

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2797

By: Braddock

AS INTRODUCED

An Act relating to insurance; creating the Property and Casualty Insurance Modernization Act; providing short title; stating legislative findings; defining terms; providing scope of act; providing procedure for determining that reasonable degree of competition does not exist; requiring Insurance Commissioner to monitor existence of competition; providing rating standards and methods and definitions therefor; providing for rate regulation in a market determined to be noncompetitive; providing for filing of rates and other information; making certain information open to public inspection; authorizing assessment of copying fees; authorizing rates for specific risks; providing for disapproval of rates; providing basis for disapproval; providing procedures for disapproval; providing for order of disapproval; providing for use of disapproved rate pending appeal; providing for court authority over reserve funds; providing for large commercial policyholders; requiring the filing of certain information by insurers in noncompetitive markets; authorizing designation of advisory organizations for certain purposes; authorizing the exchange of certain information; authorizing certain insurers to act in cooperation with other insurers; providing for regulation of joint underwriting, other pooling mechanisms and residual market mechanisms; authorizing agreements among insurers to apportion certain insurance; providing for examinations to ascertain compliance; requiring maintenance of records; providing for payment of cost of examination; authorizing Insurance Commissioner to accept examination reports of other states; authorizing Insurance Commissioner to exempt lines of insurance from provisions of the Property and Casualty Insurance Modernization Act; providing for a consumer information system; excluding dividends, savings or unabsorbed premium deposits from scope of act; providing exemption from criminal or civil proceeding under other laws; providing for law that governs act; providing for judicial review; providing requirement for notice and hearings; amending 36 O.S. 2001, Section 901.5, which relates to rating organizations; removing prior approval requirement; amending 36 O.S. 2001, Section 983, which relates to the Commercial Property and Casualty Competitive Loss Cost Rating Act; modifying scope of act; repealing 36 O.S. 2001, Sections 331, 332, 333 and 346, which relate to the State Board for Property and Casualty Rates; repealing 36 O.S. 2001, Sections 900.1, 901, 901.2, 901.3, 902.1, 902.2, 902.3, 903, 903.2, 908

and 929, which relate to the Oklahoma Insurance Rating Act; providing for codification; 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 to be codified in the Oklahoma Statutes as Section 900-1 of Title 36, unless there is created a duplication in numbering, reads as follows:

This act shall be a part of Article 9 of the Insurance Code and shall be known and may be cited as the "Property and Casualty Insurance Modernization Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-2 of Title 36, unless there is created a duplication in numbering, reads as follows:

This Legislature finds and declares that a modernized and competitive procedure be employed:

1. To recognize and enhance the role well-informed consumers play in the competitive marketplace;

2. To promote price competition among insurers;

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

4. To prohibit unlawful price-fixing agreements by or among insurers;

5. To authorize essential cooperative activities among insurers in the ratemaking process and to regulate such activities to prohibit practices that tend to substantially lessen competition or create monopolies; and

6. To provide necessary regulatory authority in the absence of a competitive marketplace.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-3 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in the Property and Casualty Modernization Act:

1. "Advisory organization" means any person or organization which has five unrelated members and which assists insurers as authorized by Section 11 of this act. It does not include joint underwriting organizations, actuarial or legal consultants, single insurer, any employees of an insurer, or insurers under common control or management of their employees or managers;

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

3. "Commercial risk" means any kind of risk which is not a personal risk;

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

5. "Competitive market" means any market except those which have been found to be noncompetitive pursuant to Section 5 of this act;

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

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

8. "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;

9. "Joint underwriting" means an arrangement established to provide insurance coverage for a risk, pursuant to which two or more insurers contract with the insured for a price and policy terms agreed upon between or among the insurers;

10. "Large commercial policyholder" means a commercial policyholder with the size, sophistication, and insurance-buying expertise to negotiate with insurers in a largely unregulated environment and which meets at least two of the following criteria:

- a. aggregate premium on commercial policies held by the insured, including workers' compensation,
- b. number of employees,
- c. annual net revenues or sales,
- d. net worth,
- e. annual budgeted expenditures for not-for-profit organizations or a public body or agency, or
- f. population for municipalities;

