

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1628

By: Cox

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance; creating a Joint Study
9 Committee; providing composition of the Committee;
10 stating duties; requiring a report; creating the
11 Commercial Property and Casualty Competitive Loss
12 Cost Rating Act; providing that act constitutes part
13 of the Oklahoma Insurance Code; providing short
14 title; stating purposes; defining terms; providing
15 scope of act; providing for determination of
16 competitive market; authorizing the Insurance
17 Commissioner to issue certain orders for specified
18 length of time, subject to renewal; prohibiting
19 excessive, inadequate or unfairly discriminatory
20 rates; providing ratemaking standards; providing for
21 rate administration; providing for rate filings, with
22 exceptions; providing that rate filings and
23 supporting information are open records; providing
24 for filings and review of filings; providing
25 procedure for disapproval of improper rates;
26 providing for hearings; providing for interim rates;
27 providing procedure for challenge of rating system of
28 insurer by aggrieved party; providing for review by
29 the Insurance Commissioner; providing for licensing
30 and regulation of advisory organizations; prohibiting
31 certain acts; providing requirements for application
32 for license; providing for notification of material
change in facts or documents upon which license
application is based; providing for granting of
license; providing for duration of license; providing
for revocation or suspension of license; prohibiting
certain acts; stating role of such organization;
authorizing certain activities; requiring certain
filings; providing exemption for certain
transactions; allowing cooperation in joint
underwriting, joint reinsurance, or residual market
mechanisms; authorizing the Commissioner to issue
order discontinuing certain activities; requiring
certain filings and approvals; allowing certain
agreements to assign risk; exempting certain
commercial lines risks from filing and review
requirements; requiring maintenance of certain
records; providing for appeals from orders or
decisions of the Insurance Commissioner; providing
for codification; providing for noncodification; and
providing an effective date.

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

2 SECTION 1. NEW LAW A new section of law not to be
3 codified in the Oklahoma Statutes reads as follows:

4 A. There is hereby created a Joint Study Committee to be
5 comprised of the following members:

6 1. Three members of the Oklahoma House of Representatives to be
7 appointed by the Speaker of the House of Representatives;

8 2. Three members of the Oklahoma State Senate to be appointed
9 by the President Pro Tempore of the Senate; and

10 3. The Insurance Commissioner or a designee.

11 B. The Joint Study Committee shall study the issue of
12 competitive rating by insurance carriers. The Committee shall
13 determine which other states have competitive rating, giving
14 particular attention to adjacent states. In the study, the
15 Committee shall consider and make recommendations concerning the
16 legislative language in this act.

17 C. The Joint Study Committee shall issue a report of its
18 findings to the Speaker of the House of Representatives and the
19 President Pro Tempore of the Senate by April 1, 1999.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 981 of Title 36, unless there is
22 created a duplication in numbering, reads as follows:

23 Short Title and Purposes of Act.

24 A. Sections 2 through 19 of this act shall constitute a part of
25 the Oklahoma Insurance Code and shall be known and may be cited as
26 the "Commercial Property and Casualty Competitive Loss Cost Rating
27 Act".

28 B. The purposes of the Commercial Property and Casualty
29 Competitive Loss Cost Rating Act are:

30 1. To promote price competition among insurers so as to provide
31 rates that are responsive to competitive market conditions;

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1 2. To protect policyholders and the public against the adverse
2 effects of excessive, inadequate or unfairly discriminatory rates;

3 3. To prohibit price-fixing agreements and other
4 anticompetitive behavior by insurers;

5 4. To provide regulatory procedures for the maintenance of
6 appropriate data reporting systems;

7 5. To provide regulatory controls in the absence of
8 competition;

9 6. To authorize essential cooperative action among insurers in
10 the ratemaking process and to regulate such activity to prevent
11 practices that substantially lessen competition or create a
12 monopoly; and

13 7. To authorize the Commissioner of Insurance to exempt from
14 the provisions of the Commercial Property and Casualty Competitive
15 Loss Cost Rating Act certain lines of property/casualty insurance
16 which are not suitable for such regulation.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 982 of Title 36, unless there is
19 created a duplication in numbering, reads as follows:

20 Definitions.

21 As used in the Commercial Property and Casualty Competitive Loss
22 Cost Rating Act:

23 1. "Accepted actuarial standards" means the standards adopted
24 by the Casualty Actuarial Society Statement of Principles regarding
25 property and casualty ratemaking or the Standards of Practice
26 adopted by the Actuarial Standards Board;

