

TITLE 23

CHAPTER 100

STATE INSURANCE DEPARTMENT CRIMINAL INVESTIGATION DIVISION FRUST FUND ACT

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23-100-101. Title.

This chapter shall be known as the "State Insurance Department Criminal Investigation Division Trust Fund Act".

History. Acts 1997, No. 337, § 1; 2005, No. 1697, § 25.

A.C.R.C. Notes. Acts 2005, No. 1697, § 1, provided: "Purpose. The General Assembly recognizes that a competitive market for insurance products is vital to Arkansans and that active competition in the insurance marketplace produces the fairest and lowest rates over any given period of time. Furthermore, open and transparent regulation of the insurance industry as well as widespread dissemination of information concerning regulatory actions regarding insurance rates and information

helpful to consumers in purchasing and utilizing insurance coverage will assist Arkansans in purchasing, maintaining, and utilizing wisely their insurance coverages. Therefore, the purpose of this act is to assist consumers by providing them the information and tools necessary to be an informed and educated consumer of insurance coverage."

Amendments. The 2005 amendment substituted "State Insurance Department Criminal" for "Insurance Fraud."

23-100-102. Insurers' payment extensions - Penalties for non-compliance - Insurance Commissioner's waiver for impaired or insolvent insurers.

(a)(1) The Insurance Commissioner may grant any licensed insurer an extension for payment of the antifraud assessment for good cause shown, upon written application of the licensed insurer received at the State Insurance Department on or before each annual due date.

(2) Absent the commissioner's approval of such an extension for good cause, licensed insurers failing timely to pay the antifraud assessment shall be subject to a

penalty of one hundred dollars (\$100) per day for each day of delinquency, payable to the State Insurance Department Criminal Investigation Division Trust Fund.

(3)(A) The commissioner may pursue any appropriate legal remedies to collect the antifraud assessments and penalties due and unpaid from any insurer.

(B) Further, the commissioner in his or her discretion may order suspension of the delinquent insurer's Arkansas certificate of authority after notice and hearing until the payment of all such antifraud assessments and penalties is remitted to the fund.

(C) Absent grant of the commissioner's waiver for good cause shown, the commissioner may revoke the Arkansas certificate of authority of any delinquent insurer consistently refusing and failing without good cause to remit payment of these antifraud assessments and penalties to the fund pursuant to this section.

(b)(1) The commissioner in his or her discretion may waive all or any part of the antifraud assessment due annually from a licensed insurer upon the:

(A) Suspension or revocation of the insurer's Arkansas certificate of authority;

(B) Issuance of a court order placing the company into conservation, rehabilitation, or liquidation in any state; or

(C) Commissioner's finding that the insurer is impaired or insolvent.

(2) Upon the reinstatement or activation of the insurer's certificate of authority in good standing, the commissioner's waiver automatically terminates, and the insurer shall be liable for payment of the assessment on the next succeeding March 1 without retroactive reimbursement for the amount of the antifraud assessments which would normally have accrued during the waiver period.

History. Acts 1997, No. 337, § 4; 1999, No. 881, § 19; 2005, No. 1697, § 26.

A.C.R.C. Notes. Acts 2005, No. 1697, § 1, provided: "Purpose. The General Assembly recognizes that a competitive market for insurance products is vital to Arkansans and that active competition in the insurance marketplace produces the fairest and lowest rates over any given period of time. Furthermore, open and transparent regulation of the insurance industry as well as widespread dissemination of information concerning regulatory actions regarding insurance rates and information

helpful to consumers in purchasing and utilizing insurance coverage will assist Arkansans in purchasing, maintaining, and utilizing wisely their insurance coverages. Therefore, the purpose of this act is to assist consumers by providing them the information and tools necessary to be an informed and educated consumer of insurance coverage."

Amendments. The 2005 amendment substituted "State Insurance Department Criminal" for "Insurance Fraud" in (a)(2).

