

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1772

Hastings

COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2001, Section 707, which relates to casualty insurance; clarifying language; amending 85 O.S. 2001, Section 64, which relates to policies of insurance; providing duties of the Workers' Compensation Court Administrator and the Insurance Department in certain situations; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 707, is amended to read as follows:

Section 707. "Casualty insurance" ~~includes~~ means vehicle insurance as defined in Section 706 and accident and health insurance as defined in Section 703, of this article, and in addition includes:

1. Liability insurance, which is insurance against legal liability for the death, injury, or disability of any human being, or for damage to property; and provision of medical, hospital, surgical, disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance-;

2. Workers' compensation and employers' liability insurance, which is insurance of the obligations accepted by, imposed upon, or assumed by employers for death, disablement, or injury of employees-;

3. Burglary and theft insurance, which is insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation, or wrongful conversion, disposal, or concealment, or from any attempt at any of the foregoing, including supplemental coverages for medical, hospital, surgical, and funeral benefits sustained by the named insured or other person as a result of bodily injury during the commission of a burglary, robbery, or theft by another; also insurance against loss of or damage to monies, coins, bullion, securities, notes, drafts, acceptances, or any other valuable papers and documents, resulting from any cause;

4. Personal property floater insurance, which is insurance upon personal effects against loss or damage from any cause;

5. Glass insurance, which is insurance against loss or damage to glass, including its lettering, ornamentation, and fittings;

6. Boiler and machinery insurance, which is insurance against any liability and loss or damage to property or interest resulting from accidents to or explosion of boilers, pipes, pressure containers, machinery, or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured;

7. Leakage and fire extinguishing equipment insurance, which is insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water pipes and containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus;

8. Credit insurance, which is insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured;

9. Malpractice insurance, which is insurance against legal liability of the insured, and against loss, damage, or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary, or professional services;

10. Entertainments insurance, which is insurance indemnifying the producer of any motion picture, television, radio, theatrical, sport, spectacle, entertainment, or similar production, event, or exhibition against loss from interruption, postponement, or cancellation thereof due to death, accidental injury, or sickness of performers, participants, directors, or other principals; and

11. Miscellaneous insurance, which is insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within any other kind of insurance as defined in this article, if such insurance is not disapproved by the Insurance Commissioner as being contrary to law or public policy.

SECTION 2. AMENDATORY 85 O.S. 2001, Section 64, is amended to read as follows:

Section 64. A. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association or other concern authorized to transact workers' compensation insurance in this state shall contain a provision setting forth the right of the Administrator of the Workers' Compensation Court to enforce in the name of the state, for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such

compensation; provided, however, that payment in whole or in part of the compensation by either the employer or the insurance carrier shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

B. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be on the part of the insurance carrier, that jurisdiction of the employer shall, for the purpose incorporated in this title, be jurisdiction of the insurance carrier, and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions incorporated in this title.

C. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries sustained by an employee during the life of such policy.

D. 1. Every such policy issued to cover a risk in this state shall include provisions giving the insured employer the option of choosing a deductible amount for medical benefits in amounts ranging from Five Hundred Dollars (\$500.00) to Two Thousand Five Hundred Dollars (\$2,500.00) in increments of Five Hundred Dollars (\$500.00). The insured employer, if choosing to exercise the option, shall choose only one deductible amount.

2. If an insured employer exercises the option and chooses a deductible, the insured employer shall be liable for the amount of the deductible for the medical benefits paid for each claim of work injury suffered by an injured employee.

3. The Insurance Commissioner, in exercising the authority to approve the form of the policy to be issued, shall not approve any policy form that permits, directly or indirectly, any part of the

deductible to be charged to or passed on to the injured worker or insurer.

4. The insurer shall pay the entire cost of medical bills directly to the provider of the services and then seek reimbursement from the insured employer for the deductible amount.

5. If the insured employer does not reimburse the deductible amount directly to the insurer within sixty (60) days of a written demand therefor, the insurer shall pay the compensable medical claim and may seek to recover the full amount of such claim from the insured employer.

6. Claim amounts up to Five Hundred Dollars (\$500.00) annually which are paid under the medical benefits deductible pursuant to this subsection shall be excluded from the calculation of the insured employer's experience modifier.

7. The provisions of this subsection shall be fully disclosed to the prospective purchaser in writing.

E. Every such policy issued to a sole proprietor, partnership, limited liability company, corporation, or other business entity must disclose to the potential purchaser in writing the option to elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members, or any or all stockholder-employees as employees for the purpose of workers' compensation insurance coverage by endorsing the policy in accordance with Section 3 of this title.

F. Every contract or agreement of an employer the purpose of which is to indemnify the employer from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or the employer's officer, agent or servant shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for in this title.

G. No contract of insurance issued by a stock company or mutual association or other concern against the liability arising under this title shall be canceled within the time limited in such contract for its expiration until at least ten (10) days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the Administrator and also served on the employer. Such notice shall be served on the employer by delivering it to the employer or by sending it by mail, by registered letter, addressed to the employer at the employer's last-known place of residence; provided, that if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation, then the notice may be given to any agent or officer of the corporation upon whom legal process may be served. Provided, however, if a contract of insurance has been terminated by an employer insured thereunder who has obtained other compensation insurance, as evidenced by filing in compliance with Section 61 of this title, and no intervening rights of any employee are involved, omission of a predecessor insurer to file notice of time of termination of liability shall not constitute basis for imposition of liability against such predecessor insurer.

H. Within thirty (30) days of receipt of notice that an insurer issuing policies of workers' compensation insurance in Oklahoma is financially impaired in any other state, the Administrator shall notify the Insurance Department of such impairment. The Insurance Department shall, within fifteen (15) days of receipt of notice from the Administrator, advise the Administrator of the position of the Insurance Department in relation to the impairment and the impaired carrier.

SECTION 3. This act shall become effective November 1, 2003.

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