

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 670

By: Haney

COMMITTEE SUBSTITUTE

An Act relating to insurance; stating legislative findings and intent; amending 74 O.S. 1991, Section 18b, as last amended by Section 12, Chapter 328, O.S.L. 1995 (74 O.S. Supp. 1995, Section 18b), which relates to the duties of the Attorney General; expanding authority to retain certain experts; providing for payment of experts; amending 36 O.S. 1991, Sections 332, 903, as amended by Section 4, Chapter 129, O.S.L. 1994 and 907.1 (36 O.S. Supp. 1991, Section 903), which relate to property and casualty insurance and the State Board for Property and Casualty Rates; authorizing the State Board for Property and Casualty Rates to employ certain persons for certain purposes with limitations; expanding authority of the Board to investigate premium rates; authorizing the Board to make orders affecting premiums previously paid; modifying language; expanding authority to monitor and examine premium rates; repealing 36 O.S. 1991, Section 903.1, which relates to premium rate

increases relating to 1988 premium tax adjustments; providing for noncodification; and providing an effective date.

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

SECTION 1. The Legislature finds that property and casualty insurance, which includes workers' compensation insurance, is of vital interest to the people of this state. The Legislature further finds that many reforms have been enacted in recent years which are intended to promote and maintain fairness in the regulation of insurance premium rates. It is, therefore, the intent of the Legislature that the Attorney General diligently and vigorously represent and protect the collective interests of insurance consumers in this state.

SECTION 2. The Attorney General is hereby authorized one (1.0) additional full-time-equivalent employee in order to employ an attorney for the purposes of monitoring insurance premium rate matters before the State Board of Property and Casualty Rates and representing and protecting the collective interests of insurance consumers in this state.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 18b, as last amended by Section 12, Chapter 328, O.S.L. 1995 (74 O.S. Supp. 1995, Section 18b), is amended to read as follows:

Section 18b. A. The duties of the Attorney General as the chief law officer of the state shall be:

1. To appear for the state and prosecute and defend all actions and proceedings, civil or criminal, in the Supreme Court and Court of Criminal Appeals in which the state is interested as a party.

2. To appear for the state and prosecute and defend all actions and proceedings in any of the federal courts in which the state is interested as a party.

3. To initiate or appear in any action in which the interests of the state or the people of the state are at issue, or to appear at the request of the Governor, the Legislature, or either branch thereof, and prosecute and defend in any court or before any commission, board or officers any cause or proceeding, civil or criminal, in which the state may be a party or interested; and when so appearing in any such cause or proceeding, he may, if he deems it advisable and to the best interest of the state, take and assume control of the prosecution or defense of the state's interest therein.

4. To consult with and advise district attorneys, when requested by them, in all matters pertaining to the duties of their offices, when said district attorneys shall furnish the Attorney General with a written opinion supported by citation of authorities upon the matter submitted.

5. To give his opinion in writing upon all questions of law submitted to him by the Legislature or either branch thereof, or by any state officer, board, commission or department, provided, that the Attorney General shall not furnish opinions to any but district attorneys, the Legislature or either branch thereof, or any other state official, board, commission or department, and to them only upon matters in which they are officially interested.

6. At the request of the Governor, State Auditor and Inspector, State Treasurer, or either branch of the Legislature, to prosecute any official bond or any contract in which the state is interested, upon a breach thereof, and to prosecute or defend for the state all actions, civil or criminal, relating to any matter connected with either of their Departments.

7. Whenever requested by any state officer, board or commission, to prepare proper drafts for contracts, forms and other writing which may be wanted for the use of the state.

8. To prepare drafts of bills and resolutions for individual members of the Legislature upon their written request stating the gist of the bill or resolution desired.

9. To enforce the proper application of monies appropriated by the Legislature and to prosecute breaches of trust in the administration of such funds.

10. To institute actions to recover state monies illegally expended, to recover state property and to prevent the illegal use of any state property, upon the request of the Governor or the Legislature.

11. To pay into the State Treasury, immediately upon its receipt, all monies received by him belonging to the state.

12. To keep and file copies of all opinions, contracts, forms and letters of the office, and to keep an index of all opinions, contracts and forms according to subject and section of the law construed or applied.

