

# An Act

ENROLLED HOUSE  
BILL NO. 3091

By: Tedford of the House

and

Pemberton of the Senate

An Act relating to insurance; amending 36 O.S. 2021, Section 902, which relates to excessive, inadequate, or unfairly discriminatory rates; modifying certain compliance burden; amending 36 O.S. 2021, Section 908, which relates to penalties; clarifying applicability to rules and orders; modifying penalty; stipulating no penalty without hearing; amending 36 O.S. 2021, Section 1106.1, as amended by Section 1, Chapter 154, O.S.L. 2022 (36 O.S. Supp. 2023, Section 1106.1), which relates to exemption from due diligence search; modifying conditions requiring a due diligence search; amending 36 O.S. 2021, Section 1107, which relates to required application and informational filings; requiring certain filings; clarifying method of filing; amending 36 O.S. 2021, Section 1114, which relates to surplus lines licensee's or broker's annual statement; clarifying method for filing; amending 36 O.S. 2021, Section 1250.9, which relates to Unfair Claims Settlement Practices Act; modifying required information; amending 36 O.S. 2021, Section 1450, as amended by Section 1, Chapter 149, O.S.L. 2023 (36 O.S. Supp. 2023, Section 1450), which relates to third-party administrator licensure; modifying licensing procedures; permitting Insurance Commissioner to deny or refuse to renew license in certain circumstances; amending 36 O.S. 2021, Section 1682, which relates to the Insurance Business Transfer Act; modifying district court approval; amending 36 O.S. 2021, Section 2122, which relates to domestic mutual and stock insurers; modifying definition; amending 36 O.S. 2021, Section 6060.4, as amended by Section 2, Chapter 199, O.S.L. 2022 (36 O.S. Supp. 2023, Section 6060.4), which relates to coverage for child

immunization; modifying definition; and providing an effective date.

SUBJECT: Insurance

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2021, Section 902, is amended to read as follows:

Section 902. A. The Insurance Commissioner shall not approve rates for insurance which are excessive, inadequate, or unfairly discriminatory.

1. An excessive rate is one which:
  - a. is unreasonably high for the insurance provided, or
  - b. is unreasonable because (1) a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable and (2) the rate is unreasonably high for the insurance provided.
2. An inadequate rate is one which:
  - a. is (1) unreasonably low for the insurance provided and (2) the continued use of such rate endangers, or if continued would endanger, the solvency of the insurer, or
  - b. is (1) unreasonably low for the insurance provided and (2) the continued use of such rate by the insurer has, or if continued would have, the effect of destroying competition or creating a monopoly, or
  - c. is insufficient to cover projected losses, expenses and a reasonable margin for profit for the line of insurance coverage to be offered in this state by the filer.
3. A rate shall not be unfairly discriminatory.

- a. A rate is not unfairly discriminatory because it is based in part upon the establishment or modification of classifications of risks based upon:
  - (1) the size of the risk,
  - (2) the expense or difficulty in management of the risk,
  - (3) the individual experience of the risk,
  - (4) the location or dispersion of the risk, or
  - (5) any other reasonable consideration attributable to the risk.
- b. A rate is not unfairly discriminatory in relation to another in the same class of business if it reflects equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or with like expense factors but different loss exposures, if the rates reflect the differences with reasonable accuracy.
- c. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.
- d. A rate shall never be based upon race, color, creed or national origin.

B. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

C. Nothing in this act shall be construed to require uniformity in insurance rates, classifications, rating plans, or practices.

D. Nothing in this act shall abridge or restrict the freedom of contract of insurers, agents, brokers or employees with reference to the commissions, compensation, or salaries to be paid to such agents, brokers, or employees by insurers.

~~E. The burden of compliance with the provisions of this act shall rest upon the insurer or rating organization in all matters involving a filing made pursuant to Section 6821 of this title.~~

SECTION 2. AMENDATORY 36 O.S. 2021, Section 908, is amended to read as follows:

Section 908. The Insurance Commissioner may, if the Commissioner finds that any person or organization has violated the provisions of any statute, rule, or order for which the Commissioner has jurisdiction, impose a penalty of not ~~less than One Hundred Dollars (\$100.00)~~ nor more than Five Thousand Dollars (\$5,000.00) for each such violation. Such penalties may be in addition to any other penalty provided by law.