27 2. "Advisory organization" means any corporation,
28 unincorporated association, partnership or person, whether located
29 inside or outside this state, that is licensed in accordance with
30 Section 12 of this act and which assists insurers in ratemaking-
31 related activities such as enumerated in Section 14 of this act;

1 3. "Classification system" or "classification" means the
2 process of grouping risks with similar risk characteristics so that
3 differences in costs may be recognized;

4 4. "Commercial risk" means any kind of risk that is not a
5 personal risk;

6 5. "Commissioner" means the Commissioner of Insurance of this
7 state;

8 6. "Competitive market" means a market which has not been found
9 to be noncompetitive pursuant to Section 5 of this act;

10 7. "Developed losses" means losses, including loss adjustment
11 expenses, adjusted using accepted actuarial standards, to eliminate
12 the effect of differences between current payment or reserve
13 estimates and those which are anticipated to provide actual ultimate
14 loss, including loss adjustment expense payments;

15 8. "Expenses" means that portion of a rate attributable to
16 acquisition, field supervision, collection expenses, general
17 expenses, taxes, licenses and fees;

18 9. "Experience rating" means a rating procedure utilizing past
19 insurance experience of the individual policyholder to forecast
20 future losses by measuring the policyholder's loss experience
21 against the loss experience of policyholders in the same
22 classification to produce a prospective premium credit, debit or
23 unity modification;

24 10. "Joint underwriting" means a voluntary arrangement
25 established to provide insurance coverage for a risk pursuant to
26 which two or more insurers jointly contract with the insured at a
27 price and under policy terms agreed upon between the insurers;

28 11. "Loss adjustment expense" means the expenses incurred by
29 the insurer in the course of settling claims;

30 12. "Market" means the statewide interaction between buyers and
31 sellers of identical or readily substitutable products that provide
32 insurance protection of identifiable perils to buyers;

1 13. "Mass marketed plan" means a method of selling property-
2 liability insurance wherein the insurance is offered to employees of
3 particular employers or to members of particular associations or
4 organizations or to persons grouped in other ways, and the employer
5 or association or other organization has agreed to, or otherwise
6 affiliated itself with, the sale of such insurance to its employees
7 or members;

8 14. "Noncompetitive market" means a market for which there is a
9 ruling in effect pursuant to Section 5 of this act that a reasonable
10 degree of competition does not exist;

11 15. "Personal risk" means homeowners, tenants, private
12 passenger nonfleet automobiles, mobile homes and other property and
13 casualty insurance for personal, family or household needs;

14 16. "Pool" means a voluntary arrangement, established on an
15 ongoing basis, pursuant to which two or more insurers participate in
16 the sharing of risks on a predetermined basis. The pool may operate
17 through an association, syndicate or other pooling agreement;

18 17. "Prospective loss costs" means historical aggregate losses
19 and may include loss adjustment expenses, including all assessments
20 that are loss based, projected through development to their ultimate
21 value and through trending to a future point in time;

22 18. "Pure premium rate" means that portion of the rate which
23 represents the loss costs per unit of exposure including loss
24 adjustment expense;

25 19. "Rate" or "rates" means that cost of insurance per exposure
26 unit whether expressed as a single number or as a prospective loss
27 cost with an adjustment to account for the treatment of expenses,
28 profit, and individual insurer variation in loss experience, prior
29 to any application of individual risk variations based on loss or
30 expense considerations, and does not include minimum premium;

31 20. "Residual market mechanism" means an arrangement, either
32 voluntary or mandated by law, involving participation by insurers in

1 the equitable apportionment among them of insurance which may be
2 afforded applicants who are unable to obtain insurance through
3 ordinary methods;

4 21. "Special assessments" means guaranty fund assessments,
5 Special Indemnity Fund assessments, Vocational Rehabilitation Fund
6 assessments, and other similar assessments. Special assessments
7 shall not be considered as either expenses or losses;

8 22. "Statistical plan" means the plan, system or arrangement
9 used in collecting data;

10 23. "Supplementary rating information" means any manual or plan
11 of rates, classification, rating schedule, minimum premium, policy
12 fee rating rule and any other information needed to determine the
13 applicable premium in effect or to be in effect. This includes,
14 rating plans, territory codes and descriptions and rules which
15 include factors or relativities such as increased limits factors,
16 deductible discounts or relativities, classification relativities or
17 similar factors used to determine the rate in effect or to be in
18 effect;

19 24. "Supporting information" means the experience and judgment
20 of the filer and the experience or data of other insurers or
21 advisory organizations relied upon by the filer, the interpretation
22 of any other data relied upon by the filer, descriptions of methods
23 used in making the rates and any other information required by the
24 Commissioner to be filed; and

25 25. "Trending" means any procedure for projecting losses to the
26 average date of loss, or premiums or exposures to the average date
27 of writing, for the period during which the policies are to be
28 effective.

