

ENROLLED SENATE  
BILL NO. 1189

By: Aldridge of the Senate

and

Blackwell and Johnson  
(Dennis) of the House

An Act relating to insurance; amending 36 O.S. 2001, Section 110, which relates to the applicability of the Oklahoma Insurance Code to certain organizations; modifying requirements for certain religious organizations to be not subject to the Oklahoma Insurance Code; amending 74 O.S. 2001, Section 85.58A, as last amended by Section 6, Chapter 483, O.S.L. 2002 (74 O.S. Supp. 2007, Section 85.58A), which relates to risk management; updating title; providing example; allowing Risk Management Administrator to act as agent; creating certain petty cash fund; providing purpose of fund; setting fund limit; amending 80 O.S. 2001, Section 34.6, as amended by Section 14, Chapter 372, O.S.L. 2003 (80 O.S. Supp. 2007, Section 34.6), which relates to the State Surplus Property Revolving Fund; making fund a continuing fund; allowing for certain investment; allowing for limited expenditure of interest earned; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 110, is amended to read as follows:

Section 110. No provision of the Oklahoma Insurance Code, Section 101 et seq. of this title, shall apply to:

1. Nonprofit hospital service and medical indemnity corporations, except as stated in Sections 601 et seq. and 2601 et seq. of this title;

2. Fraternal benefit societies, except as stated in Section 2701.1 et seq. of this title;

3. Farmers' mutual fire insurance associations, except as stated in Section 2801 et seq. of this title;

4. Mutual benefit associations, except as stated in Section 2401 et seq. of this title;

5. Domestic burial associations;

6. Any domestic association organized subject to the supervision or by the authority of any incorporated Grange Order of Patrons of Husbandry, when the association is formed exclusively for the mutual benefit of the members of such order. Effective January 1, 1982, The Oklahoma State Union of the Farmers' Educational and Cooperative Union of America shall comply with all provisions of the Oklahoma Insurance Code;

7. Trust companies organized pursuant to the provisions of Title 6 of the Oklahoma Statutes except that the title insurance and surety insurance business of such trust companies shall be subject to the Oklahoma Insurance Code;

8. Soliciting agents of mutual insurance corporations or associations, operating only in this state, that issue no stock or other form of security, do not operate for profit, and have none of their funds inure to the benefit of individuals except in the form of less expensive insurance and necessary expenses of operation, if provisions are made in the bylaws of the insurer for the election of any soliciting agents by a majority of the policyholders in the area where the soliciting agent solicits insurance;

9. The Mutual Aid Association of the Church of the Brethren or the Mutual Aid Association of the Mennonite and Brethren in Christ;

10. Incorporated or unincorporated banking associations having been in existence for over fifteen (15) years and consisting of more than seventy-five (75) member banks within this state for issuance of blanket fidelity bonds for banks within this state for each bank's own use, or any nonprofit trust sponsored by such associations' member banks providing employee benefits such as life, health, accident, disability, pension and retirement benefits for banks, bank holding companies and subsidiaries thereof, the associations' employees and associate members;

11. A religious ~~publication, or subscribers of the publication,~~ organization, or members of the organization, if the organization:

- a. is a nonprofit religious organization,
- b. is limited to ~~subscribers~~ participants who are members of the same ~~denomination or~~ religion,
- c. acts as an organizational clearinghouse for information between ~~subscribers~~ participants who have financial, physical or medical needs and ~~subscribers~~ participants with the present ability to pay subscribers for the benefit of those participants with present financial or medical needs. Nothing in this subparagraph shall prevent the organization from establishing qualifications of participation relating to the health of the prospective participant, nor shall it prevent the participants from limiting the financial or medical needs that may be eligible for payment among the participants,
- d. provides for the financial or medical needs of a ~~subscriber~~ participant through payments directly from one ~~subscriber~~ participant to another, and
- e. suggests amounts that ~~subscribers~~ participants may voluntarily give with no assumption of risk or promise to pay either among the ~~subscribers~~ participants or between the ~~subscribers~~ participants and the ~~publication~~ organization. Nothing in this

subparagraph shall prevent the organization from cancelling the membership of a participant if the participant indicates unwillingness to participate by failing to make a payment to another participant for a period in excess of sixty (60) days; or

