

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE JOINT  
RESOLUTION NO. 1045

By: Webb

AS INTRODUCED

A Joint Resolution relating to certain rule of the Oklahoma Insurance Department; disapproving emergency rule OAC 365:25-5-41 regarding licensure of agents, bail bondsmen, companies and prepaid funeral benefits; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is not consistent with legislative intent and disapprove any rule or portion thereof; and

WHEREAS, on September 26, 1996, the Oklahoma Insurance Department adopted emergency rule OAC 365:25-5-41, regarding licensure of agents, bail bondsmen, companies and prepaid funeral benefits relating to notification by court clerks if additional cash or securities are not deposited, and on November 5, 1996, the Governor approved emergency rule OAC 365:25-5-41, regarding licensure of agents, bail bondsmen, companies and prepaid funeral benefits relating to notification by court clerks if additional cash or securities are not deposited; and

WHEREAS, emergency rule OAC 365:25-5-41 provides that the Insurance Commissioner may require court clerks to certify under oath that a diligent search has been made of the court records of a bail bond forfeiture and that the court records indicate that the

defendants have been returned to custody within ninety (90) days;  
and

WHEREAS, emergency rule OAC 365:25-5-41 also provides that the Insurance Commissioner may decline to take disciplinary action against a bondsman pursuant to paragraph 4 of subsection D of Section 1332 of Title 59 of the Oklahoma Statutes if a notification is not certified by the court clerk; and

WHEREAS, the Legislature recognizes that the Insurance Commissioner does not have jurisdictional authority over court clerks in Oklahoma; and

WHEREAS, paragraph four (4) of subsection D of Section 1332 of Title 59 of the Oklahoma Statutes does not provide the Insurance Commissioner any discretion regarding disciplinary action; and

WHEREAS, emergency rule OAC 365:25-5-41 is not consistent with legislative intent.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 46TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves emergency rule OAC 365:25-5-41, regarding licensure of agents, bail bondsmen, companies and prepaid funeral benefits relating to notification by court clerks if additional cash or securities are not deposited, which was adopted by the Oklahoma Insurance Department on September 26, 1996, and approved by the Governor on November 5, 1996.

SECTION 2. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Insurance Commissioner and the Editor of "The Oklahoma Register".

SECTION 3. 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.

