to the Arkansas  
28 Insurance Department under § 23-67-211, for rate and form filings of an  
29 insurer, or to those submitted under § 23-63-216, for annual statements of an  
30 insurer, or to any actuarial report submitted to the Arkansas Insurance  
31 Department to comply with any form and rate filing requirement imposed by  
32 statute or Rule upon licensed insurers, health maintenance organizations,  
33 fraternal benefit societies, and hospital and medical service corporations.

34           (5) Subsections(c)(2) and (c)(4) of this section do not prohibit  
35 release by the commissioner of active investigatory or examination files:

36                   (A) At the discretion of the commissioner, to a person or

1 persons that the commissioner determines to be aggrieved or affected by the  
2 examination or investigation; or

3 (B) To state, federal or local law enforcement or regulatory  
4 agencies, or private organizations established for tracking or  
5 preventing insurance violations or to the National Association of  
6 Insurance Commissioners (N.A.I.C.).

7 (C) This act shall have no effect or application to any of the filings  
8 gathered or compiled in compliance with Arkansas Code 23-63-1201 - 1205, as  
9 amended.

10 ~~(5)(6)~~ Release of active investigatory or examination files as provided  
11 in subsection (4) above, does not abrogate or modify the confidential nature  
12 of investigatory or examination files as provided in subsection (2) above.

13 (d)(1) The commissioner may delegate to any assistant, deputy,  
14 examiner, or employee of the department the exercise or discharge in the  
15 commissioner's name of any power, duty, or function, whether ministerial,  
16 discretionary, or of whatever character which may be vested by this code in  
17 the commissioner.

18 (2) The commissioner shall be responsible for the official acts of  
19 his deputy, assistant, examiner, or employee acting in the commissioner's name  
20 and by his authority."

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22 SECTION 2. All provisions of this Act of a general and permanent nature  
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
24 Revision Commission shall incorporate the same in the Code.

25  
26 SECTION 3. If any provision of this Act or the application thereof to  
27 any person or circumstance is held invalid, such invalidity shall not affect  
28 other provisions or applications of the Act which can be given effect without  
29 the invalid provision or application, and to this end the provisions of this  
30 Act are declared to be severable.

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32 SECTION 4. All laws and parts of laws in conflict with this Act are  
33 hereby repealed.

34 /s/ Glover