

SHORT TITLE: Motor vehicles and state government; motor license agents; risk management; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 704

By: Littlefield

AS INTRODUCED

An Act relating to motor vehicles and state government; amending 47 O.S. 1991, Section 1143.1, as last amended by Section 1, Chapter 312, O.S.L. 1996 (47 O.S. Supp. 1996, Section 1143.1), which relates to the Oklahoma Motor License Agent Indemnity Fund; authorizing payment of certain claims from excess funds; amending 74 O.S. 1991, Sections 85.34B and 85.34F, as amended by Section 5, Chapter 329, O.S.L. 1994 (74 O.S. Supp. 1996, Section 85.34F), which relate to risk management; correcting reference to certain agency; authorizing certain deposits; renaming certain fund; redirecting certain deposits; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 1143.1, as last amended by Section 1, Chapter 312, O.S.L. 1996 (47 O.S. Supp. 1996, Section 1143.1), is amended to read as follows:

Section 1143.1 A. There is hereby created the Oklahoma Motor License Agent Indemnity Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of annual assessments levied on motor license agencies. All monies accruing to the credit of the funds are hereby appropriated and may be

expended, in amounts and as authorized by the Legislature, by the Department of Central Services. The purpose of the fund is to ensure that the Oklahoma Tax Commission recovers tax revenue not remitted to the Commission because of negligence, malfeasance or fraud by a motor license agent. In addition, claims arising from tag agent errors and omissions may be paid out of any excess funds outlined in subparagraph c of paragraph 1 of subsection B of this section. Upon final determination by the Oklahoma Tax Commission of a tax revenue shortage or liability of a motor license agent whose agency has been closed, a claim in the amount of such liability may be made by the Commission against the fund. The claim shall be paid out of the fund by the Department of Central Services. At least sixty (60) days' written notice shall be given to the delinquent motor license agent before any such claim is paid. The Department of Central Services shall have the power to seek restitution to the fund from any motor license agent whose liability was paid out of the fund. The monies in the fund shall be invested by the State Treasurer and the interest shall be deposited in the fund.

B. Each fiscal year, the Department of Central Services shall collect and deposit into the fund an annual assessment from all motor license agencies that have been operating for a period of not less than one (1) year. Such assessments shall be payable by each motor license agency on a quarterly basis. The amount on which the assessment shall be based shall be determined annually for each motor license agency by the Oklahoma Tax Commission by dividing the volume of tax monies collected each fiscal year by the agency by the number of reporting periods required by the Commission. The assessments shall be in the following amounts:

1. Each motor license agency which has been in operation for more than three (3) years and subject to the assessment pursuant to this subsection shall pay such assessment as follows:

- a. when the fund contains less than Five Hundred Thousand Dollars (\$500,000.00) on June 30 of any year, the assessment shall be one percent (1%) of the amount determined for the motor license agency by the Oklahoma Tax Commission, ~~and~~
- b. when the fund contains Five Hundred Thousand Dollars (\$500,000.00) or more on June 30 of any year, the Oklahoma Tax Commission shall reduce or suspend the assessment for such agencies if the Commission determines that the fund is fiscally sound and meets the needs for which the fund is established, and
- c. funds in excess of Five Hundred Thousand Dollars (\$500,000.00) may be used to pay claims arising from tag agent errors and omissions.

Provided, however, if the fund contains less than Five Hundred Thousand Dollars (\$500,000.00) at any time during the fiscal year for which the Tax Commission has reduced or suspended the assessment hereunder, the Tax Commission shall immediately issue an assessment pursuant to subparagraph a of this paragraph in an amount equal to the amount which would have been paid during the remaining quarters of the fiscal year; and

2. Each motor license agency which has been in operation for less than three (3) years but more than one (1) year shall pay the assessment in an amount equal to one percent (1%) of the amount determined for the motor license agency by the Oklahoma Tax Commission until the agency reaches the end of its third year of operation. At such time, such agency shall be subject to the assessment specified in subparagraph a of paragraph 1 of this subsection.

C. Any assessments required by subsection B of this section, shall be paid in quarterly amounts and due on September 30, December 30, March 30 and June 30 of each year. Such payments shall be

deemed delinquent after October 15, January 15, April 15 and July 15 of each year. Motor license agents who are delinquent in remitting any quarterly payment for their operating agencies in excess of fifteen (15) days after the date of the delinquency shall be subject to dismissal.

