

## Committee Substitute for House Bill No. 1628

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1628 -- By THOMAS.

An Act relating to insurance; creating a Joint Study Committee; providing composition of the Committee; stating duties; requiring a report; creating the Commercial Property and Casualty Competitive Loss Cost Rating Act; providing that act constitutes part of the Oklahoma Insurance Code; providing short title; stating purposes; defining terms; providing scope of act; providing for determination of competitive market; authorizing the Insurance Commissioner to issue certain orders for specified length of time, subject to renewal; prohibiting excessive, inadequate or unfairly discriminatory rates; providing ratemaking standards; providing for rate administration; providing for rate filings, with exceptions; providing that rate filings and supporting information are open records; providing for filings and review of filings; providing procedure for disapproval of improper rates; providing for hearings; providing for interim rates; providing procedure for challenge of rating system of insurer by aggrieved party; providing for review by the Insurance Commissioner; providing for licensing and regulation of advisory organizations; prohibiting certain acts; providing requirements for application 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.

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

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

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

1. Three members of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives;
2. Three members of the Oklahoma State Senate to be appointed by the President Pro Tempore of the Senate; and
3. The Insurance Commissioner or a designee.

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

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

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

Short Title and Purposes of Act.

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

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

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

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

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

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

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

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

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

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

Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. "Residual market mechanism" means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be afforded applicants who are unable to obtain insurance through ordinary methods;

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

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

23. "Supplementary rating information" means any manual or plan of rates, classification, rating schedule, minimum premium, policy fee rating rule and any other information needed to determine the applicable premium in effect or to be in effect. This includes, rating plans, territory codes and descriptions and rules which include factors or relativities such as

increased limits factors, deductible discounts or relativities, classification relativities or similar factors used to determine the rate in effect or to be in effect;

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

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

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

Scope of Act.

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

1. Reinsurance;
2. Accident and health insurance;
3. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, excluding inland marine, insurance as determined by the Commissioner;
4. Title insurance;
5. Workers' compensation insurance; and
6. Personal risk property and casualty insurance.

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

Competitive Market.

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

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

- a. the number of insurers available to write coverage,
- b. market shares of the leading writers and the changes in market shares over a reasonable period of time,
- 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:

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

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

1. Past and prospective loss experience within and outside this state, in accordance with accepted actuarial principles;
2. Conflagration and catastrophe hazards;
3. A reasonable margin for profit and contingencies;
4. Loadings for leveling premium rates over time for dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;
5. Past and prospective expenses both countrywide and those specially applicable to this state; and
6. Provisions for special assessments; and to all other relevant factors including judgment within and outside this state.

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

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

E. The rates may contain provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to the investment income attributable to the line of insurance.

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

Rate Administration.

A. Reasonable rules and statistical plans may be promulgated by the Commissioner for use by the companies to record and report their rates, loss and expense experience and other information determined by the Commissioner to be necessary or appropriate for the administration of the Commercial Property and Casualty Competitive Loss Cost Rating Act. In promulgating such rules and plans, the Commissioner shall give due consideration to the rating systems on file and, in order that the rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans

used for such rating systems in other states. The Commissioner may designate one or more advisory organizations or other agencies to assist in gathering such experience and making compilation thereof.

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

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

D. Cooperation among advisory organizations or among advisory organizations and insurers in ratemaking or in other matters within the scope of this act is authorized. The Commissioner may review such cooperative activities and practices, and if, after a hearing, any such activity or practice is found to violate the provisions of this act, a written order may be issued specifying that such activity or practice violates the provisions of this act and requiring the discontinuance of such activity.

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

Rate Filings.

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

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

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

Review of Filings.

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

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

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

D. In a noncompetitive market, subject to the exception specified in subsection E of this section, the Commissioner may require that each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the Commissioner for one additional period not to exceed fifteen (15) days, if written notice is given within such waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer, the Commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of the Commercial Property and Casualty Competitive Loss Cost Rating Act unless disapproved by the Commissioner within the thirty-day waiting period or any extension thereof.

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

F. Notwithstanding any other provisions of the Commercial Property and Casualty Competitive Loss Cost Rating Act, upon the written consent of the insured in a separate written document, a rate in excess of that determined in accordance with

the other provisions of the Commercial Property and Casualty Competitive Loss Cost Rating Act may be used on any specific risk.

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

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

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

Improper Rates; Disapproval; Hearing.