No penalty shall be imposed except upon a written order of the Commissioner or the appointed independent hearing examiner, stating the findings of the Commissioner ~~made after a hearing held not less than ten (10) days after written notice to a person or organization alleged to have violated any statute for which the Commissioner has jurisdiction specifying the alleged violation~~ or the appointed independent hearing examiner after notice and opportunity for a hearing in accordance with Article II of the Administrative Procedures Act.

SECTION 3. AMENDATORY 36 O.S. 2021, Section 1106.1, as amended by Section 1, Chapter 154, O.S.L. 2022 (36 O.S. Supp. 2023, Section 1106.1), is amended to read as follows:

Section 1106.1 A. A surplus lines licensee or broker is not required to make a due diligence search to determine whether the full amount or type of insurance can be obtained from admitted insurers when the surplus lines licensee or broker is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser, ~~provided:~~ unless the

~~1. The licensee or broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and~~

~~2. The exempt commercial purchaser has subsequently requested in writing for the surplus lines broker to procure or place such insurance from a nonadmitted insurer.~~

B. For purposes of this section, the term "exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

1. The person employs or retains a qualified risk manager to negotiate insurance coverage;

2. The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of One Hundred Thousand Dollars (\$100,000.00) in the immediately preceding twelve (12) months;

3. The person meets at least one of the following criteria:

- a. the person possesses a net worth in excess of ~~Twenty-Four~~ Twenty-four Million Dollars (\$24,000,000.00), as such amount is adjusted pursuant to paragraph 4 of this subsection,
- b. the person generates annual revenues in excess of Sixty Million Dollars (\$60,000,000.00), as such amount is adjusted pursuant to paragraph 4 of this subsection,
- c. the person employs more than five hundred full-time-equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand employees in the aggregate,
- d. the person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least ~~Thirty-Six~~ Thirty-six Million Dollars (\$36,000,000.00), as such amount is adjusted pursuant to paragraph 4 of this subsection, or

- e. the person is a municipality with a population in excess of fifty thousand (50,000) persons; and

4. Effective on January 1, 2015, and every five (5) years thereafter, the amounts in subparagraphs a, b and d of paragraph 3 of this subsection shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the U.S. Department of Labor.

SECTION 4. AMENDATORY 36 O.S. 2021, Section 1107, is amended to read as follows:

Section 1107. A. After procuring any surplus line insurance where Oklahoma is the home state and the insurance involves a multistate risk, the surplus lines licensee and broker shall submit such information relating to the transaction as may be established by the Insurance Commissioner. The data shall be provided to the Insurance Commissioner until and unless in the exercise of his or her sole discretion and judgment, the Insurance Commissioner decides to enter or join the Nonadmitted Insurance Multi-State Agreement or any other multistate agreement or compact with the same function and purpose and other reporting requirements are thereby established.

B. When Oklahoma is the home state of the insured, the surplus lines licensee or broker shall make all informational and tax filings and fee and tax payments electronically in the manner and form required or to be established by the Insurance Commissioner, along with any applicable transaction fees. When Oklahoma is the home state of the insured, the premium tax filings and premium tax payments shall be provided entirely to the Insurance Commissioner until and unless, in the exercise of his or her sole discretion and judgment, the Insurance Commissioner decides to enter or join the Nonadmitted Insurance Multi-State Agreement or any other multistate agreement or compact with the same function and purpose.

C. Failure to file the required information, any required fee payments and make the required premium tax payments in the manner established by the Insurance Commissioner pursuant to this section and Section 1115 of this title where Oklahoma is the home state of the insured shall result, after notice and hearing, in censure, suspension, or revocation of license or a fine of up to Five Hundred Dollars (\$500.00) for each occurrence or by both such fine and licensure penalty.