29 SECTION 4. NEW LAW A new section of law to be codified
30 in the Oklahoma Statutes as Section 983 of Title 36, unless there is
31 created a duplication in numbering, reads as follows:

32 Scope of Act.

1 The Commercial Property and Casualty Competitive Loss Cost
2 Rating Act applies to all forms of commercial property and casualty
3 insurance written in this state by insurers licensed in this state.
4 The Property and Casualty Competitive Loss Cost Rating Act shall not
5 apply to:

6 1. Reinsurance;

7 2. Accident and health insurance;

8 3. Insurance of vessels or craft, their cargoes, marine
9 builders' risks, marine protection and indemnity, or other risks
10 commonly insured under marine, excluding inland marine, insurance as
11 determined by the Commissioner;

12 4. Title insurance;

13 5. Workers' compensation insurance; and

14 6. Personal risk property and casualty insurance.

15 SECTION 5. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 984 of Title 36, unless there is
17 created a duplication in numbering, reads as follows:

18 Competitive Market.

19 A. A competitive market is presumed to exist for a line of
20 insurance unless the Commissioner, after a hearing, issues an order
21 stating that a reasonable degree of competition does not exist in
22 the market. Such order shall expire no later than one (1) year
23 after issue unless the Commissioner renews the rule after a hearing
24 and a finding as to the continued lack of a reasonable degree of
25 competition.

26 B. 1. In determining whether a reasonable degree of
27 competition exists within a line of insurance, the Commissioner
28 shall consider the following factors:

29 a. the number of insurers available to write coverage,

30 b. market shares of the leading writers and the changes
31 in market shares over a reasonable period of time,

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- c. existence of financial or economic barriers that could prevent new firms from entering the market,
- d. measures of market concentration and changes of market concentration over time,
- e. whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk, and
- f. the relationship of insurers' costs to revenue over a reasonable period of time.

2. All determinations by the Commissioner shall be made on the basis of findings of fact and conclusions of law.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 985 of Title 36 unless there is created a duplication in numbering, reads as follows:

Rate-making Standards.

A. A rate may not be excessive, inadequate or unfairly discriminatory.

1. No rate in a competitive market may be determined to be excessive. A rate in a noncompetitive market may be determined to be excessive if it is likely to produce a profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to the services rendered.

2. A rate may not be determined to be inadequate unless:

- a. the rate is clearly insufficient to sustain projected losses, expenses and special assessments, and
- b. the rate is unreasonably low and use of the rate by the insurer has tended or, if continued, will tend to create a monopoly in the market.

3. Unfair discrimination may be determined to exist if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate may not be determined to be unfairly discriminatory because

1 different premiums result for policyholders with like loss exposures
2 but different expense levels, or like expenses but different loss
3 exposures, or if it averaged broadly among persons insured within a
4 group, franchise or blanket policy or a mass-marketed plan.

5 B. In determining whether rates comply with standards under
6 subsection A of this section, due consideration may be given to:

7 1. Past and prospective loss experience within and outside this
8 state, in accordance with accepted actuarial principles;

9 2. Conflagration and catastrophe hazards;

10 3. A reasonable margin for profit and contingencies;

11 4. Loadings for leveling premium rates over time for dividends,
12 savings or unabsorbed premium deposits allowed or returned by
13 insurers to their policyholders, members or subscribers;

14 5. Past and prospective expenses both countrywide and those
15 specially applicable to this state; and

16 6. Provisions for special assessments; and to all other
17 relevant factors including judgment within and outside this state.

18 C. Risks may be grouped by classifications for the
19 establishment of rates and minimum premiums. Classification rates
20 may be modified to produce rates for individual risks in accordance
21 with rating plans which establish standards for measuring variations
22 in hazards or expense provisions, or both. Such standards may
23 measure any differences among risks that can be demonstrated to have
24 a probable effect upon losses or expenses. No risk classification
25 however, may be based on race, creed, national origin, or the
26 religion of the insured.

