

CS for SB 1735

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

THE STATE SENATE
Wednesday, March 1, 2006

Committee Substitute for
Senate Bill No. 1735

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1735 - By: SHURDEN of the Senate and TURNER of the House.

An Act relating to fire insurance; amending 36 O.S. 2001, Section 4803, as amended by Section 2, Chapter 358, O.S.L. 2003 (36 O.S. Supp. 2005, Section 4803), which relates to standard policy provisions and permissible variations; modifying provision relating to certain approval authority of Insurance Commissioner; requiring certain information be stamped on certain policy; updating language; making language gender neutral; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 4803, as amended by Section 2, Chapter 358, O.S.L. 2003 (36 O.S. Supp. 2005, Section 4803), is amended to read as follows:

Section 4803. A. The printed form of a policy of fire insurance as set forth in subsection G of this section shall be known and designated as the standard fire insurance policy to be used in the State of Oklahoma.

B. Except as provided in subsection F of this section, no policy or contract of fire insurance shall be made, issued or delivered by any insurer or by any agent or representative thereof, on any property in the state, unless it shall conform as to all

1 provisions, stipulations, agreements and conditions, with such form
2 of policy.

3 There shall be printed at the head of said policy the name of
4 the insurer or insurers issuing the policy; the location of the home
5 office or United States Office thereof; a statement as to whether
6 said insurer or insurers are stock or mutual corporations or are
7 reciprocal insurers or Lloyd's underwriters; and there may be added
8 to the policy such device or devices as the insurer or insurers
9 issuing said policy shall desire. Any company organized under
10 special charter provisions may so indicate upon its policy, and may
11 add to the policy a statement of the plan under which it operates in
12 this state.

13 If the policy is issued by a mutual, cooperative or reciprocal
14 insurer having special regulations with respect to the payment by
15 the policyholder of assessments, such regulations shall be made a
16 part of the policy, and any such insurer may print upon the policy
17 such regulations as may be appropriate to or required by its home
18 state or its form of organization.

19 There may also be added a statement of the group insurers with
20 which the insurer is financially affiliated.

21 In lieu of the facsimile signatures of the president and
22 secretary of the insurer there may be used the name or names of such
23 officers or managers as are authorized to execute the contract.

1 C. Appropriate forms of additional contracts, riders or
2 endorsements, insuring against indirect or consequential loss or
3 damage or against any one or more perils other than those of fire
4 and lightning, or providing coverage which the insurer issuing the
5 policy is authorized by charter and by the laws of this state to
6 assume or issue, may be issued in connection with the standard fire
7 policy.

8 Such other perils or coverages may include those excluded in the
9 standard fire insurance policy, and may include any of the perils or
10 coverages permitted to be insured against or issued by property and
11 casualty insurers. Such forms of contracts, riders and endorsements
12 may contain provisions and stipulations inconsistent with such
13 standard fire insurance policy, if said provisions and stipulations
14 are applicable only to such additional coverage or to the additional
15 peril or perils insured against.

16 D. Provisions to be contained on the first page of the policy
17 may be rewritten, supplemented, or rearranged to facilitate policy
18 issuance and to include matter which may otherwise properly be added
19 by endorsement.

20 The pages of the standard fire insurance policy may be
21 renumbered and the format rearranged for convenience in the
22 preparation of individual contracts, and to provide space for the
23 listing of rates and premiums for coverages insured hereunder or

1 under endorsements attached or printed thereon, and such other data
2 as may be conveniently included for duplication on daily reports for
3 office records.

4 E. There may be printed upon the standard fire policy the words
5 "Standard Fire Insurance Policy for Oklahoma", and there may be
6 inserted before and after the word "Oklahoma" a designation of any
7 state or states in which such form of policy is standard.

8 There may be endorsed on any such policy the name, with the word
9 "agent" or "agents" and place of business, or any insurance agent or
10 agents either by writing, printing, stamping or otherwise.

