

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 498

By: Robinson

AS INTRODUCED

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

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

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

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

1. An excessive rate is one which:

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

2. An inadequate rate is one which:

- a. is (1) unreasonably low for the insurance provided and (2) the continued use of such rate endangers, or if continued would endanger, the solvency of the insurer, ~~or~~
- b. is (1) unreasonably low for the insurance provided and (2) the continued use of such rate by the insurer has, or if continued would have, the effect of destroying competition or creating a monopoly, or
- c. is insufficient to cover projected losses, expenses and a reasonable margin for profit for the line of insurance coverage to be offered in this state by the filer.

3. A rate shall not be unfairly discriminatory.

- a. A rate is not unfairly discriminatory because it is based in part upon the establishment or modification of classifications of risks based upon:
 - (1) the size of the risk,
 - (2) the expense or difficulty in management of the risk,
 - (3) the individual experience of the risk,
 - (4) the location or dispersion of the risk, or
 - (5) any other reasonable consideration attributable to the risk.
- b. A rate is not unfairly discriminatory in relation to another in the same class of business if it reflects equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or with like expense factors but different loss exposures, if the rates reflect the differences with reasonable accuracy.

- c. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.
- d. A rate shall never be based upon race, color, creed or national origin.

B. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

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

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

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

at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points.

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

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

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

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