27 D. The expense provisions included in the rates for use by an
28 insurer or group of insurers may differ from those of any other
29 insurer or group of insurers to reflect the requirements of the
30 operating methods of the insurer or group of insurers.

31 E. The rates may contain provision for contingencies and an
32 allowance permitting a reasonable profit. In determining the

1 reasonableness of the profit, consideration shall be given to the
2 investment income attributable to the line of insurance.

3 SECTION 7. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 986 of Title 36, unless there is
5 created a duplication in numbering, reads as follows:

6 Rate Administration.

7 A. Reasonable rules and statistical plans may be promulgated by
8 the Commissioner for use by the companies to record and report their
9 rates, loss and expense experience and other information determined
10 by the Commissioner to be necessary or appropriate for the
11 administration of the Commercial Property and Casualty Competitive
12 Loss Cost Rating Act. In promulgating such rules and plans, the
13 Commissioner shall give due consideration to the rating systems on
14 file and, in order that the rules and plans may be as uniform as is
15 practicable among the several states, to the rules and to the form
16 of the plans used for such rating systems in other states. The
17 Commissioner may designate one or more advisory organizations or
18 other agencies to assist in gathering such experience and making
19 compilation thereof.

20 B. Reasonable rules and plans may be promulgated by the
21 Commissioner for the exchange of data necessary for the development
22 and application of rating plans.

23 C. In order to further uniform administration of rate
24 regulatory laws, the Commissioner and every insurer and advisory
25 organization may exchange information and experience data with
26 insurance supervisory officials, insurers and advisory organizations
27 in other states and may consult with them with respect to the
28 application of rating systems.

29 D. Cooperation among advisory organizations or among advisory
30 organizations and insurers in ratemaking or in other matters within
31 the scope of this act is authorized. The Commissioner may review
32 such cooperative activities and practices, and if, after a hearing,

1 any such activity or practice is found to violate the provisions of
2 this act, a written order may be issued specifying that such
3 activity or practice violates the provisions of this act and
4 requiring the discontinuance of such activity.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 987 of Title 36, unless there is
7 created a duplication in numbering, reads as follows:

8 Rate Filings.

9 A. Every authorized insurer shall file with the Commissioner,
10 except as to rates for those lines of insurance exempted from the
11 provisions of the Commercial Property and Casualty Competitive Loss
12 Cost Rating Act by the Commissioner under subsections E and F of
13 Section 9 of this act and except for those risks designated as
14 special risks under Section 18 of this act, all rates, supplementary
15 rate information and any changes and amendments which it proposes to
16 use. An insurer may file its rates by either filing its final rates
17 or by filing a multiplier and, if applicable, an expense constant
18 adjustment to be applied to prospective loss costs that have been
19 filed by an advisory organization as permitted by Section 14 of this
20 act. Such loss cost multiplier filing and expense constant filings
21 made by insurers shall remain in effect until amended or withdrawn
22 by the insurer. Every filing shall state the effective date.

23 B. A filing and any supporting information required to be filed
24 shall be open to public inspection once the filing becomes
25 effective.

26 SECTION 9. NEW LAW A new section of law to be codified
27 in the Oklahoma Statutes as Section 988 of Title 36, unless there is
28 created a duplication in numbering, reads as follows:

29 Review of Filings.

30 A. The Commissioner shall review filings as soon as reasonably
31 possible after they have been made in order to determine whether
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1 they meet the requirements of the Commercial Property and Casualty
2 Competitive Loss Cost Rating Act.

3 B. Whenever prefiling is required under the Commercial Property
4 and Casualty Competitive Loss Cost Rating Act and such filing is not
5 accompanied by the information required under this section, the
6 Commissioner shall so inform the filer within ten (10) days of the
7 initial filing. Such filing is deemed to be complete unless the
8 filer is notified within the ten-day period. If the filer is
9 notified that additional information is required, the filing shall
10 be deemed to be complete when the required information is furnished
11 or when the filer certifies to the Commissioner that the additional
12 information requested by the Commissioner is not maintained or
13 cannot be provided.

