

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 2112

4
5 By: Representatives Hawkins, Reynolds
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For An Act To Be Entitled

8
9 AN ACT TO BROADEN THE INSURANCE COMMISSIONER'S
10 CEASE AND DESIST POWERS; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO BROADEN THE INSURANCE COMMISSIONER'S
14 CEASE AND DESIST POWERS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 23-61-103, concerning the powers and duties
20 of the Insurance Commissioner, is amended to add an additional subsection to
21 read as follows:

22 (f)(1)(A) To the extent not otherwise governed by the Trade Practices
23 Act, § 23-66-201 et seq., § 23-65-101 et seq., or a law, rule, or directive
24 providing specific injunctive powers to the commissioner, if it appears to
25 the commissioner upon sufficient grounds or evidence that any person has
26 engaged in or is about to engage in any act or practice constituting a
27 violation of an insurance law, rule, order, or directive of this state, the
28 commissioner may summarily order the person to cease and desist from the act
29 or practice.

30 (B)(i) Upon the entry of the cease and desist order under
31 subdivision (f)(1)(A) of this section, the commissioner shall promptly notify
32 the person who is the subject of the order:

33 (a) That the order has been entered; and
34 (b) Of his or her right to a hearing
35 concerning the order.

36 (ii) The notification shall include a copy of the



1 order or a detailed statement of the reasons for the order.

2 (2)(A) A hearing shall be held on the written request of the
3 person aggrieved by the cease and desist order under subdivision (f)(1)(A) of
4 this section if the request is received by the commissioner within thirty
5 (30) days of the date of the entry of the order or if ordered by the
6 commissioner.

7 (B) If no hearing is requested and none is ordered by the
8 commissioner, the order shall remain in effect until it is modified or
9 vacated by the commissioner.

10 (C) If a hearing is requested or ordered, the commissioner
11 after notice and opportunity for hearing may affirm, modify, or vacate the
12 order.

13 (3)(A) After issuance of an order under this subsection, the
14 commissioner may apply to the Pulaski County Circuit Court to temporarily or
15 permanently enjoin the act or practice and to enforce compliance with the
16 insurance laws of this state.

17 (B) However, without issuing such an order, the
18 commissioner may apply directly to the Pulaski County Circuit Court for
19 relief.

20 (4) Upon a proper showing, a permanent or temporary injunction,
21 restraining order, or writ of mandamus shall be granted.

22 (5)(A) The commissioner may also seek and the appropriate court
23 shall grant, upon proper showing, any other ancillary relief that may be in
24 the public interest.

25 (B) The relief may include:

26 (i) The appointment of a receiver, temporary
27 receiver, or conservator;

28 (ii) A declaratory judgment;

29 (iii) An accounting;

30 (iv) A disgorgement of profits;

31 (v) The assessment of a fine not to exceed the total
32 amount of money, property, or other value received in connection with an
33 insurance law violation; or

34 (vi) Any other relief appropriate to protect the
35 public interest.

36 (6) The commissioner is not required to post a bond as a

1 condition for obtaining relief under this subsection.

2 (7) This subsection does not prohibit or restrict the informal
3 disposition of a proceeding or allegations that might give rise to a
4 proceeding by stipulation, settlement, consent, or default in lieu of a
5 formal or informal hearing on the allegations or in lieu of the sanctions
6 authorized by this subsection.

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