23-100-103. The Insurance Fraud Investigation Division Trust Fund - Creation.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "State Insurance Department Criminal Investigation Division Trust Fund" to be used to defray the

expenses of the Criminal Investigation Division of the State Insurance Department in the discharge of its administrative and regulatory powers and duties as prescribed by law.

(b) No money is to be appropriated from this fund for any purpose except for the personal services and operating expenses, maintenance and operations, and support of and improvements to the division, and at the direction of the Insurance Commissioner, for the use, benefit, and support of the division.

(c) The fund established pursuant to this section shall be administered, disbursed, and invested under the direction of the commissioner and the Treasurer of State.

(d) All income derived through:

(1) Investment of the fund, including, but not limited to, interest and dividends, shall be credited as investment income to the fund; and

(2) Grants, refunds, gifts, or any other sources to the fund shall be credited as income to the fund and deposited therein.

(e) Further, all moneys deposited to the fund shall not be subject to any deduction, tax, levy, or any other type of assessment, except as may be provided by law.

History. Acts 1997, No. 337, § 2; 2005, No. 1697, § 27.

A.C.R.C. Notes. Acts 2005, No. 1697, § 1, provided: "Purpose. The General Assembly recognizes that a competitive market for insurance products is vital to Arkansans and that active competition in the insurance marketplace produces the fairest and lowest rates over any given period of time. Furthermore, open and transparent regulation of the insurance industry as well as widespread dissemination of information concerning regulatory actions regarding insurance rates and information

helpful to consumers in purchasing and utilizing insurance coverage will assist Arkansans in purchasing, maintaining, and utilizing wisely their insurance coverages. Therefore, the purpose of this act is to assist consumers by providing them the information and tools necessary to be an informed and educated consumer of insurance coverage."

Amendments. The 2005 amendment, in (a), substituted "State Insurance Department Criminal" for "Insurance Fraud" and "Criminal" for "Insurance Fraud" following "expenses of the."

23-100-104. Antifraud assessment.

(a)(1) Notwithstanding the provisions of § 26-57-601 et seq., the State Insurance Department Trust Fund Act, § 23-61-701 et seq., and other provisions of Arkansas law, all licensed insurers, including, but not limited to, all licensed stock and mutual insurance companies, reinsurers, health maintenance organizations, fraternal benefit societies, hospital and medical service corporations, stipulated premium insurers, farmers' mutual aid associations, and prepaid legal insurers, not later than June 30, 1997, for the 1996 1997 fiscal year, and thereafter annually on or before June 30 for all subsequent years at the time and in the manner as the Insurance Commissioner shall prescribe, or at times alternate from June 30 annually as the commissioner shall prescribe, shall pay to the State Insurance Department Criminal Investigation Division Trust Fund, in addition to the premium taxes and fees now required under existing law, a nonrefundable antifraud

assessment as directed by the commissioner for the reasonable and necessary expenses and operation of the criminal Investigation Division of the State Insurance Department.

(2) Effective for the 1996 – 1997 fiscal year, all licensed insurers described in subdivision (a)(1) of this section shall pay a one-time antifraud assessment of four hundred dollars (\$400) to the fund. The commissioner may, by rule or regulation, reduce the antifraud assessment to the fund or adjust the antifraud assessment to a maximum of no more than one thousand dollars (\$1000) per each fiscal year following the 1996 – 1997 fiscal year.

(b) Approved but nonadmitted surplus lines insurers and registered risk retention groups are exempt from payment of the antifraud assessment described in this section.

History. Acts 1997, No. 337, § 3; 1999, No. 881, § 20; 2005, No. 1697, § 28.