14 C. In a competitive market, every authorized insurer shall file
15 with the Commissioner the information specified in Section 7 of this
16 act that it will use in this state. The rates and supplementary
17 information shall be filed on or before the effective date. In a
18 competitive market, if the Commissioner finds, after a hearing that
19 an insurer's rates require closer supervision because of the
20 insurer's financial condition or unfairly discriminatory rating
21 practices, the Commissioner may require the insurer to file with the
22 Commissioner at least thirty (30) days before the effective date,
23 all rates and supplementary rating information and supporting
24 information as prescribed by the Commissioner. Upon application by
25 the filer, the Commissioner may authorize an earlier effective date.

26 D. In a noncompetitive market, subject to the exception
27 specified in subsection E of this section, the Commissioner may
28 require that each filing shall be on file for a waiting period of
29 thirty (30) days before it becomes effective, which period may be
30 extended by the Commissioner for one additional period not to exceed
31 fifteen (15) days, if written notice is given within such waiting
32 period to the insurer or advisory organization which made the filing

1 that additional time is needed for the consideration of the filing.
2 Upon written application by the insurer, the Commissioner may
3 authorize a filing which has been reviewed to become effective
4 before the expiration of the waiting period or any extension
5 thereof. A filing shall be deemed to meet the requirements of the
6 Commercial Property and Casualty Competitive Loss Cost Rating Act
7 unless disapproved by the Commissioner within the thirty-day waiting
8 period or any extension thereof.

9 E. Under such rules as may be adopted, the Commissioner may by
10 written order, suspend or modify the requirement of filing as to any
11 kind of insurance, subdivision or combination thereof, or as to
12 classes of risks.

13 F. Notwithstanding any other provisions of the Commercial
14 Property and Casualty Competitive Loss Cost Rating Act, upon the
15 written consent of the insured in a separate written document, a
16 rate in excess of that determined in accordance with the other
17 provisions of the Commercial Property and Casualty Competitive Loss
18 Cost Rating Act may be used on any specific risk.

19 G. No insurer shall make or issue a contract or policy of
20 insurance under the Commercial Property and Casualty Competitive
21 Loss Cost Rating Act, except in accordance with the filings which
22 are in effect for such insurers as provided in the Commercial
23 Property and Casualty Competitive Loss Cost Rating Act or in
24 accordance with subsections E and F of this section, Section 6, or
25 Section 18 of this act.

26 H. A rate for a residual market in which insurers participate
27 shall not become effective until approved by the Commissioner.

28 SECTION 10. NEW LAW A new section of law to be codified
29 in the Oklahoma Statutes as Section 989 of Title 36, unless there is
30 created a duplication in numbering, reads as follows:

31 Improper Rates; Disapproval; Hearing.
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1 A. If the Commissioner finds that a rate is not in compliance
2 with Section 6 of this act, or that a rate had been set in violation
3 of Section 13 of this act, the Commissioner shall order that its use
4 be discontinued for any policy issued or renewed after the date of
5 the order and the order may prospectively provide for premium
6 adjustment of any such policy then in force. The order shall be
7 issued within thirty (30) days after the close of a hearing, if one
8 is requested by the filer, or within such reasonable extension of
9 time as fixed by the Commissioner. The order shall expire one (1)
10 year after its effective date unless rescinded earlier by the
11 Commissioner.

12 B. If the Commissioner disapproves a rate under subsection A of
13 this section, disapproval shall take effect no less than sixty (60)
14 days after the order is issued and the last premium rate in effect
15 for the insurer shall be reimposed for a period of one (1) year
16 unless the Commissioner approves a rate under subsection C or
17 subsection F of this section.

18 C. For a period of one (1) year after the effective date of a
19 disapproval order under subsection A of this section, no rate
20 adopted to replace one disapproved under such order may be used
21 until it has been filed with the Commissioner and approved within
22 thirty (30) days thereafter.

23 D. For filings made in a noncompetitive market and residual
24 market filings, if a waiting period is required in accordance with
25 subsection D of Section 9 of this act, and if within such waiting
26 period or the extension thereto, the Commissioner finds that a
27 filing does not meet the requirements of the Commercial Property and
28 Casualty Competitive Loss Cost Rating Act, written notice of
29 disapproval shall be sent to the insurer or advisory organization
30 which made the filing, specifying in what respect the filing fails
31 to meet the requirements of the Commercial Property and Casualty
32 Competitive Loss Cost Rating Act and stating that such filing shall

1 not become effective. If a filing is disapproved by the
2 Commissioner, the insurer or advisory organization may request a
3 hearing on the disapproval within thirty (30) days and the
4 Commissioner shall schedule a hearing within thirty (30) days of the
5 receipt of the request. The filer bears the burden of proving
6 compliance with the standards established by the Commercial Property
7 and Casualty Competitive Loss Cost Rating Act.