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

12. "Market" is the statewide interaction between buyers and sellers in the procurement of a line of insurance coverage pursuant to the provisions of the Property and Casualty Insurance Modernization Act;

13. "Noncompetitive market" means a market which is subject to a ruling pursuant to Section 5 of this act that a reasonable degree of competition does not exist and, for the purposes of the Property and Casualty Insurance Modernization Act, residual markets and pools are noncompetitive markets;

14. "Personal risk" means homeowners, tenants, nonfleet private passenger automobiles, mobile homes and other property and casualty insurance for personal, family or household needs. This includes any property and casualty insurance that is otherwise intended for noncommercial coverage;

15. "Pool" means an arrangement pursuant to which two or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate as an association, syndicate or in any other generally recognized manner;

16. "Prospective loss cost" means that portion of a rate that does not include provisions for expenses, other than loss adjustment expenses, or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time;

17. "Rate" 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 premiums;

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

19. "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;

20. "Supplementary rate information" means any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule and any other similar information needed to determine an applicable rate in effect or to be in effect;

21. "Supporting information" means:

- a. the experience and judgment of the filer and the experience or data of other insurers or organizations relied upon by the filer,
  - b. the interpretation of any statistical data relied upon by the filer,
  - c. a description of methods used in making the rates, and
  - d. other similar information relied upon by the filer;
- and

22. "Training" 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 900-4 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Property and Casualty Insurance Modernization Act applies to all kinds of insurance written on risks in this state by any insurer authorized to do business in this state except:

1. Life insurance;
2. Annuities;
3. Accident and health insurance;
4. Ocean marine insurance;
5. Aircraft liability and aircraft hull insurance;
6. Reinsurance;
7. Surplus lines; and
8. Workers' compensation insurance.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-5 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A competitive market for a line of insurance is presumed to exist unless the Commissioner, after notice and hearing, determines that a reasonable degree of competition does not exist within a

market and issues a ruling to that effect. The burden of proof in any hearing shall be placed on the party or parties advocating the position that competition does not exist. Any ruling that a market is not competitive shall include action the state, including the Commissioner, shall undertake to return the market to a competitive market. The ruling shall identify which factors listed below are causing the market not to be competitive and what action the state shall take to address that factor. Such ruling shall expire one (1) year after issue unless rescinded earlier by the Commissioner or unless the Commissioner renews the ruling after a hearing and a finding as to continued lack of a reasonable degree of competition. Any ruling that renews the finding that competition does not exist within a market for a line of insurance shall include findings regarding the action the state and the Commissioner have taken to return the market to a competitive market and an explanation regarding why those actions have failed to return the market to a competitive market.

B. The following factors shall be considered by the Commissioner for purposes of determining if a reasonable degree of competition does not exist in a particular line of insurance:

1. The number of insurers or groups of affiliated insurers providing coverage in the market;

2. Measures of market concentration and changes of market concentration over time;

3. Ease of entry and the existence of financial or economic barriers that could prevent new firms from entering the market;

4. The extent to which any insurer or group of affiliated insurers controls all or a portion of the market;

5. Whether the total number of companies writing the line of insurance in this state is sufficient to provide multiple options;

6. The availability of insurance coverage to consumers in the markets; and

7. The opportunities available to consumers in the market to acquire pricing and other consumer information.

C. The Commissioner shall monitor the degree and continued existence of competition in this state on an ongoing basis. In doing so, the Commissioner may utilize existing relevant information, analytical systems and other sources, or rely on some combination thereof. Such activities may be conducted internally within the Insurance Department, in cooperation with other state insurance departments, through outside contractors or in any other appropriate manner.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-6 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Rates shall not be excessive, inadequate or unfairly discriminatory.

B. For the purpose of this section:

1. "Excessive" means a rate that is likely to produce a long-term profit that is unreasonably high for the insurance provided.