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

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

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

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

respect the filing fails to meet the requirements of the Commercial Property and Casualty Competitive Loss Cost Rating Act and stating that such filing shall not become effective. If a filing is disapproved by the Commissioner, the insurer or a advisory organization may request a hearing on the disapproval within thirty (30) days and the Commissioner shall schedule a hearing within thirty (30) days of the receipt of the request. The filer bears the burden of proving compliance with the standards established by the Commercial Property and Casualty Competitive Loss Cost Rating Act.

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

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

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

Challenge and Review of Application of Rating System.

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

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

C. Within thirty (30) days, the Commissioner shall review the application and, if the Commissioner finds that the application is made in good faith and that it sets forth on its face grounds which reasonably justify holding a hearing, the Commissioner shall conduct a hearing held not less than ten (10) days after written notice to the applicant and to the advisory

organization or insurer. The Commissioner, after a hearing, shall affirm or reverse the action of the advisory organization or insurer.

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

Licensing Advisory Organizations.

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

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

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

- a. a copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its bylaws, plan of operation and any other rules or regulations governing the conduct of its business,
- b. a list of its members and subscribers,
- c. the name and address of one or more residents of this state upon whom notices, process affecting it, or orders of the Commissioner may be served,
- d. a statement showing its technical qualifications for acting in the capacity for which it seeks a license,
- e. a biography of the ownership and management of the organization, and
- f. any other relevant information and documents that the Commissioner may require.

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

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

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

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

Insurers and Advisory Organization; Prohibited Activity.

A. No insurer or advisory organization shall:

1. Attempt to monopolize, or combine or conspire with any person or persons to monopolize an insurance market;
2. Engage in a boycott, on a concerted basis, of an insurance market; and
3. Except as set forth in subsection B of this section, agree to mandate adherence to or to mandate use of any rate, prospective loss cost, rating plan, rating schedule, rating rule, policy or bond form, rate classification, rate territory, underwriting rule, survey, inspection or similar material. Insurers and advisory organizations may agree to develop and adhere to statistical plans permitted by Section 14 of this act.

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

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

D. Except as specifically permitted under Section 14 of this act, no advisory organization shall compile or distribute recommendations relating to rates that include expenses (other than loss adjustment expenses or loss-based taxes and assessments) or profit.

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

Advisory Organization; Permitted Activity.

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

1. Develop statistical plans including territorial and class definitions;
2. Collect statistical data from members, subscribers or any other source;
3. Prepare, file and distribute prospective loss costs which may include provisions for special assessments and taxes;
4. Prepare, file and distribute factors, calculations or formulas pertaining to classification, territory, increased limits and other variables;
5. Prepare, file and distribute manuals of rating rules, rating schedules and other supplementary rating information that do not include final rates, expense provisions, profit provisions or minimum premiums;
6. Distribute information that is required or directed to be filed with the Commissioner;
7. Conduct research and on-site inspections in order to prepare classifications of public fire defenses;
8. Consult with public officials regarding public fire protection as it would affect members, subscribers and others;
9. Conduct research and collect statistics in order to discover, identify and classify information relating to causes or prevention of losses;
10. Conduct research and collect information to determine the impact of statutory and other law changes upon prospective loss costs and special assessments;
11. Prepare, file and distribute policy forms and endorsements and consult with members, subscribers and others relative to their use and application;
12. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures;
13. Conduct on-site inspections to determine rating classifications for individual insureds;
14. Collect, compile and publish past and current prices of individual insurers, provided such information is also made available to the general public for a reasonable price;
15. Collect and compile exposure and loss experience for the purpose of individual risk experience ratings;
16. File final rates, for residual market mechanisms; and
17. Furnish any other services, as approved or directed by the Commissioner, related to those enumerated in this section.

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

Advisory Organizations; Filing Requirements.

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

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

Joint Underwriting, Joint Reinsurance Pool and Residual Market Activities.

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

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

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

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

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

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

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

Assigned Risks.

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

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

Commercial Special Risks.

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

1. Risks which are written on an excess or umbrella basis;
  2. Those commercial lines insurance risks, or portions thereof which are not rated according to manuals, rating plans, or schedules including "a" rates;
  3. Commercial lines insurance risks which produce a minimum annual premium total of Ten Thousand Dollars (\$10,000.00);
- and
4. Specifically designated special risks, including:
    - a. risks insured under the provisions of the Highly Protected Risks Rating Plan,
    - b. all commercial insurance aviation risks,
    - c. all credit insurance risks,
    - d. all boiler and machinery risks,

e. all inland marine risks,

f. all fidelity and surety risks, and

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

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

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

Appeals from Commissioner.

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

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

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

COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 2-18-99 -- DO PASS.