

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1343

BY: TAYLOR and PELTIER of the  
HOUSE

and

LONG (Lewis) of the SENATE

AS INTRODUCED

AN ACT RELATING TO INSURANCE; AMENDING 36 O.S. 1981, SECTIONS 902 AND 903, AS LAST AMENDED BY SECTIONS 2 AND 3, CHAPTER 291, O.S.L. 1988 (36 O.S. SUPP. 1990, SECTIONS 902 AND 903), WHICH RELATE TO THE OKLAHOMA INSURANCE RATING ACT; PROHIBITING EXCESS RATES UPON APPLICATION BY THE INSURED; MODIFYING CERTAIN RATE FILING PROCEDURES; ELIMINATING PROVISIONS MAKING CERTAIN RATES EFFECTIVE WHEN FILED OR ON A DATE SPECIFIED IN THE FILING; ELIMINATING PROVISIONS AUTHORIZING THE USE OF CERTAIN RATES PRIOR TO FILING; REMOVING AUTHORITY OF THE PROPERTY AND CASUALTY BOARD TO SUSPEND OR MODIFY CERTAIN FILING REQUIREMENTS; REPEALING SECTION 6, CHAPTER 175, O.S.L. 1987 (36 O.S. SUPP. 1990, SECTION 902.1), WHICH RELATES TO MODIFICATION OF FILED RATES, AND SECTION 1, CHAPTER 227, O.S.L. 1988 (36 O.S. SUPP. 1990, SECTION 903.1), WHICH IS AN OUTDATED PROVISION WHICH RELATES TO CERTAIN RATE INCREASES ALLOWED FOR 1988; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 36 O.S. 1981, Section 902, as last amended by Section 2, Chapter 291, O.S.L. 1988 (36 O.S. Supp. 1990, Section 902), is amended to read as follows:

Section 902. A. The Board 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. No insurer, agent, or broker shall make, issue, or deliver, or knowingly permit the making, issuance, or delivery of any policy of insurance within the scope of this law contrary to pertinent filings which are in effect for the insurer as provided in this article, ~~except upon the written application of the insured stating his reasons therefor and filed with the Board, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.~~ In the event of noncompliance with this subsection, the Board may, in addition to any other penalty provided by law, order a return of premium to the policyholder; plus interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points.

F. 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 this act.

G. Nothing in this act shall be construed to require the Board, when considering a filing made in accordance with the provisions of this act, to determine that existing rates no longer meet the requirements of this article.

SECTION 2. AMENDATORY 36 O.S. 1981, Section 903, as last amended by Section 3, Chapter 291, O.S.L. 1988 (36 O.S. Supp. 1990, Section 903), is amended to read as follows:

Section 903. A. 1. Except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every insurer governed by the provisions of this act shall file with the Board, either directly or through a licensed rating organization of which it is a member or subscriber, all rates and rating plans and classifications, class rates, rating schedules and all other supplementary rate information and every modification of any of the foregoing, which it uses or proposes to use in this state except as otherwise provided in this section.

2. The Board shall send a notification of filing of rates to any person who annually requests, in writing, to be notified of filings pursuant to regulation of the Board.

3. The Attorney General shall be notified within ten (10) days, in writing, of each:

- a. filing of rates, ~~whether for prior approval or for immediate use,~~ and
- b. certification of completion of a filing.

4. The Attorney General shall be notified at least ten (10) days in advance, in writing, of each:

- a. meeting of the Board, and
- b. hearing conducted by the Board.

B. Rates, rating plans, classifications, schedules and other information shall be deemed approved thirty (30) calendar days following certification of completion of the filing as provided in this act unless, within the thirty (30) calendar-day period:

1. The Board by majority vote, approves, disapproves or approves with modification, the filing at one of its scheduled meetings or hearings;

2. The Board orders a formal hearing on the filing; or

3. The Board or the Commissioner, if a quorum of the Board is not available at the next regularly scheduled meeting, extends this period for one additional thirty (30) calendar-day period.