A.C.R.C. Notes. Acts 2005, No. 1697, § 1, provided: “Purpose. The General Assembly recognizes that a competitive market for insurance products is vital to Arkansans and that active competition in the insurance marketplace produces the fairest and lowest rates over any given period of time. Furthermore, open and transparent regulation of the insurance industry as well as widespread dissemination of information concerning regulatory actions regarding insurance rates and information

helpful to consumers in purchasing and utilizing insurance coverage will assist Arkansans in purchasing, maintaining, and utilizing wisely their insurance coverages. Therefore, the purpose of this act is to assist consumers by providing them the information and tools necessary to be an informed and educated consumer of insurance coverage.”

Amendments. The 2005 amendment, in (a)(1), substituted “State Insurance Department Criminal” for “Insurance Fraud” and “Criminal” for “Insurance Fraud” following “operation of the.”

23-100-105. Insurers' antifraud fees - Deposit into the Insurance Fraud Investigation Division Trust Fund.

The Insurance Commissioner shall deposit all antifraud assessments and any penalties assessed under this chapter, as well as any other income received for purposes set out in § 23-100-103(a), into the State Insurance Department Criminal Investigation Division Trust Fund as special revenues.

History. Acts 1997, No. 337, § 5; 1999, No. 881, § 21; 2005, No. 1697, § 29.

A.C.R.C. Notes. Acts 2005, No. 1697, § 1, provided: “Purpose. The General Assembly recognizes that a competitive market for insurance products is vital to Arkansans and that active competition in the insurance marketplace produces the fairest and lowest rates over any given period of time. Furthermore, open and transparent regulation insurance industry as well as widespread dissemination of information concerning regulatory actions regarding insurance rates and information

helpful to consumers in purchasing and utilizing insurance coverage will assist Arkansans in purchasing, maintaining, and utilizing wisely their insurance coverages. Therefore, the purpose of this act is to assist consumers by providing them the information and tools necessary to be an informed and educated consumer of insurance coverage.”

Amendments. The 2005 amendment substituted “State Insurance Department Criminal” for “Insurance Fraud”.

23-100-106. Rules and regulations.

The Insurance Commissioner may promulgate reasonable rules and regulations deemed necessary for the administration of this chapter.

23-100-107. State Insurance Department Criminal Investigation Division Trust Fund – Department vouchers and Auditor of State warrants.

(a) All antifraud assessments, penalties, and revenues provided in this chapter received as special revenues for the State Insurance Department Criminal Investigation Division Trust Fund and deposited therein shall be deemed for all purposes special revenues for the fund and of the State Insurance Department for the sole support, operation, and maintenance of the Criminal Investigation Division of the State Insurance Department and when paid into the State Treasury by the Insurance Commissioner, shall be maintained by the State Treasury as the State Insurance Department Criminal Investigation Division Trust Fund, separate from all other funds, and available only for the payment of the expenses of the division pursuant to the appropriations therefore.

(b) Upon proper voucher from the commissioner, the Auditor of State shall issue his or her warrant on the Treasurer of State in payment of all salaries and other expenses incurred in the administration of this chapter.

History. Acts 1997, No. 337, § 7; 1999, No. 881, § 22; 2005, No. 1697, § 30.

A.C.R.C. Notes. Acts 2005, No. 1697, § 1, provided: “Purpose. The General Assembly recognizes that a competitive market for insurance products is vital to Arkansans and that active competition in the insurance marketplace produces the fairest and lowest rates over any given period of time. Furthermore, open and transparent regulation of the insurance industry as well as widespread dissemination of information concerning regulatory actions regarding insurance rates and information helpful to consumers in purchasing and utilizing

insurance coverage will assist Arkansans in purchasing, maintaining, and utilizing wisely their insurance coverages. Therefore, the purpose of this act is to assist consumers by providing them the information and tools necessary to be an informed and educated consumer of insurance coverage.”-

Amendments. The 2005 amendment, inserted the present subsection designations; and, in (a), substituted “State Insurance Department Criminal” for “Insurance Fraud” twice and “Criminal” for “Insurance Fraud” following “maintenance of the.”