11 ~~F. Notwithstanding any other provision of this section, the~~
12 ~~Insurance Commissioner may approve for use within the state any form~~
13 ~~of policy with variations in terms and conditions from the standard~~
14 ~~fire insurance policy provided for in this section 1. The Insurance~~
15 Commissioner may approve for use within the state a form of policy
16 which does not correspond to the standard fire insurance policy as
17 provided by this section, if the coverage of said approved policy
18 form with respect to the peril of fire shall not be less than that
19 contained in the standard fire insurance policy as provided in this
20 section.

21 2. When any policy issued under this article shall contain a
22 deductible clause or provision, such fact shall be stamped on the
23 policy in prominent letters.

1 G. The form of the standard fire insurance policy, with
2 permission to substitute for the word "company" a more accurate
3 descriptive term for the type of insurer, shall be as follows:

4 (FIRST PAGE OF) STANDARD FIRE INSURANCE POLICY

5 NO.

6 (Space for insertion of name of company or companies issuing the
7 policy and other matter permitted to be stated at the head of the
8 policy.)

9 (Space for listing amounts of insurance, rates and premiums for the
10 basic coverages insured under the standard form of policy and for
11 additional coverages or perils insured under endorsements attached.)

12 IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED
13 HERETO AND OF the premium above specified, this Company, for the
14 term of _____ from _____ at Noon (Standard Time) to
15 _____ at Noon (Standard Time)

16 at location of property involved, to an amount not exceeding the
17 amount(s) above specified, does insure
18 and legal representatives, to the extent of the actual cash value of
19 the property at the time of loss, but not exceeding the amount which
20 it would cost to repair or replace the property with material of
21 like kind and quality within a reasonable time after such loss,
22 without allowance for any increased cost of repair or reconstruction
23 by reason of any ordinance or law regulating construction or repair,

1 and without compensation for loss resulting from interruption of
2 business or manufacture, nor in any event for more than the interest
3 of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY
4 REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN
5 THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property
6 described hereinafter while located or contained as described in
7 this policy, or pro rata for five days at each proper place to which
8 any of the property shall necessarily be removed for preservation
9 from the perils insured against in this policy, but not elsewhere.

10 Assignment of this policy shall not be valid except with the
11 written consent of this Company.

12 This policy is made and accepted subject to the foregoing
13 provisions and stipulations and those hereinafter stated, which are
14 hereby made a part of this policy, together with such other
15 provisions, stipulations and agreements as may be added hereto, as
16 provided in this policy.

17 IN WITNESS WHEREOF, this Company has executed and attested these
18 presents; but this policy shall not be valid unless countersigned by
19 the duly authorized Agent of this Company at

20 _____
21 _____

22 Signature of proper officer or officers.

1 Countersigned this _____ day of _____, ~~19~~ 20
2 _____

3 Agent.

4 (SECOND PAGE OF) STANDARD FIRE INSURANCE POLICY

5 Concealment, fraud. This entire policy shall be void if,
6 whether before or after a loss, the insured has willfully concealed
7 or misrepresented any material fact or circumstance concerning this
8 insurance or the subject thereof, or the interest of the insured
9 therein, or in case of any fraud or false swearing by the insured
10 relating thereto.

11 Uninsurable and excepted property. This policy shall not cover
12 accounts, bills, currency, deeds, evidences of debt, money or
13 securities; nor, unless specifically named hereon in writing,
14 bullion or manuscripts.

15 Perils not included. This Company shall not be liable for loss
16 by fire or other perils insured against in this policy caused,
17 directly or indirectly, by: (a) enemy attack by armed forces,
18 including action taken by military, naval or air forces in resisting
19 an actual or an immediately impending enemy attack; (b) invasion;
20 (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g)
21 usurped power; (h) order of any civil authority except acts of
22 destruction at the time of and for the purpose of preventing the
23 spread of fire, provided that such fire did not originate from any

1 of the perils excluded by this policy; (i) neglect of the insured to
2 use all reasonable means to save and preserve the property at and
3 after a loss, or when the property is endangered by fire in
4 neighboring premises; (j) nor shall this Company be liable for loss
5 by theft.

