

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 1005

BY: ROBINSON

AS INTRODUCED

AN ACT RELATING TO INSURANCE AGENTS; AMENDING 36 O.S. 1991, SECTION 1431.1, WHICH RELATES TO CONTRACTUAL RELATIONSHIPS WITH INSURANCE AGENTS; PROVIDING CERTAIN EXCEPTION; MAKING CERTAIN PROVISIONS APPLICABLE ONLY TO CERTAIN AGENTS; PROHIBITING PROPERTY AND CASUALTY INSURERS FROM TERMINATING CERTAIN WRITTEN CONTRACTUAL RELATIONSHIP WITH INSURANCE AGENT UNDER CERTAIN CONDITIONS; REQUIRING INSURER PROPOSING TO TERMINATE CONTRACTUAL RELATIONSHIP TO PROVIDE CERTAIN NOTICE TO AGENT; PROVIDING FOR CERTAIN CAUSE OF ACTION; DEFINING TERMS; 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 1431.1, is amended to read as follows:

Section 1431.1 ~~no~~ Except as provided in Section 2 of this act, no insurer shall terminate its contract with an agent without first providing the agent and the Insurance Commissioner with written notification at least thirty (30) days prior to the date of termination, stating the reason for the insurer's action. Any information, document, record or statement provided pursuant to this

section may be used by the Commissioner in any action taken pursuant to Section 1428 of this title; however, such information shall be deemed privileged in any civil action between the reporting insurer and such terminated agent.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1431.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply only to captive agents and direct writer's agents who are not in the direct employ of property and casualty insurers.

B. No property or casualty insurer shall cancel, refuse to renew or otherwise terminate a written contractual relationship which has been in effect for more than five (5) years with any insurance agent who has been employed or appointed by such insurer based on the loss ratio experience on that agent's book of business, if:

1. The insurer required the agent to submit the application for underwriting approval, and all material information on the application was fully completed, and the agent has not omitted or altered any information provided by the applicant; or

2. The insurer accepted, without prior approval, policies issued by the agent, if all material information on the application or on the insurer's copy of any policy issued by the agent was fully completed and the agent has not omitted or altered any information provided by the applicant.

C. If a property or casualty insurer proposes to terminate a contractual relationship with the agent, the insurer shall so notify the agent by certified mail at least ninety (90) days prior to the date upon which the insurer proposes to terminate the contractual relationship. Such notice shall include a statement of the grounds upon which the insurer bases its decision to cancel, refuse to renew or terminate the contractual relationship.

D. If any property or casualty insurer cancels, refuses to renew or otherwise terminates the contractual relationship with any agent in violation of the provisions of this section, the agent who has been damaged thereby shall have a cause of action against the insurer for specific performance, injunctive relief or for damages sustained by the agent as a result of the termination of the relationship, including but not limited to, ascertainable loss of goodwill. Any action brought by an insurance agent against an insurer for wrongful termination of the contractual relationship shall be commenced within two (2) years after such wrongful termination.

E. As used in this section:

1. "Loss ratio experience" means the ratio of premiums paid divided by the claims paid during the previous two-year period;

2. "Captive agent" means a representative of a single insurer who is obliged to submit business only to that insurer, or give said insurer first refusal rights on a sale; and

3. "Direct writer's agent" means the agent of a property and casualty insurer that distributes its products through its own employees.

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

43-2-1857

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