

SHORT TITLE: Insurance; amending the Uniform Insurers Liquidation Act; clarifying time periods; emergency.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1049

By: Hendrick

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 1991, Sections 1911, 1916, 1917, 1918 and 1930, which relate to the Uniform Insurers Liquidation Act; clarifying and conforming language and time periods; changing statutory reference; deleting unnecessary language; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1911, is amended to read as follows:

Section 1911. A. An order to liquidate the business of a domestic insurer shall direct the Insurance Commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as Insurance Commissioner or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims within the time and in the manner required by Section 1930 of this title.

B. The Insurance Commissioner may apply for and secure an order dissolving the corporate existence of a domestic insurer upon ~~his~~ application for an order of liquidation of ~~such~~ the insurer or at any time after ~~such~~ the order has been granted.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1916, is amended to read as follows:

Section 1916. A. In a delinquency proceeding begun in this state against a domestic insurer, claimants residing in reciprocal

states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. All ~~such~~ claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

B. Controverted claims belonging to claimants residing in reciprocal states may either (1) be proved in this state, or (2) if ancillary proceedings have been commenced in ~~such a~~ reciprocal states state, may be proved in those proceedings. In the event a claimant elects to prove ~~his a~~ a claim in an ancillary ~~proceedings~~ proceeding, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this state as provided in Section ~~1817~~ 1917 of this ~~article~~ title with respect to ancillary proceedings in this state, the final allowance of ~~such the~~ the claim by the court in the ancillary state shall be accepted in this state as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 1917, is amended to read as follows:

Section 1917. A. In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against ~~such the~~ the insurer who reside within this state may file claims either with the ancillary receiver, if any, appointed in this state, or with the domiciliary receiver. All ~~such~~ claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

B. Controverted claims belonging to claimants residing in this state may either (1) be proved in the domiciliary state as provided by the law of that state, or (2) if ancillary proceedings have been commenced in this state, be approved in those proceedings. In the

event that ~~any such~~ a claimant elects to prove ~~his~~ a claim in this state, ~~he~~ the claimant shall file ~~his~~ the claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least forty (40) days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the ~~priorities~~ priority asserted, if any. If the domiciliary receiver within thirty (30) days after ~~the giving of such~~ notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of ~~his~~ an intention to contest ~~such~~ the claim, ~~he~~ the claimant shall be entitled to appear or to be represented in any proceeding in this state involving adjudication of the claim. The final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this state.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 1918, is amended to read as follows:

Section 1918. A. All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ the amount can be ascertained, the facts upon which claim is based, and the priorities asserted, if any. All ~~such~~ claims shall be verified by the affidavit of the claimant, or someone authorized to act on ~~his~~ behalf of the claimant and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

B. All claims filed in this state shall be filed with the receiver, ~~whether domiciliary or ancillary,~~ in this state, whether domiciliary or ancillary, on or before the last date fixed for the filing as specified in this article of claims in the domiciliary delinquency proceedings.

C. Within ten (10) days of the receipt of any claim, or within ~~such further~~ any period ~~as~~ which the court may fix, for good cause shown, ~~fix~~, the receiver shall report the claim to the court, ~~specifying in such report his recommendation with respect to the~~ what action ~~to~~ should be taken thereon. Upon receipt of ~~such~~ the report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give ~~such~~ notice as the court shall determine to ~~such~~ persons as shall appear to the court to be interested therein the interested parties. All ~~such~~ notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver ~~with reference thereto.~~

D. At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any ~~such~~ order shall be ~~deemed to~~ be an appealable order.

SECTION 5. AMENDATORY 36 O.S. 1991, Section 1930, is amended to read as follows:

Section 1930. A. If upon the granting of an order of liquidation under this article or at any time thereafter during the liquidation proceedings, the insurer shall not be clearly solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon regardless of any prior notice which may have been given to

creditors, the Insurance Commissioner shall notify all persons who may have claims against such insurer and who have not filed proper proofs thereof to present the same to him, at a place specified in ~~such~~ the notice, within four (4) months from the date of entry of ~~such~~ the order, or if the Insurance Commissioner shall certify that it is necessary, within ~~such~~ a longer time as the court ~~shall~~ may prescribe. The last day for filing of proofs of claims shall be specified in the notice, and notice shall be given in a manner ~~to be~~ determined by the court.

B. Proofs of claim may be filed subsequent to the date specified, but no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before ~~said~~ that date, have been paid in full with interest.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-2085

KSM