

3 Senate Bill No. 498

4 SENATE BILL NO. 498 - By: ROBINSON of the Senate and MILLER of the  
5 House.

6 An Act relating to insurance; amending 36 O.S. 1991, Section  
7 902, which relates to excessive, inadequate, or unfairly  
8 discriminatory rates; declaring individual policyholder  
9 increase base on automobile collision or liability losses of  
10 less than specified amount to be excessive; and providing an  
11 effective date.

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

13 SECTION 1. AMENDATORY 36 O.S. 1991, Section 902, is  
14 amended to read as follows:

15 Section 902. A. The State Board for Property and Casualty  
16 Rates shall not approve rates for insurance which are excessive,  
17 inadequate, or unfairly discriminatory.

18 1. An excessive rate is one which:

- 19 a. is unreasonably high for the insurance provided, ~~or~~  
20 b. is a rate for automobile coverage that has been  
21 increased by the insurer based on payments made by the  
22 insurer in response to collision or liability claims  
23 against the policyholder of less than Two Thousand  
24 Dollars (\$2,000.00), or  
25 c. is unreasonable because (1) a reasonable degree of  
26 competition does not exist in the area with respect to

1 the classification to which such rate is applicable  
2 and (2) the rate is unreasonably high for the  
3 insurance provided.

4 2. An inadequate rate is one which:

5 a. is (1) unreasonably low for the insurance provided and  
6 (2) the continued use of such rate endangers, or if  
7 continued would endanger, the solvency of the insurer,  
8 ~~or~~

9 b. is (1) unreasonably low for the insurance provided and  
10 (2) the continued use of such rate by the insurer has,  
11 or if continued would have, the effect of destroying  
12 competition or creating a monopoly, or

13 c. is insufficient to cover projected losses, expenses  
14 and a reasonable margin for profit for the line of  
15 insurance coverage to be offered in this state by the  
16 filer.

17 3. A rate shall not be unfairly discriminatory.

18 a. A rate is not unfairly discriminatory because it is  
19 based in part upon the establishment or modification  
20 of classifications of risks based upon:

- 21 (1) the size of the risk,  
22 (2) the expense or difficulty in management of the  
23 risk,

- 1 (3) the individual experience of the risk,  
2 (4) the location or dispersion of the risk, or  
3 (5) any other reasonable consideration attributable  
4 to the risk.

5 b. A rate is not unfairly discriminatory in relation to  
6 another in the same class of business if it reflects  
7 equitably the differences in expected losses and  
8 expenses. Rates are not unfairly discriminatory  
9 because different premiums result for policyholders  
10 with like loss exposures but different expense  
11 factors, or with like expense factors but different  
12 loss exposures, if the rates reflect the differences  
13 with reasonable accuracy.

14 c. A rate shall be deemed unfairly discriminatory as to a  
15 risk or group of risks if the application of premium  
16 discounts, credits, or surcharges among such risks  
17 does not bear a reasonable relationship to the  
18 expected loss and expense experience among the various  
19 risks.

20 d. A rate shall never be based upon race, color, creed or  
21 national origin.

22 B. The systems of expense provisions included in the rates for  
23 use by any insurer or group of insurers may differ from those of

1 other insurers or groups of insurers to reflect the requirements of  
2 the operating methods of any such insurer or group with respect to  
3 any kind of insurance or subdivision or combination thereof for  
4 which subdivision or combination separate expense provisions are  
5 applicable.

6 C. Nothing in this act shall be construed to require  
7 uniformity in insurance rates, classifications, rating plans, or  
8 practices.

9 D. Nothing in this act shall abridge or restrict the freedom  
10 of contract of insurers, agents, brokers or employees with reference  
11 to the commissions, compensation, or salaries to be paid to such  
12 agents, brokers, or employees by insurers.

13 E. No insurer, agent, or broker shall make, issue, or deliver,  
14 or knowingly permit the making, issuance, or delivery of any policy  
15 of insurance within the scope of this law contrary to pertinent  
16 filings which are in effect for the insurer as provided in this  
17 article, except upon the written application of the insured stating  
18 his reasons therefor and filed with the Board, a rate in excess of  
19 that provided by a filing otherwise applicable may be used on any  
20 specific risk. In the event of noncompliance with this subsection,  
21 the Board may, in addition to any other penalty provided by law,  
22 order a return of premium to the policyholder; plus interest thereon  
23 at an annual rate equal to the average United States Treasury Bill

1 rate of the preceding calendar year as certified by the State  
2 Treasurer on the first regular business day in January of each year,  
3 plus four percentage points.

4 F. The burden of compliance with the provisions of this act  
5 shall rest upon the insurer or rating organization in all matters  
6 involving a filing made pursuant to this act.

7 G. Nothing in this act shall be construed to require the  
8 Board, when considering a filing made in accordance with the  
9 provisions of this act, to determine that existing rates no longer  
10 meet the requirements of this article.

11 SECTION 2. This act shall become effective November 1, 2001.

12 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-19-01 -  
13 DO PASS, As Coauthored.