No rate in a competitive market shall be considered excessive;

2. "Inadequate" means a rate which is unreasonably low for the insurance provided, and:

a. the continued use of which endangers the solvency of the insurers using it, or

b. will have the effect of substantially lessening competition or creating a monopoly in any market; and

3. "Unfairly discriminatory" refers to rates that cannot be actuarially justified. It does not refer to rates that produce differences in premiums for policyholders with like loss exposures, so long as the rate reflects such differences with reasonable accuracy. A rate is not unfairly discriminatory if it averages broadly among persons insured under a group, franchise or blanket policy, or a mass marketing plan. No rate in a competitive market

shall be considered unfairly discriminatory unless it violates the provisions of subsection D of this section in that it classifies risk on the basis of race, color, creed or national origin.

C. Risks may be classified in any way except that no risk may be classified on the basis of race, color, creed or national origin.

D. In determining whether rates in a noncompetitive market are excessive, inadequate or unfairly discriminatory, consideration may be given to the following elements:

1. Basic rate factors. Due consideration shall be given to past and prospective loss and expense experience within and outside of this state, to catastrophe hazards and contingencies, to events or trends within and outside of this state, to dividends or savings to policyholders, members or subscribers, and to all other factors and judgments deemed relevant by the insurer;

2. Classification. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified for individual risks in accordance with rating plans or schedules which establish standards for measuring probable variations in hazards or expenses, or both;

3. Expenses. The expense provision shall reflect the operating methods of the insurer and its own past expense experience and anticipated future expenses;

4. Contingencies and profits. The rates shall contain a provision for contingencies and a provision for a reasonable underwriting profit, and reflect investment income directly attributable to unearned premium and loss reserves; and

5. Other relevant factors. Any other factors available at the time of hearing.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-7 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. If the Commissioner determines that competition does not exist in a market and issues a ruling to that effect pursuant to Section 5 of this act, the rates applicable to insurance sold in that market shall be regulated in accordance with the provisions of Sections 6 through 9 of this act applicable to noncompetitive markets.

B. Any rate filing in effect at the time the Commissioner determines that competition does not exist pursuant to Section 5 of this act shall be deemed to be in compliance with the laws of this state unless disapproved pursuant to the procedures and rating standards contained in Sections 6 through 9 of this act applicable to noncompetitive markets.

C. Any insurer having a rate filing in effect at the time the Commissioner determines that competition does not exist pursuant to Section 5 of this act may be required to furnish supporting information within thirty (30) days of a written request by the Commissioner.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-8 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. For personal lines, every insurer shall file with the Commissioner all rates and supplementary rate information to be used in this state no later than thirty (30) days after the effective date for the rates; provided, that such rates and supplementary rate information need not be filed for inland marine risks which by general custom are not written according to manual rules or rating plans. Rates in a competitive market for commercial insurance need not be filed.

B. For noncompetitive markets:

1. Every insurer shall file with the Commissioner all rates, supplementary rate information and supporting information for noncompetitive markets at least thirty (30) days before the proposed

effective date for the rates. The Commissioner may give written notice, within thirty (30) days of the receipt of the filing, that the Commissioner needs additional time, not to exceed thirty (30) days from the date of such notice to consider the filing. Upon written application of the insurer, the Commissioner may authorize rates to be effective before the expiration of the waiting period or an extension thereof. A filing shall be deemed to meet the requirements of this section and to become effective unless disapproved pursuant to Section 9 of this act by the Commissioner before the expiration of the waiting period or an extension thereof. Residual market mechanisms or advisory organizations may file residual market rates; and

2. The filing shall be deemed in compliance with the filing provisions of this section unless the Commissioner informs the insurer within ten (10) days after receipt of the filing as to what supplementary rate information or supporting information is required to complete the filing.

C. 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 on behalf of the insurer as permitted by Section 11 of this act.

D. All rates, supplementary rate information and any supporting information filed under the Property and Casualty Insurance Modernization Act shall be open to public inspection once they have been filed except information marked confidential, trade secret or proprietary by the insurer or filer. Copies may be obtained from the Commissioner upon request and upon payment of a reasonable fee.

E. Notwithstanding any other provisions of this section, upon written application of the insured, stating the reason therefor, a rate in excess of or below that otherwise applicable may be used on any specific risk.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-9 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. The Commissioner shall disapprove a rate in a competitive market only if the Commissioner finds pursuant to subsection B of this section that the rate is inadequate or unfairly discriminatory under Section 6 of this act.