8 E. All determinations made by the Commissioner under this
9 section shall be on the basis of findings of fact and conclusions of
10 law.

11 F. Whenever an insurer has no legally effective rates pursuant
12 to subsection A or D of this section, the Commissioner shall, upon
13 the insurer's request, specify interim rates for the insurer that
14 are adequate to protect the interests of all parties. The
15 Commissioner may order that a specified portion of the premiums be
16 placed in a special reserve established by the insurer. When new
17 rates become legally effective, the Commissioner shall order the
18 reserved funds or any overcharge in the interim rates to be
19 distributed appropriately, except that minimal adjustments may not
20 be required.

21 SECTION 11. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 990 of Title 36, unless there is
23 created a duplication in numbering, reads as follows:

24 Challenge and Review of Application of Rating System.

25 A. Every advisory organization and every insurer subject to the
26 Commercial Property and Casualty Competitive Loss Cost Rating Act
27 which makes its own rates shall provide within this state reasonable
28 means whereby any insured aggrieved by the application of its rating
29 system may, upon that insured's written request, be heard in person
30 or by the insured's authorized representative to review the manner
31 in which such rating system has been applied in connection with the
32 insurance afforded the aggrieved insurer.

1 B. An insurer or any party affected by the action of an
2 advisory organization may, within thirty (30) days after written
3 notice of that action, make application, in writing, for an appeal
4 to the Commissioner, setting forth the basis for the appeal and the
5 grounds to be relied upon by the applicant.

6 C. Within thirty (30) days, the Commissioner shall review the
7 application and, if the Commissioner finds that the application is
8 made in good faith and that it sets forth on its face grounds which
9 reasonably justify holding a hearing, the Commissioner shall conduct
10 a hearing held not less than ten (10) days after written notice to
11 the applicant and to the advisory organization or insurer. The
12 Commissioner, after a hearing, shall affirm or reverse the action of
13 the advisory organization or insurer.

14 SECTION 12. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 991 of Title 36, unless there is
16 created a duplication in numbering, reads as follows:

17 Licensing Advisory Organizations.

18 A. No advisory organization shall provide any service relating
19 to the rates of any insurance subject to the Commercial Property and
20 Casualty Competitive Loss Cost Rating Act, and no insurer shall
21 utilize the services of such organization unless the organization
22 has obtained a license.

23 B. No advisory organization shall refuse to supply any services
24 for which it is licensed in this state to any insurer authorized to
25 do business in this state and offering to pay the usual compensation
26 for the services.

27 C. 1. An advisory organization applying for a license shall
28 include with its application:

29 a. a copy of its constitution, charter, articles of
30 organization, agreement, association or incorporation,
31 and a copy of its bylaws, plan of operation and any
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1 other rules or regulations governing the conduct of
2 its business,

3 b. a list of its members and subscribers,

4 c. the name and address of one or more residents of this
5 state upon whom notices, process affecting it, or
6 orders of the Commissioner may be served,

7 d. a statement showing its technical qualifications for
8 acting in the capacity for which it seeks a license,

9 e. a biography of the ownership and management of the
10 organization, and

11 f. any other relevant information and documents that the
12 Commissioner may require.

13 2. Every organization which has applied for a license shall
14 notify the Commissioner of every material change in the facts or in
15 the documents on which its application was based. Any amendment to
16 a document filed under this section shall be filed at least thirty
17 (30) days before it becomes effective.

18 3. If the Commissioner finds that the applicant and the natural
19 persons through whom it acts are competent, trustworthy and
20 technically qualified to provide the services proposed, and that all
21 requirements of the law are met, he or she shall issue a license
22 specifying the authorized activity of the applicant. The
23 Commissioner shall not issue a license if the proposed activity
24 would tend to create a monopoly or to substantially lessen the
25 competition in the market.

26 4. Licenses issued pursuant to this section shall remain in
27 effect unless suspended or revoked. The Commissioner may at any
28 time, after a hearing, revoke or suspend the license of any advisory
29 organization which does not comply with the requirements and
30 standards of the Commercial Property and Casualty Competitive Loss
31 Cost Rating Act.