C. Nothing in this act shall be construed to require any filing for approval of rates, rating plans, classifications, schedules and other information approved by the Board prior to the effective date of this act.

D. Any formal hearing ordered by the Board shall be completed and a written order on the filing issued by the Board within ninety (90) calendar days from the date of the order setting the formal hearing, or the filing shall be deemed approved at the expiration of the ninety-day period.

E. ~~1. Rate filings on homeowner's insurance shall become effective when filed, or upon a future date specified in such filing, and shall remain effective unless the Board reviews and disapproves the filing because such rate is not in compliance with the standards set out in this act. Provided, if a rate filing is disapproved because it is excessive or unfairly discriminatory, the Board may order return of premium to the policyholders, plus interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points; and~~

~~2. For purposes of this subsection, homeowner's insurance shall mean:~~

~~a. insurance which combines, on an individual basis, property and liability insurance required to protect an individual's investment in his home or contents thereof, commonly called homeowner's or renter's insurance and specifically including insurance on a farm dwelling and attached or detached garage and their contents,~~

~~b. dwelling fire insurance, or~~

~~c. individual fire insurance on dwelling contents.~~

~~F.~~ Rates approved as herein provided shall thereafter remain in effect unless and until changed by the Board or superseded by a subsequent filing approved pursuant to the procedures set out herein.

~~G.~~ Rates or risks which are not by general custom of the business, or because of rarity or peculiar characteristics, written according to normal classification or rating procedure and which cannot be practicably filed before they are used, may be used before being filed. The Board may make such examination as it may deem advisable to ascertain whether any such rates meet the requirements of this act.

~~H.~~ F. Whenever it shall be made to appear to the Board, either from its own information or from complaint of any party alleging to be aggrieved thereby, that there are reasonable grounds to believe that the rates on any or on all risks or classes of risks or kinds of insurance within the scope of this article are not in accordance with the terms of this act, it shall be the duty of the Board to investigate and determine whether or not any or all of such rates meet the requirements of this act.

~~I.~~ G. When investigating rates to determine whether or not they comply with the provisions of this act, the previously approved filing shall not be changed, altered, amended, or held in abeyance until after completion of the investigation and an opportunity for hearing in accordance with the provisions of this article. Following such hearing, the Board shall enter its order in accordance with the provisions of this act. The effective date of such order shall not be less than thirty (30) days nor more than sixty (60) days after the date of the order unless the Board determines that, in the public interest, a shorter or longer period is appropriate; provided, the filer has adequate time to implement

such rate change. Any such order shall apply prospectively only and shall not affect premiums collected on new or renewal policies issued prior to the effective date of this order.

~~J. Under such rules and regulations as it shall adopt, the Board may, by written order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Board may make such examination as it may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in this act. This subsection shall not apply to workers' compensation filings.~~

~~K. Any filing with respect to fidelity, surety or guaranty bonds shall, however, be deemed approved from the date of filing and shall thereafter be subject to the provisions of subsection F of this section.~~

L. H. If the Board finds that a filing does not meet the requirements of this act, it shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing, specifying therein in what respects it finds that such filing fails to meet the requirements of this act and stating that such filing shall not become effective to the extent disapproved.

~~M. If within thirty (30) days after a rate has become effective for homeowner's insurance the Board finds that such filing does not meet the requirements of this act, it shall send to the rating organization or insurer which made such filing, a written notice of disapproval of such filing, specifying therein in what respect it finds that such filing fails to meet the requirements of this act and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Any such notice shall apply~~

~~prospectively only and shall not affect premiums collected on new or renewal policies issued prior to the effective date of this notice. If a rate filing is disapproved because it is excessive or unfairly discriminatory the Board may order return of premium to the policyholder; plus interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points.~~

SECTION 3. REPEALER Section 6, Chapter 175, O.S.L. 1987, and Section 1, Chapter 227, O.S.L. 1988 (36 O.S. Supp. 1990, Sections 902.1 and 903.1), are hereby repealed.

SECTION 4. This act shall become effective September 1, 1991.

43-1-5169

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