6 Other Insurance. Other Insurance may be prohibited or the
7 amount of insurance may be limited by endorsement attached hereto.

8 Conditions suspending or restricting insurance. Unless
9 otherwise provided in writing added hereto this Company shall not be
10 liable for loss occurring:

11 (a) while the hazard is increased by any means within the
12 control or knowledge of the insured; or

13 (b) while a described building, whether intended for occupancy
14 by owner or tenant, is vacant or unoccupied beyond a period of sixty
15 consecutive days; or

16 (c) as a result of explosion or riot, unless fire ensues, and
17 in that event for loss by fire only.

18 Other perils or subjects. Any other peril to be insured against
19 or subject of insurance to be covered in this policy shall be by
20 endorsement in writing hereon or added hereto.

21 Added provisions. The extent of the application of insurance
22 under this policy and of the contribution to be made by this Company
23 in case of loss, and any other provision or agreement not

1 inconsistent with the provisions of this policy, may be provided for
2 in writing added hereto, but no provision may be waived except such
3 as by the terms of this policy is subject to change.

4 Waiver provisions. No permission affecting this insurance shall
5 exist, or waiver of any provision be valid, unless granted herein or
6 expressed in writing added hereto. No provision, stipulation or
7 forfeiture shall be held to be waived by any requirement or
8 proceeding on the part of this Company relating to appraisal or to
9 any examination provided for herein.

10 Cancellation of policy. This policy shall be canceled at any
11 time at the request of the insured, in which case this Company
12 shall, upon demand and surrender of this policy refund the excess of
13 paid premium above the customary short rates for the expired time.
14 This policy may be canceled at any time by this Company by giving to
15 the insured a five days' written notice of cancellation with or
16 without tender of the excess of paid premium above the pro rata
17 premium for the expired time, which excess, if not tendered shall be
18 refunded on demand. Notice of cancellation shall state that said
19 excess premium (if not tendered) will be refunded on demand.

20 Mortgagee interests and obligations. If loss hereunder is made
21 payable, in whole or in part, to a designated mortgagee not named
22 herein as the insured, such interest in this policy may be canceled
23 by giving such mortgagee a ten days' written notice of cancellation.

1 If the insured fails to render proof of loss such mortgagee,
2 upon notice, shall render proof of loss in the form herein specified
3 within sixty (60) days after, and shall be subject to the provisions
4 hereof relating to appraisal and time of payment and of bringing
5 suit. If this Company shall claim that no liability existed as to
6 the mortgagor or owner, it shall, to the extent of payment of loss
7 to the mortgagee, be subrogated to all the mortgagee's rights of
8 recovery, but without impairing mortgagee's right to sue, or it may
9 pay off the mortgage debt and require an assignment thereof and of
10 the mortgage. Other provisions relating to the interests and
11 obligations of such mortgagee may be added hereto by agreement in
12 writing.

13 Pro rata liability. This Company shall not be liable for a
14 greater proportion of any loss than the amount hereby insured shall
15 bear to the whole insurance covering the property against the peril
16 involved, whether collectible or not.

17 Requirements in case loss occurs. The insured shall give
18 immediate written notice to this Company of any loss, protect the
19 property from further damage, forthwith separate the damaged and
20 undamaged personal property, put it in the best possible order,
21 furnish a complete inventory of the destroyed, damaged and undamaged
22 property, showing in detail quantities, costs, actual cash value and
23 amount of loss claimed; and within sixty days after the loss, unless