2. The Commissioner may disapprove a rate for use in a noncompetitive market only if the Commissioner finds pursuant to subsection B of this section that the rate is excessive, inadequate or unfairly discriminatory under Section 6 of this act.

B. 1. Prior to the expiration of the waiting period or an extension thereof of a filing made pursuant to subsection B of Section 8 of this act, the Commissioner may disapprove by written order rates filed pursuant to subsection B of Section 8 of this act without hearing. The order shall specify in what respects such filing fails to meet the requirements of the Property and Casualty Insurance Modernization Act. Any insurer whose rates are disapproved under this section shall be given a hearing upon written request made within thirty (30) days of disapproval.

2. If, at any time, the Commissioner finds that a rate applicable to insurance sold in a noncompetitive market does not comply with the standards set forth in Section 6 of this act, the Commissioner may, after a hearing held upon not less than twenty (20) days written notice, issue an order pursuant to subsection C of this section disapproving such rate. The hearing notice shall be sent to every insurer and advisory organization which adopted the rate and shall specify the matters to be considered at the hearing. The disapproval order shall not affect any contract or policy made or issued prior to the effective date set forth in said order.

3. If, at any time, the Commissioner finds that a rate applicable to insurance sold in a competitive market is inadequate

or unfairly discriminatory under Section 6 of this act, the Commissioner may issue an order pursuant to subsection C of this section disapproving the rate. Said order shall not affect any contract or policy made or issued prior to the effective date set forth in said order.

C. If the Commissioner disapproves a rate pursuant to subsection B of this section, the Commissioner shall issue an order within thirty (30) days of the close of the hearing specifying in what respects such rate fails to meet the requirements of the Property and Casualty Insurance Modernization Act. The order shall state an effective date no sooner than thirty (30) business days after the date of the order when the use of such rate shall be discontinued. This order shall not affect any policy made before the effective date of the order.

D. If an order of disapproval is appealed pursuant to Section 21 of this act, the insurer may implement the disapproved rate upon notification to the court, in which case any excess of the disapproved rate over a rate previously in effect shall be placed in a reserve established by the insurer. The court shall have control over the disbursement of funds from such reserve. Such funds shall be distributed as determined by the court in its final order except that de minimus refunds to policyholders shall not be required.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-10 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A policy of insurance sold to a large commercial policyholder, as defined in Section 3 of this act, shall not be subject to the requirements of the Property and Casualty Insurance Modernization Act, including but not limited to Sections 5, 6, 7, 8 and 9 of this act. The forms and endorsements for any policy sold to a large commercial policyholder shall not be subject to filing and approval requirements.

B. All policies issued pursuant to the provisions of this section shall contain a conspicuous disclaimer printed in at least ten-point, bold-faced type that states that the policy applied for, including the rates, rating plans, resulting premiums, and the policy forms, is not subject to the rate and form requirements of this state and other provisions of the insurance law that apply to other commercial products and may contain significant differences from a policy that is subject to all provisions of the insurance law. Such notice shall set forth possible differences in policy conditions, forms, and endorsements, as compared to a policy that is subject to all of the provisions of the insurance law. The format and provisions of such notice shall be prescribed by the Commissioner. The disclosure notice will also include a policyholder's acknowledgment statement, to be signed and dated prior to the effective date of the coverage, and shall remain on file with the insurer.

C. In procuring insurance, a large commercial policyholder shall certify on a form approved by the Department of Insurance that it meets the eligibility requirements set out in subsection A of this section and specify the requirements that the policyholders have met. This certification is to be completed annually and remain on file with the insurer.

D. A surplus lines broker seeking to obtain or provide insurance for a large commercial policyholder is authorized to purchase insurance from any eligible unauthorized insurer without making a diligent search of authorized insurers.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-11 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. In only those markets found to be noncompetitive pursuant to Section 5 of this act, insurers and advisory organizations shall file with the Commissioner, and the Commissioner shall review,

reasonable rules and plans for recording and reporting of loss and expense experience. The Commissioner may designate one or more advisory organizations to assist in gathering such experience and making compilations thereof. No insurer shall be required to record or report its experience in a manner inconsistent with its own rating system.