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 992 of Title 36, unless there is
3 created a duplication in numbering, reads as follows:

4 Insurers and Advisory Organization; Prohibited Activity.

5 A. No insurer or advisory organization shall:

6 1. Attempt to monopolize, or combine or conspire with any
7 person or persons to monopolize an insurance market;

8 2. Engage in a boycott, on a concerted basis, of an insurance
9 market; and

10 3. Except as set forth in subsection B of this section, agree
11 to mandate adherence to or to mandate use of any rate, prospective
12 loss cost, rating plan, rating schedule, rating rule, policy or bond
13 form, rate classification, rate territory, underwriting rule,
14 survey, inspection or similar material. Insurers and advisory
15 organizations may agree to develop and adhere to statistical plans
16 permitted by Section 14 of this act.

17 B. The fact that two or more insurers, whether or not members
18 or subscribers of an advisory organization, use consistently or
19 intermittently the same rates, prospective loss costs, rating plans,
20 rating schedules, rating rules, policy or bond forms, rate
21 classifications, rate territories, underwriting rules, surveys or
22 inspections or similar materials is not sufficient in itself to
23 support a finding that an agreement exists.

24 C. Two or more insurers having a common ownership or operating
25 in this state under common management or control may act in concert
26 between or among themselves with respect to any matters pertaining
27 to those activities authorized in the Commercial Property and
28 Casualty Competitive Loss Cost Rating Act as if they constituted a
29 single insurer.

30 D. Except as specifically permitted under Section 14 of this
31 act, no advisory organization shall compile or distribute
32 recommendations relating to rates that include expenses (other than

1 loss adjustment expenses or loss-based taxes and assessments) or
2 profit.

3 SECTION 14. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 993 of Title 36, unless there is
5 created a duplication in numbering, reads as follows:

6 Advisory Organization; Permitted Activity.

7 Any licensed advisory organization, in addition to other
8 activities not prohibited, is authorized on behalf of its members
9 and subscribers to:

10 1. Develop statistical plans including territorial and class
11 definitions;

12 2. Collect statistical data from members, subscribers or any
13 other source;

14 3. Prepare, file and distribute prospective loss costs which
15 may include provisions for special assessments and taxes;

16 4. Prepare, file and distribute factors, calculations or
17 formulas pertaining to classification, territory, increased limits
18 and other variables;

19 5. Prepare, file and distribute manuals of rating rules, rating
20 schedules and other supplementary rating information that do not
21 include final rates, expense provisions, profit provisions or
22 minimum premiums;

23 6. Distribute information that is required or directed to be
24 filed with the Commissioner;

25 7. Conduct research and on-site inspections in order to prepare
26 classifications of public fire defenses;

27 8. Consult with public officials regarding public fire
28 protection as it would affect members, subscribers and others;

29 9. Conduct research and collect statistics in order to
30 discover, identify and classify information relating to causes or
31 prevention of losses;

32

1 10. Conduct research and collect information to determine the
2 impact of statutory and other law changes upon prospective loss
3 costs and special assessments;

4 11. Prepare, file and distribute policy forms and endorsements
5 and consult with members, subscribers and others relative to their
6 use and application;

7 12. Conduct research and on-site inspections for the purpose of
8 providing risk information relating to individual structures;

9 13. Conduct on-site inspections to determine rating
10 classifications for individual insureds;

11 14. Collect, compile and publish past and current prices of
12 individual insurers, provided such information is also made
13 available to the general public for a reasonable price;

14 15. Collect and compile exposure and loss experience for the
15 purpose of individual risk experience ratings;

16 16. File final rates, for residual market mechanisms; and

17 17. Furnish any other services, as approved or directed by the
18 Commissioner, related to those enumerated in this section.

19 SECTION 15. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 994 of Title 36, unless there is
21 created a duplication in numbering, reads as follows:

22 Advisory Organizations; Filing Requirements.

23 Every advisory organization shall file with the Commissioner for
24 approval every statistical plan, all prospective loss costs,
25 provisions for special assessments and all supplementary rating
26 information and every change or amendment or modification of any of
27 the foregoing proposed for use in this state at least thirty (30)
28 days prior to its effective date. Such filings will be deemed
29 approved unless disapproved within the waiting period.

