

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003  
4

As Engrossed: H4/10/03

# A Bill

HOUSE BILL 2382

5 By: Representative Bradford  
6  
7

## For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE MULTI-AGENCY INSURANCE  
10 TRUST FUND TO PROVIDE FOR PROPERTY, INLAND  
11 MARINE, BOILER AND MACHINERY, AND RELATED  
12 COVERAGE; TO ASSIST PARTICIPATING AGENCIES IN THE  
13 MINIMIZATION OF INSURANCE COSTS; AND FOR OTHER  
14 PURPOSES.

## Subtitle

17 TO ESTABLISH THE MULTI-AGENCY INSURANCE  
18 TRUST FUND TO PROVIDE FOR PROPERTY,  
19 INLAND MARINE, BOILER AND MACHINERY, AND  
20 RELATED COVERAGE.  
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 *Section 1. Arkansas Code Title 21, Chapter 2, is amended to add a new*  
26 *subchapter to read as follows:*

27 *21-2-801. Title.*

28 *This subchapter may be cited as the "The Arkansas Multi-Agency*  
29 *Insurance Trust Fund Act".*  
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31 *21-2-802. Definitions.*

32 *For the purposes of this subchapter:*

33 *(1) "Annual aggregate deductible" means the maximum amount payable*  
34 *annually from the fund for covered losses;*

35 *(2) "Insurance Commissioner" means the State Insurance Department*  
36 *Commissioner or the commissioner's successor;*



1           (3) "Risk manager" shall means the Administrator of the Risk  
2 Management Division of the State Insurance Department;

3           (4) "State agency" means any state agency, board, bureau, commission,  
4 council, department, institution, or other similar entity; and

5           (5) "Trust fund" means the Arkansas Multi-Agency Insurance Trust Fund.

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7           21-2-803. Arkansas Multi-Agency Insurance Trust Fund.

8           (a) There is established on the books of the State Treasurer, the  
9 State Auditor, and the Chief Fiscal Officer of the State, a separate fund to  
10 be known as the Arkansas Multi-Agency Insurance Trust Fund.

11           (b) No money shall be appropriated from the trust fund for any purpose  
12 except to pay:

13                   (1) Insurance and reinsurance premiums;

14                   (2) Loss adjustment expenses;

15                   (3) Related educational and training expenses;

16                   (4) Insured claims falling below the annual aggregate deductible  
17 level; and

18                   (5) Expenses including actuarial, consultant, and service  
19 contract fees.

20           (c)(1) The assets of the trust fund may be invested and reinvested as  
21 the Insurance Commissioner may determine.

22                   (2) All income derived through investment of the fund as  
23 established under this subchapter shall be credited as investment income to  
24 the trust fund.

25                   (3) For the purposes of investment, fund moneys invested, and  
26 interest earned thereon shall be administered as trust funds.

27                   (4) All moneys deposited to the trust fund shall not be subject  
28 to any deduction, tax, levy, or any other type of assessment.

29           (d) All moneys received by the risk manager, including, but not  
30 limited to, the premiums collected and any insured loss or loss expenses paid  
31 by insurance or reinsurance companies, shall be deposited in the trust fund  
32 created in this subchapter.

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34           21-2-804. Participation.

35           (a) Effective July 1, 2003, the following agencies shall participate  
36 in the Multi-Agency Insurance Trust Fund:

1           (1) State agencies participating in the Arkansas Master Agency  
2 Property Policy as of June 30, 2003;

3           (2) The Arkansas Department of Correction;

4           (3) The Arkansas Department of Community Correction; and

5           (4) State agencies participating in the Arkansas  
6 State Master Vehicle Policy as of June 30, 2003.

7           (b) Upon approval by the risk manager, other state agencies may  
8 participate in the trust fund.

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10          21-2-805. Administration.

11          (a) The Arkansas Multi-Agency Insurance Trust Fund shall be  
12 administered by the Insurance Commissioner.