SECTION 5. AMENDATORY 36 O.S. 2021, Section 1114, is amended to read as follows:

Section 1114. Each surplus lines licensee or broker licensed or transacting business in Oklahoma shall on or before April 1 of each year file electronically, along with any applicable transaction fees, with the Insurance Commissioner a verified statement of all surplus lines insurance transacted by the broker during the preceding calendar year where Oklahoma is the home state of the insured. The statement shall be on a form prescribed and furnished by the Insurance Commissioner and shall show such information required to be submitted as established by the Insurance Commissioner. The information shall be provided to the Insurance Commissioner until and unless, in the exercise of his or her sole discretion and judgment, the Insurance Commissioner decides to enter or join the Nonadmitted Insurance Multi-State Agreement or any other multistate agreement or compact with the same function and purpose and other transaction reporting requirements are thereby established.

SECTION 6. AMENDATORY 36 O.S. 2021, Section 1250.9, is amended to read as follows:

Section 1250.9 A. If the Insurance Commissioner determines, based on an investigation of complaints of unfair claim settlement practices, that an insurer has engaged in unfair claim settlement practices with such frequency as to indicate a general business practice and that such insurer should be subjected to closer supervision with respect to such practices, the Commissioner may require the insurer to file a report at such periodic intervals as the Commissioner deems necessary. The Commissioner shall also devise a statistical plan for such periodic reports, which shall contain but not be limited to the following information:

1. The total number of written claims filed, including the original amount filed for by the insured and the classification by line of insurance of each individual written claim, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter;

2. The total number of written claims denied, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter;

3. The total number of written claims settled, including the original amount filed for by the insured, the settled amount, and the classification of line of insurance of each individual settled claim, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter;

4. The total number of written claims for which lawsuits were instituted against the insurer, including the original amount of the claim filed for by the insured, the amount of final adjudication, the reason for the lawsuit and the classification by line of insurance of each individual written claim, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter; and

5. All information required by paragraph ~~12~~ 14 of Section 1250.5 of this title.

B. For the purposes of this section, "written claims" means those claims reduced to writing and filed by a resident of this state with an insurer.

SECTION 7. AMENDATORY 36 O.S. 2021, Section 1450, as amended by Section 1, Chapter 149, O.S.L. 2023 (36 O.S. Supp. 2023, Section 1450), is amended to read as follows:

Section 1450. A. No person shall act as or present himself or herself to be an administrator, as defined by the provisions of the Third-party Administrator Act, in this state, unless the person holds a valid license as an administrator which is issued by the Insurance Commissioner.

B. An administrator shall not be eligible for a nonresident administrator license under this section if the administrator does not hold a home state certificate of authority or license in a state that has adopted the Third-party Administrator Act or that applies substantially similar provisions as are contained in the Third-party Administrator Act to that administrator. If the Third-party Administrator Act in the administrator's home state does not extend to stop-loss insurance, but if the home state otherwise applies substantially similar provisions as are contained in the Third-party Administrator Act to that administrator, then that omission shall not operate to disqualify the administrator from receiving a nonresident administrator license in this state.



1. "Home state" means the United States jurisdiction that has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators and which has been designated by the administrator as its principal regulator. The administrator may designate either its state of incorporation or its principal place of business within the United States if that jurisdiction has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators. If neither the administrator's state of incorporation nor its principal place of business within the United States has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators, then the third-party administrator shall designate a United States jurisdiction in which it does business and which has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators. For purposes of this paragraph, "United States jurisdiction" means the District of Columbia or a state or territory of the United States.

2. "Nonresident administrator" means a person who is applying for licensure or is licensed in any state other than the administrator's home state.

C. In the case of a partnership which has been licensed, each general partner shall be licensed and shall qualify therefore as though an individual licensee. The Commissioner shall charge a full additional license fee and a separate license shall be issued for each individual so named in the license. The partnership shall notify the Commissioner within thirty (30) days if any individual licensed on its behalf has been terminated, or is no longer associated with or employed by the partnership. Any person making application as an administrator or currently licensed as an administrator under the Third-party Administrator Act shall provide a National Association of Insurance Commissioners (NAIC) Biographical Affidavit.