30 SECTION 16. NEW LAW A new section of law to be codified
31 in the Oklahoma Statutes as Section 995 of Title 36, unless there is
32 created a duplication in numbering, reads as follows:

1 Joint Underwriting, Joint Reinsurance Pool and Residual Market
2 Activities.

3 A. This section shall not apply to transactions involving the
4 Oklahoma State Insurance Fund.

5 B. Notwithstanding paragraph 3 of subsection A of Section 13 of
6 this act, insurers participating in joint underwriting, joint
7 reinsurance pools or residual market mechanisms may in connection
8 with such activity act in cooperation with each other in the making
9 of rates, rating systems, policy forms, underwriting rules, surveys,
10 inspections and investigations, the furnishing of loss and expense
11 statistics or other information, or carrying on research. Joint
12 underwriting, joint reinsurance pools and residual market mechanisms
13 shall not be deemed an advisory organization.

14 C. Except to the extent modified by this section, joint
15 underwriting, joint reinsurance pool and residual market mechanism
16 activities are subject to the other provisions of the Commercial
17 Property and Casualty Competitive Loss Cost Rating Act.

18 D. If, after a hearing, the Commissioner finds that any
19 activity or practice of an insurer participating in joint
20 underwriting or a pool is unfair, is unreasonable, will tend to
21 lessen competition in any market or is otherwise inconsistent with
22 the provisions or purposes of the Commercial Property and Casualty
23 Competitive Loss Cost Rating Act, the Commissioner may issue a
24 written order and require the discontinuance of such activity or
25 practice.

26 E. Every pool shall file with the Commissioner a copy of its
27 constitution, articles of incorporation, agreement or association,
28 bylaws, rules and regulations governing its activities, list of
29 members, the name and address of a resident of this state upon whom
30 notice, orders of the Commissioner, or process may be served, and
31 any changes in amendments or changes in the foregoing.

32

1 F. Any residual market mechanism, plan or agreement to
2 implement such a mechanism, and any changes or amendments thereto,
3 shall be submitted in writing to the Commissioner for consideration
4 and approval, together with such information as may be reasonably
5 required.

6 SECTION 17. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 996 of Title 36, unless there is
8 created a duplication in numbering, reads as follows:

9 Assigned Risks.

10 Agreements may be made among insurers with respect to the
11 equitable apportionment among them of insurance which may be
12 afforded applicants who are in good faith entitled to, but who are
13 unable to procure such insurance through ordinary methods, and such
14 insurers may agree among themselves on the use of reasonable rate
15 modifications for such insurance, such agreements and rate
16 modifications to be subject to the approval of the Commissioner.
17 Nothing in the Commercial Property and Casualty Competitive Loss
18 Cost Rating Act shall permit disapproval of a residual market plan
19 permitting an insurer to elect voluntary direct assignment.

20 SECTION 18. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 997 of Title 36, unless there is
22 created a duplication in numbering, reads as follows:

23 Commercial Special Risks.

24 A. The following categories of commercial lines risks,
25 excluding employer's liability line, are special risks and are
26 exempted from the filing and review requirements set forth in
27 Sections 8 and 9 of this act:

28 1. Risks which are written on an excess or umbrella basis;

29 2. Those commercial lines insurance risks, or portions thereof
30 which are not rated according to manuals, rating plans, or schedules
31 including "a" rates;

32

1 3. Commercial lines insurance risks which produce a minimum
2 annual premium total of Ten Thousand Dollars (\$10,000.00); and

3 4. Specifically designated special risks, including:

4 a. risks insured under the provisions of the Highly
5 Protected Risks Rating Plan,

6 b. all commercial insurance aviation risks,

7 c. all credit insurance risks,

8 d. all boiler and machinery risks,

9 e. all inland marine risks,

10 f. all fidelity and surety risks, and

11 g. any other risk that the Commissioner determines to
12 fall within the special risk category.

13 B. Underwriting files, premiums, loss and expense statistics,
14 financial and other records with regard to special risks written by
15 an insurer shall be maintained by the insurer and shall be subject
16 to examination by the Commissioner.

17 SECTION 19. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 998 of Title 36, unless there is
19 created a duplication in numbering, reads as follows:

20 Appeals from Commissioner.

21 A. Any party aggrieved by an order or decision of the
22 Commissioner may, within thirty (30) days after receiving the
23 Commissioner's notice, make written request for a hearing.

24 B. Any order, decision or act of the Commissioner pursuant to
25 the Commercial Property and Casualty Competitive Loss Cost Rating
26 Act is subject to judicial review upon petition of any person
27 aggrieved. The appeal shall be in accordance with the
28 Administrative Procedures Act.

29 SECTION 20. This act shall become effective November 1, 1999.

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