12. Charitable organizations that:

- a. are described in Section 501(c)(3) of the Internal Revenue Code and Section 170(c) of the Internal Revenue Code,
- b. issue qualified charitable gift annuity contracts,
- c. have a minimum of One Hundred Thousand Dollars (\$100,000.00) in unrestricted assets that are exclusive of the assets comprising its qualified charitable gift annuities, and
- d. have been in continuous operation for at least three (3) years or are successors or affiliates of a charitable organization that has been in continuous operation for at least three (3) years,

except as stated in the Oklahoma Charitable Gift Annuity Act.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 85.58A, as last amended by Section 6, Chapter 483, O.S.L. 2002 (74 O.S. Supp. 2007, Section 85.58A), is amended to read as follows:

Section 85.58A A. The Department of Central Services shall establish for all state agencies, whether or not subject to The Central Purchasing Act, and other entities as provided by law a comprehensive professional risk management program which shall:

1. Identify and evaluate risks of loss and exposures to loss to officers, employees and properties;

2. Minimize risks through loss-prevention and loss-control programs;

3. Transfer risks, if economically advantageous to the state, by acquiring commercial insurance, contractual pass through of liability, or by other means;

4. Consolidate and administer risk management plans and programs including self-insurance programs, except Workers' Compensation Insurance and State Employees Group Insurance;

5. Determine feasibility of and, if feasible, establish self-insurance programs, considering whether a program may be self-supporting to remain financially and actuarially sound;

6. Provide a system to allocate insurance and program costs to determine payment for insurance coverage and program expenses provided by the Department of Central Services;

7. When requested by a state retirement system, CompSource Oklahoma or the State and Education Employees Group Insurance Board, assist in obtaining insurance authorized by law. If requested by the Oklahoma State Regents for Higher Education, assist trust funds for which the State Regents serve as trustees in obtaining insurance authorized by law;

8. Assist state agencies and officers, employees, and members thereof, charged with licensing authority, in obtaining insurance for liability for judgments, based on the licensing authority, rendered by any court pursuant to federal law;

9. When requested by a public trust established pursuant to Title 60 of the Oklahoma Statutes of which the State of Oklahoma is the beneficiary, obtain, provide or assist the public trust in obtaining insurance authorized by law or trust indenture covering any board member, trustee, official, officer, employee or volunteer for errors and omissions or liability risks arising from the performance of ~~their~~ official duties pursuant to law or trust indenture; and

10. When requested by the Oklahoma State Regents for Higher Education, for the purpose of insuring real property required pursuant to Section 4018 of Title 70 of the Oklahoma Statutes, of which the Oklahoma State Regents for Higher Education is the beneficiary, obtain, provide or assist the Oklahoma State Regents

for Higher Education in obtaining insurance for the real property pursuant to the provisions of this section.

B. The Director of Central Services may hire or contract for the services of a Risk Management Administrator to supervise the Comprehensive Professional Risk Management Program established pursuant to this section. If appointed by the Director as a state employee, the Risk Management Administrator shall be in the unclassified service.

C. The Risk Management Administrator shall evaluate insurance coverage needs and in force for state agencies, whether or not subject to The Central Purchasing Act, and other entities as provided by law. All entities shall submit to the Risk Management Administrator all information which the Risk Management Administrator deems necessary to perform this duty.

D. The Risk Management Administrator in conjunction with the State Purchasing Director under the authority of the Director of Central Services may negotiate insurance coverage and insurance-related services contracts, including, but not limited to, insurance brokerage and consulting services. The State Purchasing Director shall ensure open processes for solicitation and qualification of insurance coverage and services providers. The State Purchasing Director shall award contracts for insurance coverage and services to the provider or providers which offer the best and final terms and conditions. The State Purchasing Director may authorize the Risk Management Administrator to bind for insurance coverage with providers.

E. The school districts of this state may request the Risk Management Administrator to advise for the purchase of insurance coverage for the school districts.

F. A state agency, whether or not subject to The Central Purchasing Act, that contemplates purchase of property and casualty insurance, shall provide details of the proposed purchase to the Risk Management Administrator for approval or disapproval prior to the purchase.

