

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023

A Bill

HOUSE BILL 1674

4
5 By: Representative McCollum
6 By: Senator Hester

For An Act To Be Entitled

9 AN ACT CONCERNING THE CONSUMER PROTECTION DIVISION OF
10 THE ATTORNEY GENERAL'S OFFICE; TO AMEND THE LAW
11 CONCERNING SETTLEMENT FUNDS HELD BY THE ATTORNEY
12 GENERAL'S OFFICE; AND FOR OTHER PURPOSES.

Subtitle

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15 CONCERNING THE CONSUMER PROTECTION
16 DIVISION OF THE ATTORNEY GENERAL'S
17 OFFICE; AND TO AMEND THE LAW CONCERNING
18 SETTLEMENT FUNDS HELD BY THE ATTORNEY
19 GENERAL'S OFFICE.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code § 4-88-105(e), concerning the expenses and
26 funds of the Consumer Protection Division of the office of the Attorney
27 General, is amended to read as follows:

28 (e) The expenses of the division shall be paid from funds provided for
29 that purpose by law, including without limitation:

30 (1) Funds made available by the state, a state agency, or a
31 state political subdivision;

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

34 (3)(A) Funds deposited into a Consumer Education and Enforcement
35 Account under § 25-16-718, managed by the division, from settlements or
36 judgments in favor of the state related to a lawsuit or assurance of



1 voluntary compliance in which the state was a party.

2 (B) The account shall not carry a balance greater than one
 3 million dollars (\$1,000,000), and the funds in the account shall be used in a
 4 manner determined by the ~~office of the Attorney General~~ Attorney General's
 5 office, including without limitation:

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

18
 19 SECTION 2. Arkansas Code § 4-88-105(f), concerning settlement funds in
 20 lawsuits involving the office of the Attorney General, is repealed.

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

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

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

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

1 ~~(D) Payment into the account, as authorized by this~~
 2 ~~section.~~

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

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

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

13 ~~(B) The report shall include:~~

14 ~~(i) The case name of the court order or settlement~~
 15 ~~agreement;~~

16 ~~(ii) The amount of funds received by the office of~~
 17 ~~the Attorney General for each court order or settlement agreement; and~~

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

19 ~~(b) If cash funds received from a court order~~
 20 ~~or settlement agreement are expended for any purpose, including consumer~~
 21 ~~education and enforcement activities, the report must itemize specific~~
 22 ~~activities subject to the exclusions provided in § 4-88-111 and § 25-1-~~
 23 ~~403(1)(B).~~

24 ~~(c) The report shall also itemize the specific~~
 25 ~~consumer education and enforcement activities funded for the office of the~~
 26 ~~Attorney General.~~

27 ~~(C) If funds received from a court order or settlement~~
 28 ~~agreement are given to a specific entity by the office of the Attorney~~
 29 ~~General, the report shall include:~~

30 ~~(i)(a) Whether or not the court order or settlement~~
 31 ~~agreement directed funds to be given to a specific entity.~~

32 ~~(b) If the court order or settlement agreement~~
 33 ~~directs funds to a specific entity, the office of the Attorney General shall~~
 34 ~~provide a summary of input regarding the drafting of the court order or~~
 35 ~~settlement agreement.~~

36 ~~(c) If the office of the Attorney General~~

~~receives funds from a court order or settlement agreement that does not require disbursement of funds to a specific entity, the office of the Attorney General shall report a rationale for disbursing funds to a specific entity; and~~

~~(ii) A report of current balances of all unappropriated cash fund holdings received by court order or settlement agreement by the office of the Attorney General.~~

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

SECTION 3. Arkansas Code § 19-4-817(b), concerning the use of cash funds by constitutional officers, is amended to read as follows:

(b) The Except cash funds whose distribution is controlled by a court order or settlement agreement, the General Assembly shall budget, approve, and appropriate expenditures of cash funds by the enactment of separate appropriation bills setting forth the purpose for which the moneys are to be expended and the dollar amount to be expended for that purpose.

SECTION 4. Arkansas Code Title 25, Chapter 16, Subchapter 7, is amended to add an additional section to read as follows:

25-16-718. Use of settlement funds.

(a) When a settlement is agreed to or a judgment is entered in a lawsuit in which the state is a party receiving all or part of the funds from the settlement or judgment, the Attorney General shall create and maintain accounts as necessary to receive the funds.

(b) The Attorney General shall distribute the funds as:

(1)(A) Restitution to Arkansas consumers or state agencies or for other purposes as designated by the court order or settlement agreement;

(B) Funds distributed under subdivision (b)(1)(A) of this section shall be distributed to Arkansas consumers as soon as practicable and according to any applicable court order.

(2) Cash funds to a state agency having a nexus to the underlying litigation;

(3) Payment of attorney's fees or civil penalties under § 4-88-113(a)(1), § 4-88-113(c), or § 4-88-113(e);

(4) Required under § 4-88-105, if the funds are deposited into

1 the Consumer Education and Enforcement Account; or

2 (5) Payment for personal services, miscellaneous operating
3 expenses, or grants of the Attorney General's office.

4 (c)(1) The Attorney General's office shall provide a quarterly report
5 to the Legislative Council or Joint Budget Committee of all cash funds
6 received from court orders or settlement agreements.

7 (2) The report shall include:

8 (A) The case name of the court order or settlement
9 agreement;

10 (B) The amount of funds received by the Attorney General's
11 office for each court order or settlement agreement; and

12 (C)(i) A plan for disbursement of the funds.

13 (ii) If cash funds received from a court order or
14 settlement agreement are expended for any purpose, the report shall itemize
15 specific activities subject to the exclusions provided in § 4-88-111 and §
16 25-1-403(1)(B).

17 (iii) The report shall also itemize the specific
18 consumer education and enforcement activities funded for the Attorney
19 General's office.

20 (3) If funds received from a court order or settlement agreement
21 are given to a specific entity by the Attorney General's office, the report
22 shall include:

23 (A)(i) A statement regarding whether the court order or
24 settlement agreement directed funds to be given to a specific entity;

25 (ii) If the court order or settlement agreement
26 directs funds be given to a specific entity, the Attorney General's office
27 shall provide a summary of input regarding the drafting of the court order or
28 settlement agreement.

29 (iii) If the Attorney General's office receives
30 funds from a court order or settlement agreement that does not require
31 disbursement of funds to a specific entity, the Attorney General's office
32 shall report a rationale for disbursing funds to a specific entity; and

33 (B) A report of current balances of all unappropriated
34 cash fund holdings received by court order or settlement agreement by the
35 Attorney General's office.

36 (4) The quarterly reports shall be provided no later than the

1 fifteenth day of the month immediately following the end of each quarter.

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