

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1034

BY: WIDENER

AS INTRODUCED

AN ACT RELATING TO INSURANCE; AMENDING 36 O.S. 1981, SECTION 1219), AS LAST AMENDED BY SECTION 8, CHAPTER 175, O.S.L. 1987 (36 O.S. SUPP. 1990, SECTION 1219), WHICH RELATES TO PAYMENT OF CLAIMS; EXPANDING APPLICATION OF PROVISIONS RELATED TO DELAY OF PAYMENTS TO INCLUDE GUARANTY ASSOCIATIONS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 36 O.S. 1981, Section 1219, as last amended by Section 8, Chapter 175, O.S.L. 1987 (36 O.S. Supp. 1990, Section 1219), is amended to read as follows:

Section 1219. 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 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 notification shall be by mail with return receipt requested. In addition, if a claim is not paid within sixty (60) days 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 percentage points, which shall accrue from the sixty-first day after receipt of proof of loss until the claim is paid. "Proof of loss" for purposes of this section shall mean written proofs 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 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 do not prevail.

~~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.~~

As used in this section, "insurer" includes any person, as defined in Section 1202 of this title, engaged in the business of making contracts of insurance or indemnity, the Oklahoma Property and Casualty Insurance Guaranty Association, and the Oklahoma Life and Health Insurance Guaranty Association.

SECTION 2. This act shall become effective September 1, 1991.

43-1-5286

SD