

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
4

As Engrossed: S3/18/09

A Bill

HOUSE BILL 2112

5 By: Representatives Hawkins, Reynolds
6 By: Senators Horn, H. Wilkins
7

For An Act To Be Entitled

10 AN ACT TO BROADEN THE INSURANCE COMMISSIONER'S
11 CEASE AND DESIST POWERS; AND FOR OTHER PURPOSES.
12

Subtitle

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

23 (f)(1)(A) To the extent not otherwise governed by the Trade Practices
24 Act, § 23-66-201 et seq., § 23-65-101 et seq., or a law or rule providing
25 specific injunctive powers to the commissioner, if it appears to the
26 commissioner upon sufficient grounds or evidence that any person has engaged
27 in or is about to engage in any act or practice constituting a violation of
28 an insurance law, rule, or order of this state, the commissioner may
29 summarily order the person to cease and desist from the act 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 under § 23-61-301 et seq. on the
3 written request of the person aggrieved by the cease and desist order under
4 subdivision (f)(1)(A) of this section if the request is received by the
5 commissioner within thirty (30) days of the date of the entry of the order or
6 if ordered by the 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:

12 (i) May affirm, modify, or vacate the order; and

13 (ii) Shall conduct the hearing within ten (10) days
14 of the date a hearing is requested or ordered by the commissioner.

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

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

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

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

27 (B) The relief may include:

28 (i) The appointment of a receiver, temporary
29 receiver, or conservator;

30 (ii) A declaratory judgment;

31 (iii) An accounting;

32 (iv) A disgorgement of profits;

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

36 (vi) Any other relief appropriate to protect the

1 public interest.

2 (6) The commissioner is not required to post a bond as a
3 condition for obtaining relief under this subsection.

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

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10 */s/ Hawkins*
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