13. To keep a register or docket of all actions, demands and investigations prosecuted, defended or conducted by him in behalf of the state. Said register or docket shall give the style of the case or investigation, where pending, court number, office number, the gist of the matter, result and the names of the assistants who handled the matter.

14. To keep a complete office file of all cases and investigations handled by him on behalf of the state.

15. To report to the Legislature or either branch thereof whenever requested upon any business relating to the duties of his office.

16. To institute civil actions against members of any state board or commission for failure of such members to perform their

duties as prescribed by the statutes and the Constitution and to prosecute members of any state board or commission for violation of the criminal laws of this state where such violations have occurred in connection with the performance of such members' official duties.

17. To respond to any request for an opinion of his office, submitted by a member of the Legislature, regardless of subject matter, by written opinion determinative of the law regarding such subject matter.

18. To convene multicounty grand juries in such manner and for such purposes as provided by law; provided, such grand juries are composed of citizens from each of the counties on a pro rata basis by county.

19. To investigate any report by the State Auditor and Inspector filed with him pursuant to Section 223 of this title and prosecute all actions, civil or criminal, relating to such reports or any irregularities or derelictions in the management of public funds or property which are violations of the laws of this state.

20. To represent and protect the collective interests of all utility consumers of this state in rate-related proceedings before the Corporation Commission or in any other state or federal judicial or administrative proceeding.

21. a. To represent and protect the collective interests of insurance consumers of this state in rate-related proceedings before the Insurance Property and Casualty Rate Board or in any other state or federal judicial or administrative proceeding.

b. In performing the duties imposed by this paragraph, the Attorney General may obtain the services of attorneys, accountants, actuaries, and other experts to be paid from the Attorney General's Evidence Fund created in Section 19 of this title.

22. To certify local crimestoppers programs qualified to receive repayments of rewards pursuant to Section 991a of Title 22 of the Oklahoma Statutes.

B. Nothing in this section shall be construed as requiring the Attorney General to appear and defend or prosecute in any court any cause or proceeding for or on behalf of the Oklahoma Tax Commission, the Board of Managers of the State Insurance Fund, or the Commissioners of the Land Office.

C. In all appeals from the Corporation Commission to the Supreme Court of Oklahoma in which the state is a party, the Attorney General shall have the right to designate counsel of the Corporation Commission as his legally appointed representative in such appeals, and it shall be the duty of the said Corporation Commission counsel to act when so designated and to consult and advise with the Attorney General regarding such appeals prior to taking action therein.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 332, is amended to read as follows:

Section 332. A. The State Board for Property and Casualty Rates is hereby vested with the duty and authority of enforcing and administering all applicable provisions of the Insurance Code pertaining to the jurisdiction of the Board. The Board may make reasonable rules and regulations necessary for effectuating ~~such~~ those provisions of this Code.

B. The Board shall have powers and authority expressly conferred upon it by or reasonably implied from the provisions of this Code. The Board shall have the power to approve, disapprove, or approve with modifications, filings submitted to it.

C. The Board may conduct such examinations and investigations of insurance matters, within the scope of its authority, as it may deem proper to secure information useful in the lawful

administration of the applicable provisions of ~~the Insurance~~ this Code.

D. ~~The Insurance Commissioner on behalf of the~~ Board shall have the authority to employ actuaries, statisticians, accountants, attorneys, auditors, investigators or any other technicians as the ~~Insurance Commissioner~~ Board may deem necessary or beneficial to examine any ~~filings for premium rate revisions made~~ utilized by insurers or rating organizations and to examine ~~such~~ records of ~~the~~ insurers ~~or~~ and rating organizations as may be deemed appropriate ~~in~~ ~~conjunction with the filing for a rate revision~~ by the Board in order to determine that the rates or other filings are consistent with the terms, conditions, requirements, and purposes of the Insurance Code, and to verify, validate, and investigate the information upon which the insurer or rating organization relies ~~to~~ ~~support such filing~~.

