

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

HOUSE BILL 2083

4
5 By: Representative Lea
6

For An Act To Be Entitled

8 AN ACT REGARDING SETTLEMENT DISPOSITION IN CONSUMER
9 PROTECTION LAWSUITS BROUGHT BY THE ATTORNEY GENERAL;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12 REGARDING SETTLEMENT DISPOSITION IN
13 CONSUMER PROTECTION LAWSUITS BROUGHT BY
14 THE ATTORNEY GENERAL.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 4-88-105(e), regarding a consumer
22 protection investigation account managed by the Consumer Protection Division
23 of the Office of the Attorney General, is amended to read as follows:

24 (e) The expenses of the division shall be paid from funds provided for
25 that purpose by law~~+~~, including, without ~~limiting the generality of the~~
26 ~~foregoing~~, limitation:

27 ~~(1) funds made available by the state or by the United States,~~
28 ~~or by political subdivisions or agencies thereof.~~ Funds made available by the
29 state, a state agency, or a state political subdivision;

30 (2) Funds made available by the United States Government or a
31 federal agency; or

32 (3)(A) Funds deposited into a Consumer Education and Enforcement
33 Account, managed by the division, from settlements or judgments in favor of
34 the state related to a lawsuit or assurance of voluntary compliance in which
35 the state was a party.

36 (B) The Consumer Education and Enforcement Account shall



1 not carry a balance greater than seven hundred fifty thousand dollars
 2 (\$750,000), and the funds in the account shall be used in a manner determined
 3 by the Office of the Attorney General, including without limitation:

- 4 (i) Litigation support;
- 5 (ii) Expert witness fees;
- 6 (iii) Court filing fees;
- 7 (iv) Process server fees;
- 8 (v) Witness fees;
- 9 (vi) Court costs;
- 10 (vii) Court reporter fees;
- 11 (viii) Attorney and staff training;
- 12 (ix) Travel expenses;
- 13 (x) Consumer education;
- 14 (xi) Office expenses and improvements; and
- 15 (xii) Investigation expenses.

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 17 SECTION 2. Arkansas Code § 4-88-105, concerning the Consumer
 18 Protection Division of the Office of the Attorney General, is amended to add
 19 an additional subsection to read as follows:

20 (f)(1) As used in this section, "state agency" includes without
 21 limitation:

- 22 (A) A state agency, office, or department;
- 23 (B) A board or commission; and
- 24 (C) A public college or university.

25 (2) When a settlement is agreed to or a judgment is entered in a
 26 lawsuit in which the state is a party receiving all or part of the settlement
 27 or judgment, the Attorney General shall distribute the funds in the following
 28 manner:

- 29 (A) Restitution to Arkansas consumers or state agencies,
 30 or for other purposes, as designated by the court order or settlement
 31 agreement;
- 32 (B) Designation of cash funds to a state agency having a
 33 nexus to the underlying litigation;
- 34 (C) Payment of attorney's fees or civil penalties under §
 35 4-88-113(a)(1), § 4-88-113(c), or § 4-88-113(e); or
- 36 (D) Payment into the Consumer Education and Enforcement

1 Account, as authorized by § 4-88-105.

2 (3)(A) Funds to be distributed as described in subdivisions
3 (f)(2)(B)-(D) shall be distributed in the manner prescribed by this section
4 within one hundred twenty (120) days of the receipt of the funds.

5 (B) Restitution funds shall be distributed to Arkansas
6 consumers as soon as is practicable and in accordance with any applicable
7 court order.

8 (4)(A) The Office of the Attorney General shall on a quarterly
9 basis provide to the Legislative Council or Joint Budget Committee a report
10 of all cash funds received from court orders or settlement agreements.

11 (B) The report shall include:

12 (i) The case name of the court order or settlement
13 agreement;

14 (ii) The amount of funds received by the Office of
15 the Attorney General for each court order or settlement agreement; and

16 (iii)(a) A plan for disbursement of the funds.

17 (b) If cash funds received from a court order
18 or settlement agreement are expended for any purpose, including consumer
19 education and enforcement activities, the report must itemize specific
20 activities subject to the exclusions provided in §§ 4-88-111 and 25-1-
21 403(1)(B).

22 (c) The report shall also itemize the specific
23 consumer education and enforcement activities funded for the Office of the
24 Attorney General.

25 (C) If funds received from a court order or settlement
26 agreement are given to a specific entity by the Office of Attorney General
27 the report must include:

28 (i) If the court order or settlement agreement
29 directed monies to be given to a specific entity.

30 (ii) If the court order or settlement agreement
31 directs funds to a specific entity, the Office of the Attorney General shall
32 provide a summary of input regarding the drafting of the court order or
33 settlement agreement.

34 (iii) If the Office of the Attorney General receives
35 funds from a court order or settlement agreement that does not require
36 disbursement of funds to a specific entity, the Office of the Attorney

1 General shall report a rationale for disbursing funds to a specific entity.

2 (iv) A report of current balances of all
3 unappropriated cash fund holdings received by court order or settlement
4 agreement by the Office of the Attorney General.

5 (D) The quarterly reports shall be provided no later than
6 the fifteenth day of the month immediately following the end of each quarter.