D. An application for an administrator's license shall be in a form prescribed by the Commissioner and shall be accompanied by a fee of One Hundred Dollars (\$100.00). The application shall be filed and the fee shall be paid electronically in a form and manner prescribed by the Commissioner. This fee shall not be refundable if the application is denied or refused for any reason by either the applicant or the Commissioner.

E. The administrator's license shall continue in force no longer than twelve (12) months from the original month of issuance.

Upon filing a renewal form prescribed by the Commissioner, accompanied by a fee of One Hundred Dollars (\$100.00), the license may be renewed annually for a one-year term. The renewal shall be filed, and the fee shall be paid electronically in a form and manner prescribed by the Commissioner. A license that expires for failure to submit a renewal application may be reinstated within ninety (90) days after the expiration date by electronically submitting a fee in an amount of Two Hundred Dollars (\$200.00) in a form and manner prescribed by the Commissioner and any other transaction or other fee deemed necessary by the Commissioner. All applications received after the license has expired for more than ninety (90) days shall include a detailed report of administrator services provided in this state during the period of expired licensure. The administrator shall submit, together with the application for renewal, a list of the names and addresses of the persons with whom the administrator has contracted in accordance with Section 1443 of this title. The Commissioner shall hold this information confidential except as provided in Section 1443 of this title.

F. 1. The administrator's license ~~shall~~ may be issued or renewed by the Commissioner unless, after notice and opportunity for hearing, the Commissioner determines that the administrator is not competent, trustworthy, or financially responsible, or has had any insurance license denied for cause by any state, has been convicted or has pleaded guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude or dishonesty.

2. The administrator shall report to the Insurance Commissioner any administrative or criminal action taken against the administrator in another jurisdiction or by another governmental agency in this state within thirty (30) calendar days of the final disposition of the matter. This report shall include a copy of the order, consent to order, copy of any payment required as a result of the administrative or criminal action, or other relevant legal documents.

3. Any entity making application to the Insurance Department as a third-party administrator (TPA) or within thirty (30) days of a change for a licensed TPA shall provide current National Association of Insurance Commissioners (NAIC) Biographical Affidavits on behalf of all officers, directors and key managerial personnel of the TPA, and individuals with a ten percent (10%) or more beneficial ownership in the TPA and the TPA's ultimate controlling person (affiant) as required for insurers pursuant to the laws of this state.

G. After notice and opportunity for hearing, and upon determining that the administrator has violated any of the provisions of the Oklahoma Insurance Code or upon finding reasons for which the issuance or ~~nonrenewal~~ renewal of such license could have been denied, the Commissioner may ~~either~~ deny, refuse to renew, suspend or revoke an administrator's license or assess a civil penalty not more than Five Thousand Dollars (\$5,000.00) for each occurrence, or any combination thereof. The payment of the penalty may be enforced in the same manner as civil judgments may be enforced.

H. Any person who is acting as or presenting himself or herself to be an administrator without a valid license shall be subject, upon conviction, to a fine not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each occurrence. This fine shall be in addition to any other penalties which may be imposed for violations of the Oklahoma Insurance Code or other laws of this state.

I. Except as provided for in subsections F and G of this section, any person convicted of violating any provisions of the Third-party Administrator Act shall be guilty of a misdemeanor and shall be subject to a fine not more than One Thousand Dollars (\$1,000.00).

J. Each administrator shall electronically submit, in a form and manner prescribed by the Commissioner, any change of legal business name, "doing business as" or assumed name, address, service agent contact information, or contact email address, and any necessary fees within thirty (30) days after the change occurred. Any submission of a change under this subsection that is received more than thirty (30) days after the change occurred shall be accompanied by a fee of Fifty Dollars (\$50.00).

K. Upon receipt of any inquiry from the Insurance Commissioner, a licensed administrator shall furnish the Commissioner with an adequate response to the inquiry within twenty (20) days from receipt of the inquiry.