D. No annual assessment shall exceed One Thousand Two Hundred Dollars (\$1,200.00).

SECTION 2. AMENDATORY 74 O.S. 1991, Section 85.34B, is amended to read as follows:

Section 85.34B There is hereby created in the State Treasury a revolving fund for the ~~Office of Public Affairs~~ Department of Central Services, to be designated the "Risk Management ~~Participation~~ Fire Protection Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the ~~Office of Public Affairs~~ Department of Central Services in accordance with the provisions of Section 1 of Enrolled House Bill No. 1137 of the 1st Session of the 41st Oklahoma Legislature. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~Office of Public Affairs~~ Department of Central Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.34 of ~~Title 74 of the Oklahoma Statutes~~ this title, including the salaries and administrative expenses of support staff responsible for administering said fund. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 85.34F, as amended by Section 5, Chapter 329, O.S.L. 1994 (74 O.S. Supp. 1996, Section 85.34F), is amended to read as follows:

Section 85.34F A. Upon written certification by the Director of the Department of Central Services that errors and omissions liability insurance for motor license agents and their employees is not reasonably available in the private market at competitive rates, after taking into account the administrative costs associated with such insurance, the Risk Management Administrator pursuant to Section 85.34 of this title may obtain or provide limited indemnity coverage for motor license agents and the employees who are employed by such agents for any errors and omissions liability risks arising from the performance of their official duties pursuant to law. Any such certification by the Director of the Department of Central Services shall be effective for a period of two (2) years. Any such limited indemnity coverage shall be obtained or provided solely from funds available in the shared risk pool authorized by this section and subject to the limitations set out herein. The Risk Management Administrator shall establish liability limits for such errors and omissions coverage on an annual basis. Any such limits shall be based on the liquidity of the shared risk pool resulting from the annual payments made pursuant to subsection C of this section and any interest accrued thereon, after deduction of such sums as may be necessary to pay all overhead and administrative expenses associated with administering the pool.

B. The Risk Management Administrator is authorized to determine eligibility criteria for participation in the Risk Management Program for such motor license agents and employees of such agent. Any limited indemnity coverage provided for errors and omissions pursuant to the provisions of this subsection shall only cover errors or omissions made by a motor license agent or any employee of such agent occurring after the effective date of this act.

C. Except as otherwise provided in subsection G of this section, motor license agents shall be required to make annual payments of Forty Dollars (\$40.00) per motor license agent and Forty

Dollars (\$40.00) per employee of the motor license agent for such limited indemnity coverage. The Risk Management Administrator is authorized to assess an additional payment per year, not to exceed Forty Dollars (\$40.00) per motor license agent and per employee of such agent, if the shared risk pool resulting from the payment of the fees made pursuant to this subsection is not adequate to cover any liability incurred.

D. Requests for the limited indemnity coverage provided pursuant to the provisions of this section shall be submitted in writing to the Risk Management Administrator by the motor license agents.

E. All fees collected in accordance with the provisions of this section shall be deposited in the ~~Risk Management Participation Revolving~~ Oklahoma Motor License Agent Indemnity Fund.

F. In providing risk management services for any motor license agent or employee of such agent, it is the intention of the Legislature to provide limited indemnification of motor license agents or employees of such agents for errors and omissions, solely to the extent of assets in the shared risk pool created by this section. The State of Oklahoma is not liable, directly or indirectly, for the errors and omissions of any motor license agent or any employee of such agent in the performance of his official duties pursuant to law. The Risk Management Administrator shall determine the extent of indemnification for losses incurred by any such motor license agent or employee of such agent based upon the liquidity of the shared risk pool.

G. The Risk Management Administrator is authorized to establish a system under which the extent of indemnity coverage may be extended or reduced based upon an increase or decrease in the amount of the payment required in subsection C of this section. Said system shall only be established when the liquidity of the shared risk pool is such that the system is feasible in the judgment of the

Administrator. Upon establishment of such a system, a motor license agent may elect to increase or decrease the amount of the payment required in subsection C of this section and correspondingly extend or reduce coverage for losses incurred by the motor license agent or employee of such agent.

SECTION 4. 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.

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