1. ~~The Commissioner~~ Board shall maintain a list of technicians qualified pursuant to rules adopted by the Board who are proficient in the lines of insurance for which the Board approves rates. ~~Upon request of the Commissioner or the~~ The Board, ~~the Commissioner~~ shall employ ~~the next available~~ a technician ~~in rotation on~~ from the list, who is proficient in the line or lines of insurance being reviewed and who has not been employed by the Board to review the same line or lines of insurance during the previous twelve (12) months.

2. All reasonable expenses incurred in such filing review shall be paid by the insurer or rating organization making the filing.

E. The Commissioner shall employ for the Board examiners to ensure that the rates which have been approved by or filed with the Board are the rates which are being used by the insurer or by the insurers whose rating organization has had a rate approval or rate filing.

1. Any insurer examined pursuant to the provisions of this section shall pay all reasonable charges incurred in such

examination, including the actual expense of the Commissioner or the expenses and compensation of his authorized representative and the expense and compensation of assistants and examiners employed therein.

2. All expenses incurred in such examination shall be verified by affidavit and a copy shall be filed and kept in the office of the Insurance Commissioner.

SECTION 5. AMENDATORY 36 O.S. 1991, Section 903, as amended by Section 4, Chapter 129, O.S.L. 1994 (36 O.S. Supp. 1995, 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, loss cost 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, loss cost 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, loss cost 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.

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.

3. Any such rate shall remain in effect as provided in subsection F of this section.

F. Filed rates, whether made by an insurer or by a rating organization, and whether or not prior approval is required under the flex rating, file and use or automatic rate reduction system, shall be effective for a period of not more than four (4) years from the effective date of the insurer's or rating organization's rate filing unless otherwise changed by the Board, or unless superceded by a subsequent filing approved pursuant to the procedures set out herein. At the end of the four-year period, the rates expire, and for an insurer to continue to write the insurance coverage to which the expired rates applied, a new rate filing is required. All rates in effect on or before September 1, 1991, shall expire September 1, 1995.

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. 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. 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~~ the hearing, the Board shall enter its order in accordance with the provisions of ~~this act~~ the Oklahoma Insurance Rating Act. The effective date of ~~such~~ an 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~~ any premium 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. 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 6. AMENDATORY 36 O.S. 1991, Section 907.1, is amended to read as follows:

Section 907.1 A. The Board shall monitor and examine the ~~adequacy of~~ premium rates of ~~any~~ every insurer and rating organization in this state. In so doing, the Board shall:

1. Utilize existing relevant information, analytical systems, and other sources; or

2. Cause or participate in the development of new relevant information, analytical systems, and other sources.

B. The Board may require the maintenance and submission of records, memoranda, or information relating to rates from ~~such~~ insurers and rating organizations. The Board or any authorized representative of the Board may examine any ~~such~~ record, memoranda, or information concerning premium rates. The application for the acceptance of any license or permit issued pursuant to the provision of this title shall be deemed consent for the inspection and examination of ~~such~~ records, memoranda, or information.

C. The Board shall conduct ~~such~~ monitoring and examination required pursuant to this section within the Insurance Department, at the place of business of ~~such~~ the insurers and rating organizations, in cooperation with other state insurance departments, through outside contractors, or in any other appropriate manner.

D. The cost of ~~such~~ examination and monitoring shall be assessed against insurers and rating organizations on an equitable and practical basis established, after hearing, in a rule promulgated by the Board.

E. The monitoring and examinations required pursuant to the provisions of this section, shall be conducted in a reasonably economical manner.

F. Any monies collected from administrative fees, fines, penalties, and assessments against insurers and rating organizations pursuant to ~~this act~~ the Oklahoma Insurance Rating Act shall be deposited to the credit of the Insurance Commissioner's Revolving

Fund for the purpose of carrying out and enforcing the provisions of this article.

SECTION 7. REPEALER 36 O.S. 1991, Section 903.1, is hereby repealed.

SECTION 8. NONCODIFICATION The provisions of Sections 1 and 2 of this act shall not be codified in the Oklahoma Statutes.

SECTION 9. This act shall become effective November 1, 1996.

45-2-2471 MHR