

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2911

By: Cox

COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2001, Section 984, which relates to competitive markets; requiring Commissioner of Insurance to consider certain tests in making determination regarding competition; expanding list of relevant factors; requiring public hearing in certain circumstances; requiring issuance of certain reports and certifications on specified dates; specifying contents of reports; requiring submission of reports to certain officials; requiring Commissioner to enhance competition under certain circumstances and requiring a plan therefor; authorizing specified action by Commissioner under the plan; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 984, is amended to read as follows:

Section 984. Competitive Market.

A. A competitive market is presumed to exist for a line of insurance unless the Insurance Commissioner, after a hearing, issues an order stating that a reasonable degree of competition does not exist in the market. ~~Such~~ The 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. In determining whether a reasonable degree of competition exists within a line of insurance, the Commissioner shall consider relevant tests of workable competition pertaining to:

1. Market structure;

2. Market performance; and

3. Market conduct.

C. 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,
- g. the availability of insurance coverage in all geographic areas,
- h. the overall rate level which is not excessive, inadequate, or unfairly discriminatory,
- i. the level of knowledge of market participants and the extent to which comparative pricing information has been made readily available to consumers,
- j. the presence of conditions indicating reverse competition, and
- k. any other factors the Commissioner considers relevant.

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

D. The Commissioner shall hold a public hearing and issue an initial report detailing the state of competition within a line of insurance. The report shall be based on relevant economic tests and

factors, including but not limited to those listed in subsections B and C of this section. The findings in the report shall not be based on any single measure of competition, but appropriate weight shall be given to all measures of competition. The report shall include a certification of whether competition exists in each form of insurance. Not later than December 31, 2002, and every other year thereafter, the Commissioner shall issue a final report that shall include a final certification of whether competition exists in each line of insurance. The final report and certification shall be supported by substantial evidence. All reports shall be submitted upon issuance to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

E. If the Commissioner certifies that a reasonable degree of competition does not exist with respect to a line of insurance on a statewide basis or any geographic areas, or that insurance is unavailable to a segment of the market who are, in good faith, entitled to obtain insurance through ordinary means, the Commissioner shall take steps to enhance competition or availability where it does not exist. A plan for enhancing competition or availability shall be included in a final certification of noncompetition. The plan shall only relate to those geographic areas, classifications or kinds of risks where adequate competition has been certified not to exist. The plan may include methods designed to enhance competition or availability that the Commissioner considers necessary, and may provide for the Commissioner to do at least one of the following:

1. Authorize, by order, joint underwriting activities in a manner specified in the Commissioner's order; or

2. Modify the rate approval process in a manner to increase competition or availability, while providing for reasonably timely rate approvals, including reverting to prior approval of all filings.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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