

State of Arkansas
89th General Assembly
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As Engrossed: H3/14/13
A Bill

HOUSE BILL 2083

By: Representative Lea

For An Act To Be Entitled

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

Subtitle

REGARDING SETTLEMENT DISPOSITION IN
CONSUMER PROTECTION LAWSUITS BROUGHT BY
THE ATTORNEY GENERAL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 4-88-105(e), regarding a consumer protection investigation account managed by the Consumer Protection Division of the Office of the Attorney General, is amended to read as follows:

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

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

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

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

(B) The Consumer Education and Enforcement Account shall



not carry a balance greater than one million dollars (\$1,000,000), and the funds in the account shall be used in a manner determined by the Office of the Attorney General, including without limitation:

- (i) Litigation support;
- (ii) Expert witness fees;
- (iii) Court filing fees;
- (iv) Process server fees;
- (v) Witness fees;
- (vi) Court costs;
- (vii) Court reporter fees;
- (viii) Attorney and staff training;
- (ix) Travel expenses;
- (x) Consumer education;
- (xi) Office expenses and improvements; and
- (xii) Investigation expenses.

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

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

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

(2) 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 settlement or judgment, the Attorney General shall distribute the funds in the following manner:

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

Account, as authorized by § 4-88-105.

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

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

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

(B) The report shall include:

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

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

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

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

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

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

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

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

(iii) 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.

(iv) 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.

/s/Lea

APPROVED: 04/04/2013