

CS for SB 755

THE STATE SENATE
Tuesday, February 23, 1999

Committee Substitute for
Senate Bill No. 755

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 755 - By: MICKLE of the Senate and DUNEGAN of the House.

[title insurance - approval of title insurance rates - effective date]

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 901, as amended by Section 2, Chapter 376, O.S.L. 1994 (36 O.S. Supp. 1998, Section 901), is amended to read as follows:

Section 901. A. This article applies to every insurer including every stock or mutual insurer, reciprocal or interinsurance exchange or Lloyd's association authorized by any provisions of the laws of this state to transact any of the kinds of insurance covered by this article except:

- 1. Life insurance;
- 2. Accident and health insurance;
- 3. Reinsurance, other than joint reinsurance, to the extent stated in this act;
- 4. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks

1 commonly insured under marine, as distinguished from inland marine,
2 insurance policies;

3 5. Insurance of hulls of aircraft, including their accessories
4 and equipment, or against liability arising out of the ownership,
5 maintenance or use of aircraft;

6 6. Insurers exempted under Section 110 of this title; and

7 7. ~~Title insurance; and~~

8 ~~8. Insurance of bail bonds.~~

9 B. This article shall be administered by the State Board for
10 Property and Casualty Rates.

11 SECTION 2. AMENDATORY 36 O.S. 1991, Section 901.2, as
12 amended by Section 2, Chapter 129, O.S.L. 1994 (36 O.S. Supp. 1998,
13 Section 901.2), is amended to read as follows:

14 Section 901.2 As used in this act unless the context otherwise
15 requires:

16 1. "Act" means the Oklahoma Insurance Rating Act;

17 2. "Board" means the State Board for Property and Casualty
18 Rates created pursuant to Section 331 et seq. of ~~Title 36 of the~~
19 ~~Oklahoma Statutes~~ this title;

20 3. "Commissioner" means the Insurance Commissioner of the State
21 of Oklahoma or his designee;

22 4. "Department" means the Insurance Department of the State of
23 Oklahoma;

1 5. "Rate" means:

2 a. with respect to lines of insurance subject to this
3 article other than title insurance, the cost of
4 insurance per exposure unit, whether expressed as a
5 single number or as a prospective loss cost and an
6 adjustment to account for the treatment of expenses,
7 profit and variations in loss experience, prior to any
8 application of individual risk variations based on
9 loss or expense considerations, and does not include
10 minimum premiums:

11 ~~a.~~ (1) "prospective loss cost", as used in this
12 paragraph, means that portion of a rate that does
13 not include provisions for expenses, other than
14 loss adjustment expenses, or profit, and are
15 based on historical aggregate losses and loss
16 adjustment expenses adjusted through development
17 to their ultimate value and projected through
18 trending to a future point in time, and

19 ~~b.~~ (2) "expenses", as used in this paragraph,
20 means that portion of a rate attributable to
21 acquisition, field supervision, collection
22 expenses, general expenses, taxes, licenses, and
23 fees; ~~and~~

1 b. with respect to title insurance, the risk rate or the
2 aggregate consideration paid, or to be paid, to a
3 title insurance company for the insurance liability
4 assumed under the policy of title insurance, or binder
5 therefor, issued and delivered, or proposed to be
6 issued and delivered, by the company, exclusive of all
7 other charges by the company or other person, incident
8 to the issuance of the binder or policy for
9 abstracting, record searching, examination of title,
10 certificates as to the record title to real estate,
11 escrow and closing services, or other related services
12 which may be offered by the title insurance company
13 and which it is authorized by law and its charter to
14 perform, or the company's costs and expenses of
15 procuring examinations of titles or abstracts of
16 title; and

17 6. "Rating organization" means any two or more insurers acting
18 in cooperation or in concert for the purpose of making rates, rating
19 plans or rating systems.