B. The Commissioner and every insurer and advisory organization may exchange rates and rate information and experience data with insurance regulatory officials, insurers, and advisory organizations in this and other states and may consult with them with respect to the collection of statistical data and the application of rating systems.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-12 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding the provisions of Section 13 of this act, insurers participating in joint underwriting, pools or residual market mechanisms may act in cooperation with each other in the making of rates, rating systems, supplementary rate information, policy or bond forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss and expense statistics or other information and conducting research. Joint underwriting, pools and residual market mechanisms shall not be deemed advisory organizations.

B. 1. If, after notice and hearing, the Commissioner finds that any activity or practice of an insurer participating in a joint underwriting or pooling mechanism is unfair, unreasonable, will tend to substantially lessen competition in any market or is otherwise inconsistent with the provisions or purposes of the Property and Casualty Insurance Modernization Act and all other applicable statutes, the Commissioner may issue a written order specifying in what respects such activity or practice is unfair, unreasonable,

anticompetitive or otherwise inconsistent with the provisions of the Property and Casualty Insurance Modernization Act and all other applicable statutes, and require the discontinuance of such activity or practice.

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

3. 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 approval, together with such information as may be reasonably required. The Commissioner shall approve such agreements if they foster the use of rates which meet the standards prescribed by the Property and Casualty Insurance Modernization Act and all other applicable statutes and activities and practices not inconsistent with the provisions of the Property and Casualty Insurance Modernization Act and all other applicable statutes.

4. The Commissioner may review the operations of all residual market mechanisms to determine compliance with the provisions of the Property and Casualty Insurance Modernization Act and all other applicable statutes. If after a notice of hearing, the Commissioner finds that such mechanisms are violating the provisions of the Property and Casualty Insurance Modernization Act and all other applicable statutes, the Commissioner may issue a written order to the parties involved specifying in what respects such operations violate the provisions of the Property and Casualty Insurance Modernization Act and all other applicable statutes. The Commissioner may further order the discontinuance or elimination of any such operation.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-13 of Title 36, unless there is created a duplication in numbering, reads as follows:

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.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-14 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may examine any insurer, pool, advisory organization, or residual market mechanism to ascertain compliance with the Property and Casualty Insurance Modernization Act.

B. Every insurer, pool, advisory organization, and residual market mechanism shall maintain adequate records from which the Commissioner may determine compliance with the provisions of the Property and Casualty Insurance Modernization Act. Such records shall contain the experience, data, statistics and other information collected or used and shall be available to the Commissioner for examination or inspection upon reasonable notice.

C. The reasonable cost of an examination made pursuant to this section shall be paid by the examined party upon presentation to it of a detailed account of such costs.

D. The Commissioner may accept the report of an examination made by the insurance supervisory official of another state in lieu of an examination under this section.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-15 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Commissioner may, after public notice and hearing, exempt any line of insurance from any or all of the provisions of the Property and Casualty Insurance Modernization Act for the purpose of relieving such line of insurance from filing or any otherwise applicable provisions of the Property and Casualty Insurance Modernization Act.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-16 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Commissioner shall utilize, develop or cause to be developed a consumer information system which will provide and disseminate price and other relevant information on a readily available basis to purchasers of homeowners, private passenger nonfleet automobile, or property insurance for personal, family or household needs. The Commissioner may utilize, develop or cause to be developed a consumer information system which will provide and disseminate price and other relevant information on a readily available basis to purchasers of insurance for commercial risks and personal risks not otherwise specified herein. Such activity may be conducted internally within the Insurance Department, in cooperation with other state insurance departments, through outside contractors or in any other appropriate manner. To the extent deemed necessary and appropriate by the Commissioner, insurers, advisory organizations, statistical agents and other persons or organizations involved in conducting the business of insurance in this state to which this section applies, shall cooperate in the development and utilization of a consumer information system.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-17 of Title 36, unless there is created a duplication in numbering, reads as follows:

Nothing in the Property and Casualty Insurance Modernization Act shall be construed to prohibit or regulate the payment of dividends,

savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. A plan for the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers shall not be deemed a rating plan or system.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-18 of Title 36, unless there is created a duplication in numbering, reads as follows:

