

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 622

BY: STIPE of the SENATE

and

STOTTLEMYRE of the HOUSE

COMMITTEE SUBSTITUTE AN ACT RELATING TO INSURANCE; AMENDING 36 O.S.

1991, SECTION 1219, WHICH RELATES TO UNFAIR TRADE PRACTICES;  
REQUIRING NOTIFICATION OF ASSIGNEE OF RECORD; CLARIFYING PROVISION  
RELATING TO EFFECT OF FAILURE TO PROVIDE NOTIFICATION OF PROOF OF  
LOSS; CLARIFYING CERTAIN TIME PERIOD; PROVIDING THAT CERTAIN  
PROVISIONS DO NOT AFFECT RIGHT TO COMPENSATE POLICYHOLDERS DIRECTLY;  
PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1219, is  
amended to read as follows:

Section 1219. A. In the administration, servicing or  
processing of any individual, group or blanket accident and health  
insurance policy, it shall be an unfair trade practice for any  
insurer to fail to notify a policyholder or assignee of record in  
writing of the cause for delay in payment of any claim where said  
claim is not paid within thirty (30) days after receipt of proof of  
loss; ~~the~~. The notification shall be by mail with return receipt

requested. ~~In addition, if Failure of an insurer to provide a policyholder or assignee of record with such notification shall constitute prima facie evidence that the claim is valid and will be paid in accordance with the terms of the policy.~~

B. If a claim is not paid within sixty (60) days after receipt of proof of loss, the insurer shall pay interest which shall be the same rate of interest as the average United States Treasury Bill rate of the preceding calendar year as certified to the State Insurance Commissioner by the State Treasurer on the first regular business day in January of each year, plus two (2) percentage points, which shall accrue from the sixty-first day after receipt of proof of loss until the claim is paid.

C. As used in this section:

1. "Proof of loss" for purposes of this section shall mean means written ~~proofs~~ documents such as claim forms, medical bills, or other reasonable evidence of a claim, but shall not include information not necessary for determination of proof of loss and not pertinent to filed claims, such as any medical reports that the insurer wants to secure merely for completion of business records or files. Failure to provide the insured or the assignee of record with such notification shall be prima facie evidence that the claim will be paid in accordance with the terms of the policy. Provided that in; and

2. "Other reasonable evidence of a claim" includes, but is not limited to, medical records necessary to satisfy the pre-existing condition and medical necessity clause of a policy, provided that such information is received within ninety (90) days after initial receipt of the claim form.

D. In the event litigation should ensue based upon such a claim, the prevailing party shall be entitled to recover a reasonable attorney's fee to be set by the court and taxed as costs against the party or parties ~~which~~ who do not prevail.

E. The provisions of this section shall not apply to the Oklahoma Life and Health Insurance Guaranty Association or to the Oklahoma Property and Casualty Insurance Guaranty Association.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3624B of Title 36, unless there is created a duplication in numbering, reads as follows:

The provisions of Section 1219 of Title 36 of the Oklahoma Statutes shall not affect any right under Section 6055 of Title 36 of the Oklahoma Statutes of an insurer to compensate a policyholder directly even if there is an assignment of benefits available under an insurance policy, trust, plan or contract.

SECTION 3. This act shall become effective September 1, 1992.

43-2-8601 SD