13          (b) At the discretion of the commissioner, the risk manager may:

14           (1) Enter into contracts;

15           (2) Purchase insurance and reinsurance in accordance with the  
16 State Purchasing Law;

17           (3) Adjust, settle, and pay or deny claims with notice to a  
18 claimant;

19           (4) Pay expenses and costs;

20           (5) Study the risks of all participating state agencies and  
21 their properties;

22           (6) Promulgate the form for insurance and reinsurance policies  
23 and other forms;

24           (7) Issue certificates of coverage to state agencies for any  
25 risks covered by the trust fund;

26           (8) Make recommendations about risk management and risk  
27 reduction strategies to participating state agencies;

28           (9) Review participating state agency building construction,  
29 major remodeling plans, program plans, and make recommendations to the  
30 participating state agency about needed changes to address risk  
31 considerations;

32           (10) Utilize underwriting discretion and authority to deny  
33 coverage of any risk deemed to adversely effect the financial stability of  
34 the trust fund;

35           (11) Establish values for participating state agency buildings  
36 and structures to be insured;

1 (12) Attend state agency planning and management meetings;

2 (13) Review any proposed legislation and communicate with

3 members of the General Assembly and legislative committees about the  
4 liability or risk management issues connected with any legislation; and

5 (14) Solicit any needed information about state agency plans,  
6 state agency programs, or state agency risks necessary to perform the  
7 responsibilities under this subchapter.

8 (c)(1) The risk manager may expend moneys from the trust fund to  
9 procure and provide coverage to all participating state agencies and their  
10 indemnified employees, except those agencies or employees specifically  
11 exempted by statute or elsewhere in this subchapter.

12 (2) The risk manager shall apportion the costs of coverage under  
13 subdivision (c)(1) of this section consistent with this subchapter.

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15 21-2-806. Premiums and schedules of coverage and endorsements.

16 (a)(1) Premiums shall be charged to each agency based on the rates  
17 established by the risk manager that include all costs associated with the  
18 operation of the trust fund, based upon sound rating techniques.

19 (2) The risk manager shall provide premium billings to  
20 participating state agencies for each renewal and for participating agency  
21 changes occurring during the policy year.

22 (3) If any participating state agency fails to pay its premium  
23 charges within thirty (30) days after the due date, the risk manager shall  
24 notify the delinquent state agency that coverage will be cancelled due to  
25 nonpayment of premium, unless the delinquent payment is made within thirty  
26 (30) days of the notice.

27 (4) Funds appropriated or otherwise made available to  
28 participating state agencies for payment of premium shall not be reduced as a  
29 result of any shortfall of projected revenues.

30 (b) The risk manager will provide each agency with a renewal schedule  
31 of coverage and an endorsement for each participating state agency change  
32 occurring during the policy year.

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34 21-2-807. Payment of losses.

35 The risk manager shall establish:

36 (1) Appropriate policies and procedures governing the payment of

1 losses from the trust fund, including notice or proof of loss by any  
2 participating state agency; and

3 (2) Policies and procedures governing disputes that may arise between  
4 the risk manager and any person having charge over the property in question  
5 concerning the extent of loss or damage.

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7 21-2-809. Limits on use of risk management data as evidence.

8 Notwithstanding any other provision of law, any report, recommendation,  
9 survey, schedule, list, or data compiled, or action taken or not taken by or  
10 at the request of the risk manager to identify, evaluate, or plan the safety  
11 enhancement or risk reduction of any potential accident sites or other  
12 hazards related to any entity covered by the trust fund, may not be admitted  
13 into evidence in any court, or used for any other purposes in any action for  
14 damages arising from any occurrence at a location mentioned or addressed in  
15 the reports, recommendation, survey, schedule, list, or data.

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17 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
18 General Assembly of the State of Arkansas that the insurance market is  
19 volatile and that insurance costs are increasing; that assistance is  
20 immediately necessary to minimize insurance costs; that establishment of a  
21 trust fund is immediately necessary to protect state agency budgets from  
22 insurance market volatility; and that this subchapter is designed to provide  
23 property, inland marine, boiler and machinery, and automobile liability and  
24 physical damage coverage for state agencies participating in the trust fund.  
25 Therefore, an emergency is declared to exist and this act being immediately  
26 necessary for the preservation of the public peace, health, and safety shall  
27 become effective on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,  
30 the expiration of the period of time during which the Governor may veto the  
31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is  
33 overridden, the date the last house overrides the veto.

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35 /s/ Bradford  
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