

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2582

By: Frame

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 1991, Sections 1219, as last amended by Section 50, Chapter 418, O.S.L. 1997 and 1256, as renumbered by Section 20, Chapter 342, O.S.L. 1994, and as last amended by Section 54, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1999, Sections 1219 and 1250.7), which relate to payment of claims; requiring insurers to reimburse claims within a certain time period; requiring written notification under certain conditions; providing for payment of certain portion of a claim; requiring payment or denial of payment within a certain time period; defining when a payment is considered made; establishing interest rate for overdue payments; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1219, as last amended by Section 50, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1999, Section 1219), is amended to read as follows:

Section 1219. A. In the administration, servicing, or processing of any accident and health insurance policy, it shall be an unfair claim settlement practice for any insurer to fail to notify a policyholder or assignee of record in writing of the cause for delay in payment of any claim where the claim is not paid within thirty (30) days after receipt of proof of loss. Failure of an insurer to provide a policyholder or assignee of record with such notification shall constitute prima facie evidence that the claim will be paid in accordance with the terms of the policy.

B. All clean claims shall be reimbursed within sixty (60) days after receipt of such claim by such entity.

1.
 - a. If a claim or any portion of a claim is determined to have defects, improprieties, including a lack of any required substantiating documentation, or particular circumstance requiring special treatment, insured shall be notified in writing within forty-five (45) days after receipt of the claim. The written notice shall specify what portion of the claim is causing a delay in processing and explain what additional information or corrections are needed.
 - b. The portion of the claim that is accurate shall be paid within sixty (60) days after receipt of the claim.

2. Upon receipt of the additional information or corrections which led to the claim being delayed and a determination that the information is accurate, the insurer shall either pay or deny the claim or portion of the claim within ninety (90) days.

3. Payment shall be considered made on:

- a. the date a draft or other valid instrument which is equivalent to the amount of the payment is placed in the United States mail in a properly addressed, postpaid envelope, or
- b. if not so posted, the date of delivery.

4. Except as provided by paragraph 2 of subsection C of this section, an overdue payment shall bear simple interest at the rate of ten percent (10%) per year.

C. 1. If a claim is not paid within sixty (60) days after receipt of proof of loss, the insurer shall pay interest which shall be the same rate of interest as the average United States Treasury Bill rate of the preceding calendar year as certified to the Insurance Commissioner by the State Treasurer on the first regular business day in January of each year, plus two (2) percentage

points, which shall accrue from the sixty-first day after receipt of proof of loss until the claim is paid.

2. If a claim is not paid within six (6) months after receipt of proof of loss, the insurer shall pay interest at a rate which shall be the same as the average United States Treasury Bill rate of the preceding calendar year, as certified to the Insurance Commissioner by the State Treasurer on the first regular business day in January of each year, plus four (4) percentage points. Such interest shall accrue from the sixty-first day after receipt of proof of loss until the claim is paid.

~~C.~~ D. As used in this section:

1. "Accident and health insurance policy" or "policy" means any policy, certificate, contract, agreement or other instrument that provides accident and health insurance, as defined in Section 703 of this title, to any person in this state; ~~and~~

2. "Clean claim" means a claim that has no defect or impropriety, including a lack of any required substantiating documentation, or particular circumstance requiring special treatment that impedes prompt payment; and

3. "Proof of loss" means written documents such as claim forms, medical bills, or other reasonable evidence of a claim, but shall not include information not necessary for determination of proof of loss and not pertinent to filed claims, such as any medical reports that the insurer wants to secure merely for completion of business records or files.

~~D.~~ E. In the event litigation should ensue based upon such a claim, the prevailing party shall be entitled to recover a reasonable ~~attorney's fee~~ attorney fees to be set by the court and taxed as costs against the party or parties who do not prevail.

