

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

# A Bill

SENATE BILL 132

By: Senator D. Johnson  
By: Representative Vines

## For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 23 OF  
THE ARKANSAS CODE CONCERNING PUBLIC UTILITIES AND  
REGULATED INDUSTRIES; AND FOR OTHER PURPOSES.

### Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 23  
OF THE ARKANSAS CODE CONCERNING PUBLIC  
UTILITIES AND REGULATED INDUSTRIES.

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

SECTION 1. Arkansas Code § 23-61-112(a)(3), concerning the Insurance Commissioner's annual report to the Governor, is amended to read as follows to reinsert a conjunction that was inadvertently deleted by the 2013 amendment:

(3) The total receipts and expenses of the State Insurance Department for the year; and

SECTION 2. Arkansas Code § 23-66-508(a)(3)(B), concerning the Criminal Investigation Division within the State Insurance Department, is amended to read as follows to clarify the wording and to clarify a reference to a state entity:

(B) Personnel hired as law enforcement officers shall be state-certified in law enforcement or ~~the~~ have equivalent ~~in~~ national or military law enforcement experience as approved by the ~~commission~~ Arkansas Commission on Law Enforcement Standards and Training.



SECTION 3. Arkansas Code § 23-68-135(d), concerning the liquidation and distribution of an insurance company's distributable assets, is amended to read as follows to correct an improperly subdivided list within a list:

(d) Within one hundred twenty (120) days after the entry of a liquidation order and at least annually thereafter, the liquidator shall submit to the court:

(1) A financial statement, including:

(A) The assets and liabilities of the insurer;

(B) Any change in the assets and liabilities of the insurer;

(C) The income and expenses of the insurer; and

(D) All funds received or disbursed by the receiver in the liquidation estate during the reporting period;

(2) A report indicating whether or not distributable assets are available based on the financial statement; and

(3)(A) If distributable assets are available, a request for court approval to make early access payments of the distributable assets available to affected guaranty associations out of the general assets of the insurer; ~~and.~~

~~(4)(B)~~ The liquidator may apply to the court to make early access payments more frequently than annually based on additional financial information or the recovery of material assets.

SECTION 4. Arkansas Code § 23-79-109(i)(1), concerning information the Insurance Commissioner may be asked to provide if he or she disapproves a rate, is amended to read as follows to clarify the wording of the subdivision:

(i)(1) If the commissioner disapproves a rate, the insurer may request that the commissioner provide the insurer with ~~the filing~~ an actuarial analysis, interpretation of statistical data, and other methodology that was reviewed by the commissioner or his or her staff.

SECTION 5. Arkansas Code § 23-79-110(c), concerning premium rate filings with the Insurance Commissioner, is amended to read as follows to correct the subdividing of the subsection, to correct an internal reference,

and to remove an extraneous subdivision:

(c)(1) A rate on a particular policy form is approved when filed with the commissioner if the insurer has filed a loss ratio guarantee with the commissioner and complied with the terms of the loss ratio guarantee.

(2) A benefit is reasonable in relation to the premium so long as the insurer complies with the terms of the loss ratio guarantee.

(3)~~(A)~~ The loss ratio guarantee shall be in writing, signed by an officer of the insurer, and contain at least the following:

~~(A)(i)~~ A recitation of the anticipated target loss ratio standards contained in the original actuarial memorandum filed with the policy form when it was originally approved;

~~(B)(ii)~~ A guarantee that if the new rate takes effect, the loss ratios in this state for the experience period in which the new rate takes effect and for each experience period thereafter until a new rate is filed, shall meet or exceed the loss ratio standards referred to in subdivision (a)(4) of this section; and

~~(C)(iii)~~ A statement or guarantee that affected policyholders in this state shall be issued a proportional refund based on premium earned of the amount necessary to bring the total loss ratio up to the loss ratio standards referred to in subdivision (a)(4) of this section~~+~~.

~~(D)(B)~~ If nationwide loss ratios are used, then the total amount refunded in this state shall equal the dollar amount necessary to achieve the loss ratio standards multiplied by the total premium earned in this state on the policy form and divided by the total premium earned in a state on the policy form~~+~~.

~~(E)(C)~~ The refund shall be made to a policyholder in this state who is insured under the applicable policy form on the last day of the experience period and whose refund would equal ten dollars (\$10.00) or more~~+~~.