20 SECTION 3. AMENDATORY 36 O.S. 1991, Section 901.4, is
21 amended to read as follows:

22 Section 901.4 A. Not less than ten (10) days in advance of a
23 meeting to determine whether a hearing will be held, the State Board

1 for Property and Casualty Rates shall give notice to each insurer or
2 organization making the filing, to each party to the filing and to
3 any person who annually requests in writing to be notified of
4 filings made pursuant to ~~this act~~ the Oklahoma Insurance Rating Act,
5 of the date, time and location of any hearing or rehearing, the name
6 of the insurer or organization making the filing and of the parties
7 to the filing and a brief statement of the action requested in the
8 filing.

9 B. Hearings shall be open to the public.

10 C. Any person aggrieved with respect to a rate filing may make
11 written application to the Board to participate in any hearing
12 called by the Board. If the Board finds the application to be
13 supported by reasonable grounds, it may allow the applicant to
14 appear in person or by counsel.

15 At the conclusion of any formal hearing and before the final
16 closing of such hearing, any party in interest upon timely request
17 shall be granted, as a matter of right, a continuance of twenty-four
18 (24) hours for the purpose of making examination and analyses of
19 documents introduced in the hearing.

20 D. The evidentiary procedures of the Administrative Procedures
21 Act, Sections 310 and 315 of Title 75 of the Oklahoma Statutes,
22 shall apply to hearings conducted pursuant to ~~this act~~ the Oklahoma
23 Insurance Rating Act.

1 E. Upon written request seasonably made by a person affected by
2 the hearing, and at such person's expense, the Board shall cause a
3 full stenographic record of the proceedings to be made by a
4 competent court reporter. If transcribed, such record shall be a
5 part of the Board's record of the hearing, and a copy of such
6 stenographic record shall be furnished to any other party having a
7 direct interest therein at the request and expense of such party.

8 F. Following a hearing on a filing made pursuant to this act,
9 the Board may take the matter under advisement for up to thirty (30)
10 calendar days, subject to the provisions of Section 903 of ~~Title 36~~
11 ~~of the Oklahoma Statutes~~ this title.

12 G. At any time during the pendency of a filing, the Board may:

13 1. Require the submission of additional information by any
14 party to the filing;

15 2. Solicit proposals for independent analysis of the filing by
16 qualified technicians, such technicians to be chosen pursuant to the
17 provisions of Section 332 of ~~Title 36 of the Oklahoma Statutes~~ this
18 title;

19 3. Consider the findings of its employees or the technician;
20 and

21 4. Conduct other or additional investigations including
22 additional hearings.

1 H. The provisions of this section shall not apply to regularly
2 scheduled meetings of the Board which are governed by the provisions
3 of the Oklahoma Open Meeting Act and where no hearing has been
4 requested.

5 I. The Board may utilize hearing officers to hear matters
6 before the Board. The hearing officer shall file a proposed order
7 for any such matter with the Board. The proposed order shall
8 include findings of fact and conclusions of law. Such proceedings
9 shall be conducted in accordance with the Administrative Procedures
10 Act.

11 J. Rates for title insurance filed by a rating organization for
12 title insurance shall not be adopted or effective unless approved by
13 the Board pursuant to a hearing held to determine the rates. A
14 hearing for consideration of rates for title insurance must be held
15 upon request of the rating organization for title insurance, the
16 Insurance Commissioner, or the Board. Title insurance companies may
17 continue to use their existing rates until rates for title insurance
18 are approved or otherwise adopted pursuant to this article. The
19 Board may also adopt rules incident to the applicability of rates
20 for title insurance, including the percentage or amount of the
21 premium required to be remitted by the title insurance agent to the
22 title insurance company, notwithstanding any other provision of this
23 title.

1 SECTION 4. This act shall become effective November 1, 1999.
2 COMMITTEE REPORT BY: COMMITTEE ON SMALL BUSINESS, dated 2-18-99 - DO
3 PASS, As Amended and Coauthored.