~~E.~~ F. The provisions of this section shall not apply to the Oklahoma Life and Health Insurance Guaranty Association or to the Oklahoma Property and Casualty Insurance Guaranty Association.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1256, as renumbered by Section 20, Chapter 342, O.S.L. 1994, and as last amended by Section 54, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1999, Section 1250.7), is amended to read as follows:

Section 1250.7 A. Within forty-five (45) days after receipt by a property and casualty insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer, or if further investigation is necessary. No property and casualty insurer shall deny a claim because of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. A denial shall be given to any claimant in writing, and the claim file of the property and casualty insurer shall contain a copy of the denial. If there is a reasonable basis supported by specific information available for review by the Commissioner that the first party claimant has fraudulently caused or contributed to the loss, a property and casualty insurer shall be relieved from the requirements of this subsection. In the event of a weather-related catastrophe or a major natural disaster, as declared by the Governor, the Insurance Commissioner may extend the deadline imposed under this subsection an additional twenty (20) days.

B. All clean claims shall be reimbursed within sixty (60) days after receipt of such claim by such entity. As used in this subsection, "clean claim" means a claim that has no defect or impropriety, including a lack of any required substantiating documentation, or particular circumstance requiring special treatment that impedes prompt payment.

1. a. If a claim or any portion of a claim is determined to have defects, improprieties, including a lack of any required substantiating documentation, or particular circumstance requiring special treatment, insured

shall be notified in writing within forty-five (45) days after receipt of the claim. The written notice shall specify what portion of the claim is causing a delay in processing and explain what additional information or corrections are needed.

b. The portion of the claim that is accurate shall be paid within sixty (60) days after receipt of the claim.

2. Upon receipt of the additional information or corrections which led to the claim being delayed and a determination that the information is accurate, the insurer shall either pay or deny the claim or portion of the claim within ninety (90) days.

3. Payment shall be considered made on:

a. the date a draft or other valid instrument which is equivalent to the amount of the payment is placed in the United States mail in a properly addressed, postpaid envelope, or

b. if not so posted, the date of delivery.

4. An overdue payment shall bear simple interest at the rate of ten percent (10%) per year.

C. If a claim is denied for reasons other than those described in subsection A of this section, and is made by any other means than writing, an appropriate notation shall be made in the claim file of the property and casualty insurer until such time as a written confirmation can be made.

~~C.~~ D. Every property and casualty insurer shall complete investigation of a claim within sixty (60) days after notification of proof of loss unless such investigation cannot reasonably be completed within such time. If such investigation cannot be completed, or if a property and casualty insurer needs more time to determine whether a claim should be accepted or denied, it shall so notify the claimant within sixty (60) days after receipt of the

proofs of loss, giving reasons why more time is needed. If the investigation remains incomplete, a property and casualty insurer shall, within sixty (60) days from the date of the initial notification, send to such claimant a letter setting forth the reasons additional time is needed for investigation. Except for an investigation of possible fraud or arson which is supported by specific information giving a reasonable basis for the investigation, the time for investigation shall not exceed one hundred twenty (120) days after receipt of proof of loss. Provided, in the event of a weather-related catastrophe or a major natural disaster, as declared by the Governor, the Insurance Commissioner may extend this deadline for investigation an additional twenty (20) days.

~~D.~~ E. Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

~~E.~~ F. Insurers shall not continue or delay negotiations for settlement of a claim directly with a claimant who is neither an attorney nor represented by an attorney, for a length of time which causes the claimant's rights to be affected by a statute of limitations, or a policy or contract time limit, without giving the claimant written notice that the time limit is expiring and may affect the claimant's rights. Such notice shall be given to first party claimants thirty (30) days, and to third party claimants sixty (60) days, before the date on which such time limit may expire.

~~F.~~ G. No insurer shall make statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying a third party claimant of the provision of a statute of limitations.

~~G.~~ H. If a lawsuit on the claim is initiated, the time limits provided for in this section shall not apply.

SECTION 3. This act shall become effective November 1, 2000.

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