SECTION 8. AMENDATORY 36 O.S. 2021, Section 1682, is amended to read as follows:

Section 1682. This act is adopted to provide options to address the significant limitations in the current methods available to

insurers to transfer or assume blocks of insurance business in an efficient and cost-effective manner that provides needed legal finality for such transfers in order to provide for improved operational and capital efficiency for insurance companies, stimulates the economy by attracting segments of the insurance industry to the state, makes Oklahoma an attractive home jurisdiction for insurance companies, encourages economic growth and increased investment in the financial services sector and increases the availability of quality insurance industry jobs in Oklahoma. These purposes are accomplished by providing a basis and procedures for the transfer and statutory novation of policies from a transferring insurer to an assuming insurer by way of an Insurance Business Transfer without the affirmative consent of policyholders or reinsureds. The novation is effected by court order. This act establishes the requirements for notice and disclosure and standards and procedures for the approval of the transfer and novation by the Oklahoma Insurance Commissioner and the ~~District Court of Oklahoma County~~ district court pursuant to an Insurance Business Transfer Plan. This act does not limit or restrict other means of effecting a transfer or novation.

SECTION 9. AMENDATORY 36 O.S. 2021, Section 2122, is amended to read as follows:

Section 2122. A. A domestic stock insurer shall not pay any ordinary cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business. The restriction shall apply to all extraordinary dividends, as defined in subsection B of Section 1655 1636 of this title.

B. A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus loaned to the insurer pursuant to Section 2125 of this article.

C. A dividend otherwise proper may be payable out of the insurer's earned surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

SECTION 10. AMENDATORY 36 O.S. 2021, Section 6060.4, as amended by Section 2, Chapter 199, O.S.L. 2022 (36 O.S. Supp. 2023, Section 6060.4), is amended to read as follows:

Section 6060.4 A. A health benefit plan delivered, issued for delivery or renewed in this state on or after January 1, 1998, that provides benefits for the dependents of an insured individual shall provide coverage for each child of the insured, from birth through the date the child is eighteen (18) years of age for:

1. Immunization against:

- a. diphtheria,
- b. hepatitis B,
- c. measles,
- d. mumps,
- e. pertussis,
- f. polio,
- g. rubella,
- h. tetanus,
- i. varicella,
- j. haemophilus influenzae type B, and
- k. hepatitis A; and

2. Any other immunization subsequently required for children by the State Board of Health.

B. Benefits required pursuant to subsection A of this section shall not be subject to a deductible, co-payment, or coinsurance requirement.

C. 1. For purposes of this section, "health benefit plan" means group hospital ~~or~~ coverage, individual and group medical insurance coverage, a not-for-profit hospital or medical service or indemnity plan, a prepaid health plan, a health maintenance organization plan, a preferred provider organization plan, the State and Education Employees Group Health Insurance Plan, and coverage provided by a Multiple Employer Welfare Arrangement or employee

self-insured plan as permitted under Employee Retirement Income Security Act of 1974.

2. The term "health benefit plan" shall not include:

- a. a plan that provides coverage:
  - (1) only for a specified disease or diseases or under an individual limited benefit policy,
  - (2) only for accidental death or dismemberment,
  - (3) only for dental or vision care,
  - (4) a hospital confinement indemnity policy,
  - (5) disability income insurance or a combination of accident-only and disability income insurance, or
  - (6) as a supplement to liability insurance,
- b. a Medicare supplemental policy as defined by Section 1882(g)(1) of the Social Security Act (42 U.S.C., Section 1395ss),
- c. workers' compensation insurance coverage,
- d. medical payment insurance issued as part of a motor vehicle insurance policy,
- e. a long-term care policy, including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefit coverage so comprehensive that the policy meets the definition of a health benefit plan, or
- f. short-term health insurance issued on a nonrenewable basis with a duration of six (6) months or less.

SECTION 11. This act shall become effective November 1, 2024.

Passed the House of Representatives the 11th day of March, 2024.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 24th day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