G. The Director of Central Services shall promulgate rules to effect the provisions of the comprehensive professional risk management program.

H. 1. a. Any community action agency established pursuant to Sections 5035 through 5040 of this title may participate in the comprehensive professional risk management program established pursuant to this section for risks incurred as a result of operating a Head Start program or providing transportation services to the public. The Risk Management Administrator shall obtain or provide for insurance coverage for such community action agencies or bonding for employees of such community action agencies. Any liability insurance coverage obtained or provided shall include expenses for administrative and legal services obtained or provided by the Risk Management Administrator.

b. The Risk Management Administrator shall determine criteria for participation in the risk management program by such community action agencies. In addition, the Risk Management Administrator may require each such community action agency to:

- (1) provide adequate qualified personnel and suitable facilities and equipment for operating a Head Start program or providing transportation services to the public, and
- (2) comply with such standards as are necessary for the protection of the clients it serves.

2. To receive coverage pursuant to this section, a community action agency shall make payments for any insurance coverage and shall otherwise comply with the provisions of this section and rules promulgated by the Department pursuant to the provisions of this section.

3. Requests for the insurance coverage provided pursuant to the provisions of this subsection shall be submitted in writing to the Risk Management Administrator by the community action agencies.

I. The Risk Management Administrator may provide or obtain for any state agency, public trust with the state as a beneficiary and a director, officer, employee or member thereof, insurance for liability for loss, including judgments, awards, settlements, costs and legal expenses, resulting from violations of rights or privileges secured by the Constitution or laws of the United States of America which occur while a director, officer, employee or member is acting within the scope of service to the State of Oklahoma. The insurance shall be for coverage in excess of the limits on liability established by The Governmental Tort Claims Act but shall not limit or waive any immunities now or hereafter available to the State of Oklahoma or any state agency, any public trust with the state as a beneficiary, or any director, officer, employee or member thereof, including, but not limited to, any immunities under the Eleventh Amendment to the Constitution of the United States, state sovereign immunity, and any absolute or qualified immunity held by any director, officer, employee or member.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 63.4 of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created a petty cash fund for the Department of Central Services to be used for the State Surplus Auctions in the Property Reutilization Division.

The amount of the State Surplus Auction petty cash fund shall not exceed Two Hundred Fifty Dollars (\$250.00), and the initial amount shall be drawn by warrant from the State Surplus Property Revolving Fund. The Director of State Finance is authorized to prescribe forms, systems and procedures for the administration of the State Surplus Auction petty cash fund.

SECTION 4. AMENDATORY 80 O.S. 2001, Section 34.6, as amended by Section 14, Chapter 372, O.S.L. 2003 (80 O.S. Supp. 2007, Section 34.6), is amended to read as follows:

Section 34.6 There is hereby created in the State Treasury a revolving fund to be designated as the "State Surplus Property Revolving Fund" which shall consist of all monies appropriated thereto by the Legislature and all monies received by the Surplus

Property Agent from state departments, boards, commissions, institutions, and agencies and from counties, cities, and towns, and school districts and other authorized program participants as a reimbursement to the state of monies spent in acquiring surplus property for such entities, and for services to the entities. The State Surplus Property Revolving Fund shall be a continuing fund, not subject to fiscal year limitations, and shall be expended by the Surplus Property Agent, under the supervision of the Director of the Department of Central Services, for any expense incurred in the handling, transportation, warehousing, distribution of surplus property received by purchase or donation, including the purchase of trucks and equipment, the salary of the Surplus Property Agent and other employees' salaries, other necessary expenses incurred in program administration and operation and expenses the Department of Central Services incurs to support program operations. Expenditures shall be made from the fund on claims signed by the State Surplus Property Agent and approved for payment by the Director of State Finance. Excess funds above the operational needs may be invested in any of the types of instruments in which the State Treasurer is authorized by law to invest. Interest earned shall be retained by the State Surplus Property Revolving Fund, and the funds may be expended by the Department of Central Services to acquire, improve, or maintain state agency surplus property facilities.

SECTION 5. This act shall become effective November 1, 2008.

Passed the Senate the 22nd day of May, 2008.

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Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of May, 2008.

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Presiding Officer of the House  
of Representatives