



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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Bulletin 13-89

ACTS 646, 675, 772, 797, 815 AND 896 OF 1989

July 21, 1989

1. Act 646 of 1989, effective July 3, 1989 requires insurers canceling liability, cargo, or property/casualty policies on leased motor carriers to send notices to lessees registered with the insurers. This notice of cancellation is additional to notices to insureds, lienholders, and other loss payees required by Ark. Code Ann. § 23-66-206(11)(supp. 1987).

Insurers opting to incorporate the requirements of this Act in applicable property/casualty policies and certificates may do so by endorsements upon review and forms approval by this Department.

1. Act 675 of 1989, effective March 20, 1989, amends Ark. Code Ann. § 23-89-304, as to required notices of cancellation of personal auto policies to named insureds, and banks or other lending institutions. This Act, generated by the Arkansas Supreme Court's decision in *State Farm Fire & Casualty Co. v. Stockton*, 295 Ark. 560 (1988), issued May 31, 1988, provides that the insurer's failure to notify one of the required parties will not invalidate the cancellation as to the others receiving proper notice of cancellation.

2. Act 772 of 1989, effect March 21, 1989, is the Department's Omnibus Bill.

- a) a) Act Section 7 amends Ark. Code Ann. § 23-65-310(a)(4) to require alien surplus line insurers to report U.S. Trust Fund location and balance annually to the Insurance Commissioner, and report any location change of the Trust Fund promptly.

The Commissioner has designated March 1 of each calendar year as the due date for the Trust Fund Report. Attached is a Department Form entitled "Trust Fund Report," for reproduction and use by approved, non-admitted alien surplus line insurers in filing the annual report, or to report any change in location of the U.S. Trust Fund.

- b) b) Act Section 17 amends Ark. Code Ann. § 23-79-112 to require property and casualty policies to state the admitted insurers's method used for calculating premium refunds upon policy cancellations.

This policy disclosure section is required on and after January 1, 1990. Admitted insurers may add this required provision to new and/or existing policies by endorsement. Policy and endorsement forms should be submitted for review and approval to the Property and Casualty Division of this Department prior to the effective date of this Act.

Policy and endorsement forms may reference the methods as "flat rate," "short rate," or "pro rate." The phrase "according to manual rules on file with the Insurance Department will not be acceptable.

- c) c) Act Section 23 adds new Section 26-57-613 to clarify that this subchapter on insurers' premium taxes, at a rate of 1 ½% with some exceptions, is not applicable to approved, non admitted surplus line insurers.

3. Act 797 of 1989, effective July 3, 1989, amends § 23-79-307 as to commercial property and casualty insurance policies, On or after January 1, 1990, when an insurer has filed a revision of rates or rules which results in a premium increase equal to or greater than twenty-five percent (25%) on any renewal policy issued for a term of twelve (12) months or less, the insurer shall mail or deliver to the agent of record not less than thirty (30) days prior to the effective date of renewal, and to the insured not less than ten (10) days prior to the effective date of renewal, notice of the insurer's intention to increase the premium. Such notice must specify the percentage of increase.

Insurers failing to mail or deliver advance notices required must extend the existing policy thirty (30) additional days from the date such notices are mailed or delivered. The premium charge for the policy as extended shall not exceed the pro rata portion of the existing policy premium. Act 797 is applicable to "claims-made" and "occurrence" policies on commercial property and casualty risks not otherwise exempted under Ark. Code Ann. § 23-79-303.

4. Act 815 of 1989, effective July 3, 1989, amends § 23-79-109, and provides that on and after January 1, 1990, personal auto liability policies with policy terms of less than six (6) months will not be approved by this Department. This restriction is not applicable to premium payment options offered by insurers to personal auto policyholders.

On and after January 1, 1990, new personal auto liability policies must be issued for a minimum six-month term. Insurers shall convert existing policies with terms of less than six months which are in force on January 1, 1990 to a minimum six-month term at the next renewal following January 1, 1990.

Appropriate policy forms and rate and rule filings should be submitted to the Property and Casualty Division of this Department prior to the effective date of this Act.

5. Act 896 of 1989, effective July 3, 1989, amends §27-19-713, the Motor Vehicle Code, to require every motor vehicle liability policy to cover non-owned vehicles loaned by persons or firms who sell, service or repair vehicles to insureds for demonstration purposes and as temporary replacements while insureds' vehicles are being serviced or repaired. The Act state that this extension of liability coverage is primary.

This Act applies to commercial and personal autos, motorcycles, motor-driven cycles, motorized bicycles, and other motor vehicles required to be registered in this State.

Please direct your inquiries as to this legislation to the Property and Casualty Division of this Department at (501) 371-1814.

Ron Taylor
INSURANCE COMMISSIONER