1 such time is extended in writing by the Company, the insured shall
2 render to this Company a proof of loss, signed and sworn to by the
3 insured, stating the knowledge and belief of the insured as to the
4 following: the time and origin of the loss, the interest of the
5 insured and of all others in the property, the actual cash value of
6 each item thereof and the amount of loss thereto, all encumbrances
7 thereon, all other contracts of insurance, whether valid or not,
8 covering any of said property, any changes in the title, use,
9 occupation, location, possession or exposures of said property since
10 the issuing of this policy, by whom and for what purpose any
11 building herein described and the several parts thereof were
12 occupied at the time of loss and whether or not it then stood on
13 leased ground, and shall furnish a copy of all the descriptions and
14 schedules in all policies and, if required, verified plans and
15 specifications of any building, fixtures or machinery destroyed or
16 damaged. The insured, as often as may be reasonably required, shall
17 exhibit to any person designated by this Company all that remains of
18 any property herein described, and submit to examinations under oath
19 by any person named by this Company, and subscribe the same, and as
20 often as may be reasonably required, shall produce for examination
21 all books of account, bills, invoices and other vouchers or
22 certified copies thereof if originals be lost, at such reasonable
23 time and place as may be designated by this Company or its

1 representative, and shall permit extracts and copies thereof to be
2 made.

3 Appraisal. In case the insured and this Company shall fail to
4 agree as to the actual cash value or the amount of loss, then, on
5 the written demand of either, each shall select a competent and
6 disinterested appraiser and notify the other of the appraiser
7 selected within twenty (20) days of such demand. The appraisers
8 shall first select a competent and disinterested umpire; and failing
9 for fifteen (15) days to agree upon such umpire, then, on request of
10 the insured or this Company, after notice of hearing to the
11 nonrequesting party by certified mail, such umpire shall be selected
12 by a judge of a district court in the county where the loss
13 occurred. The appraisers shall then appraise the loss, stating
14 separately actual cash value and loss to each item, and, failing to
15 agree, shall submit their differences, only, to the umpire. An
16 award in writing, so itemized, of any two when filed with this
17 Company shall determine the amount of actual cash value and loss.
18 Each appraiser shall be paid by the party selecting ~~him~~ the
19 appraiser and the expenses of appraisal and umpire shall be paid by
20 the parties equally.

21 Company's option. It shall be optional with this Company to
22 take all, or any part, of the property at the agreed or appraised
23 value, and also to repair, rebuild or replace the property destroyed

1 or damaged with other of like kind and quality within a reasonable
2 time, on giving notice of its intention so to do within thirty (30)
3 days after the receipt of the proof of loss herein required.

4 Abandonment. There can be no abandonment to this Company of any
5 property.

6 When loss payable. The amount of loss for which this Company
7 may be liable shall be payable sixty (60) days after proof of loss,
8 as herein provided, is received by this Company and ascertainment of
9 the loss is made either by agreement between the insured and this
10 Company expressed in writing or by the filing with this Company of
11 an award as herein provided.

12 Suit. No suit or action on this policy for the recovery of any
13 claim shall be sustainable in any court of law or equity unless all
14 the requirements of this policy shall have been complied with, and
15 unless commenced within twelve months next after inception of the
16 loss.

17 Subrogation. This Company may require from the insured an
18 assignment of all right of recovery against any party for loss to
19 the extent that payment therefor is made by this Company.

20 (THIRD PAGE OF) STANDARD FIRE INSURANCE POLICY

21 ATTACH FORMS BELOW THIS LINE

22

23 (BACK OF STANDARD FIRE INSURANCE POLICY)

1 Expires _____

2 Property _____

3 Total

4 Amount \$ _____ Premiums \$ _____

5 Insured _____

6 _____

7 SEE INSIDE OF POLICY FOR

8 PERILS COVERED

9 No. _____

10 (COMPANY)

11 It is important that the written portions of all policies covering
12 the same property read exactly alike. If they do not, they should
13 be made uniform at once.

14 SECTION 2. This act shall become effective November 1, 2006.

15 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 2-27-06
16 - DO PASS, As Amended and Coauthored.