No action done, action taken, or agreement made pursuant to the authority conferred by the Property and Casualty Insurance Modernization Act shall constitute a violation of or grounds for prosecution or civil proceedings under any other law of this state which does not specifically refer to insurance.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-19 of Title 36, unless there is created a duplication in numbering, reads as follows:

The administration and enforcement of the Property and Casualty Insurance Modernization Act shall be governed solely by the provision of the Property and Casualty Insurance Modernization Act except as provided in the Property and Casualty Insurance Modernization Act. No other law relating to insurance shall apply to or be construed as supplementing or modifying the provisions of the Property and Casualty Insurance Modernization Act unless such other law or provision expressly so provides and specifically refers to the sections of the Property and Casualty Insurance Modernization Act which it intends to supplement or modify.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-20 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may impose, after notice and hearing, a fine for violations of the Property and Casualty Insurance

Modernization Act. The fine shall be not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00).

B. Technical violations arising from systems or computer errors of the same type shall be treated as a single violation. In the event of an overcharge, if the insurer makes restitution including payment of interest, no penalty shall be imposed.

C. The Commissioner may suspend or revoke the license of any insurer, advisory organization, or statistical agent which fails to comply with an order of the Commissioner within the time prescribed by such order, or any extension thereof which the Commissioner may grant.

D. The Commissioner may determine when a suspension of license shall become effective and the period of such suspension, which the Commissioner may modify or rescind in any reasonable manner.

E. No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the Commissioner, stating findings, made after notice and hearing.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-21 of Title 36, unless there is created a duplication in numbering, reads as follows:

Any order, ruling, finding, decision or other act of the Commissioner made pursuant to the Property and Casualty Insurance Modernization Act shall be subject to judicial review in accordance with the Administrative Procedures Act.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-22 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. All notices rendered pursuant to the provisions of the Property and Casualty Insurance Modernization Act shall be in writing and shall state clearly the nature and purpose of the hearing. All relevant facts, statutes and rules shall be specified so that any respondent is fully informed of the scope of the

hearing, including specific allegations, if any. If a hearing is required, all notices shall designate a hearing date at least fourteen (14) days from the date of the notice, unless such minimum notice period is waived by respondents.

B. All hearings pursuant to the provisions of the Property and Casualty Insurance Modernization Act shall be conducted in accordance with the Administrative Procedures Act to the extent such provisions are consistent with the procedural requirements contained in the Property and Casualty Insurance Modernization Act.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 900-23 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The State Board for Property and Casualty Rates is hereby abolished. Any references in the Oklahoma Statutes to the State Board for Property and Casualty Rates shall be deemed references to the Insurance Commissioner.

B. All records and property of the State Board for Property and Casualty Rates shall be transferred to the Insurance Department.

SECTION 24. AMENDATORY 36 O.S. 2001, Section 901.5, is amended to read as follows:

Section 901.5 A. Rating organizations shall develop and file ~~for approval~~ with the Insurance Commissioner in accordance with the provisions of this section, a filing containing advisory prospective loss costs and supporting actuarial and statistical data for workers' compensation insurance. Each insurer shall individually file their own specific profit and expense factors used to determine the final rates it will file for approval and the effective date of any rate changes.

B. As used in this section:

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

2. "Rate" means the 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 variations in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premiums; and

3. "Prospective loss costs" means that portion of a rate that does not include provision for expenses (other than loss adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to its ultimate value and projected through trending to a future point in time.

SECTION 25. AMENDATORY 36 O.S. 2001, Section 983, is amended to read as follows:

Section 983. 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; and

4. Title insurance;

- ~~5. Workers' compensation insurance; and~~

- ~~6. Personal risk property and casualty insurance.~~

SECTION 26. REPEALER 36 O.S. 2001, Sections 331, 332, 333, 346, 900.1, 901, 901.2, 901.3, 902.1, 902.2, 902.3, 903, 903.2, 908 and 929, are hereby repealed.

SECTION 27. This act shall become effective November 1, 2002.

48-2-7806 SD 6/12/15