~~(F)(D)~~ The refund ~~in subdivision (c)(6)(C) of this section~~ shall include interest from the end of the experience period until the date of payment~~+~~.

~~(G)(E)~~ The payment of the refund shall be made during the third quarter of the year following the experience period for which a refund is determined to be due~~+~~ ~~and~~.

~~(H)(F)~~ Refunds of less than ten dollars (\$10.00) shall be aggregated by the insurer and paid to the State Insurance Department.

(4)(A) If the annual earned premium volume in this state under a policy form is less than one million dollars (\$1,000,000) and therefore not actuarially credible, the loss ratio guarantee shall be based on the nationwide loss ratio for the policy form.

(B) If the total earned premium in this state is less than one million dollars (\$1,000,000), the experience period shall be extended until the end of the calendar year in which one million dollars (\$1,000,000) of earned premium is attained.

(5)(A) An insurer shall submit a guarantee that the loss ratio in this state or nationally, if applicable, for the year at issue shall be independently audited at the insurer's expense.

(B) An audit shall be made in the second quarter of the year following the end of the experience period and the audited results reported to the commissioner at or before the date for filing the policy experience exhibit.

~~(6) An insurer shall file with the commissioner the following with a loss ratio guarantee:~~

~~(7)~~(6) As used in this section:

(A)(i) "Experience period" means the period for a given rate filing for which a loss ratio guarantee is made beginning on the first day of the calendar year during which the rate first takes effect and ending on the last day of the calendar year during which the insurer earns one million dollars (\$1,000,000) in premium on the form in this state or if the annual premium earned on the form in Arkansas is less than one million dollars (\$1,000,000) nationally.

(ii) Successive experience periods shall be determined beginning on the first day following the end of the preceding experience period; and

(B) "Loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration for the combined durations.

~~(8)(A)~~(7)(A) An insurer whose rates on a policy form are approved according to a loss ratio guarantee shall provide a notice to an affected policyholder that advises that rates may be increased more than one (1) time a year.

(B) The notice shall be delivered to a new policyholder

with policies subject to the loss ratio guarantee at or before the time of delivery of the policy.

SECTION 6. Arkansas Code § 23-86-122 is amended to read as follows to add language necessary to limit the scope of the application of the defined term, to further subdivide the section for clarity, to correct the use of terms, and to make stylistic changes:

23-86-122. Prior approval process for experimental and investigational surgical products and medical devices.

(a)~~(1)~~ As used in this section:

(1) "Health carrier" means a:

~~(A) health~~ Health maintenance organization;

~~(B) hospital~~ Hospital medical service corporation, ~~or;~~ and

~~(C) a disability~~ Disability insurance company;

(2) "Health carrier" includes a:

~~(A) self-insured~~ Self-insured governmental or church plan;

and

~~(B) third-party administrators that administer or adjust~~ Third-party administrator that administers or adjusts disability benefits for a disability insurer, hospital medical service corporation, health maintenance organization, self-insured governmental plan, or self-insured church plan; and

(3) "Health carrier" does not include:

(A) An automobile insurer paying medical or hospital benefits under § 23-89-202(1) or a self-insured employer health benefits plan; or

(B) A person, company, or organization licensed or registered to issue or that issues ~~any~~ an insurance policy or insurance contract in this state as described in §§ 23-62-102 and 23-62-104 – 23-62-107 providing medical or hospital benefits for accidental injury or disability.

(b) A health carrier that excludes or denies coverage for a specific surgical product or medical device approved for marketing by the United States Food and Drug Administration as experimental or investigational, or both, shall develop a process by which a surgeon, before utilizing the ~~device or treatment~~ surgical product or medical device, may present medical evidence to obtain a review for the individual patient for coverage of the surgical

product or medical device.

SECTION 7. Arkansas Code § 23-112-103(18)(B), concerning the definition of “low speed vehicle”, is amended to read as follows to clarify the wording:

(B) ~~Whose speed attainable~~ That has an attainable speed in one (1) mile ~~is~~ of more than twenty miles per hour (20 m.p.h.) ~~and~~ but not more than twenty-five miles per hour (25 m.p.h.) on a paved level surface; and

SECTION 8. DO NOT CODIFY. The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Ninetieth General Assembly. All such acts shall have full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987.