

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2532

By: McCullough

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5
6 AS INTRODUCED

7 An Act relating to workers compensation; amending 85
8 O.S. 2001, Section 64, as last amended by Section 79,
9 Chapter 264, O.S.L. 2006 (85 O.S. Supp. 2007, Section
10 64), which relates to insurance policies; requiring
11 indemnity payments in controversy to be placed in a
12 designated escrow account; providing for use of
13 excess above amount in controversy; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 85 O.S. 2001, Section 64, as last
17 amended by Section 79, Chapter 264, O.S.L. 2006 (85 O.S. Supp. 2007,
18 Section 64), is amended to read as follows:

19 Section 64. A. Every policy of insurance covering the
20 liability of the employer for compensation issued by a stock company
21 or by a mutual association or other concern authorized to transact
22 workers' compensation insurance in this state shall contain a
23 provision setting forth the right of the Administrator to enforce in
24 the name of the state, for the benefit of the person entitled to the
compensation insured by the policy either by filing a separate

1 application or by making the insurance carrier a party to the
2 original application, the liability of the insurance carrier in
3 whole or in part for the payment of such compensation; provided,
4 however, that payment in whole or in part of the compensation by
5 either the employer or the insurance carrier shall, to the extent
6 thereof, be a bar to the recovery against the other of the amount so
7 paid.

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

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

22 D. 1. Every such policy issued to cover a risk in this state
23 shall include provisions giving the insured employer the option of
24 choosing a deductible amount for medical benefits in amounts ranging

1 from Five Hundred Dollars (\$500.00) to Two Thousand Five Hundred
2 Dollars (\$2,500.00) in increments of Five Hundred Dollars (\$500.00).
3 The policy issued may also include separate provisions giving the
4 insured employer the option of choosing a deductible amount for
5 indemnity benefits in amounts ranging from Five Hundred Dollars
6 (\$500.00) to Two Thousand Five Hundred Dollars (\$2,500.00) in
7 increments of Five Hundred Dollars (\$500.00). The insured employer,
8 if choosing to exercise the option, shall choose only one deductible
9 amount.

10 2. If an insured employer exercises the option and chooses a
11 medical benefits deductible or indemnity benefits deductible, the
12 insured employer shall be liable for the amount of the deductible or
13 deductibles for the medical or indemnity benefits paid for each
14 claim of work injury suffered by an injured employee.

15 3. The Insurance Commissioner, in exercising the authority to
16 approve the form of the policy to be issued, shall not approve any
17 policy form that permits, directly or indirectly, any part of the
18 deductible to be charged to or passed on to the injured worker or
19 insurer.

20 4. The insurer shall pay the entire cost of medical bills
21 directly to the provider of the services and then seek reimbursement
22 from the insured employer for the deductible amount. The insurer
23 shall pay the entire cost of the indemnity benefits as if no
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1 deductible were in place and then seek reimbursement from the
2 insured employer for the deductible amount.

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

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

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

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

22 F. Every contract or agreement of an employer the purpose of
23 which is to indemnify the employer from loss or damage on account of
24 the injury of an employee by accidental means, or on account of the

1 negligence of such employer or the employer's officer, agent or
2 servant shall be absolutely void unless it shall also cover
3 liability for the payment of the compensation provided for in this
4 title.

5 G. If any indemnity payment is in controversy, the entire
6 amount in controversy shall be placed in a designated escrow account
7 for which any excess above the amount in controversy shall be used
8 for the purpose of future medical care of an injured worker or any
9 fees and costs associated with the vocational rehabilitation of the
10 injured worker as provided by Section 16 of this title.

11 H. No contract of insurance issued by a stock company or mutual
12 association or other concern against the liability arising under
13 this title shall be canceled within the time limited in such
14 contract for its expiration until at least ten (10) days after
15 notice of intention to cancel such contract, on a date specified in
16 such notice, shall be filed in the office of the Administrator and
17 also served on the employer. Such notice shall be served on the
18 employer by delivering it to the employer or by sending it by mail,
19 by registered letter, addressed to the employer at the employer's
20 last-known place of residence; provided, that if the employer be a
21 partnership, then such notice may be so given to any one of the
22 partners, and if the employer be a corporation, then the notice may
23 be given to any agent or officer of the corporation upon whom legal
24 process may be served. Provided, however, if a contract of

1 insurance has been terminated by an employer insured thereunder who
2 has obtained other compensation insurance, as evidenced by filing in
3 compliance with Section 61 of this title, and no intervening rights
4 of any employee are involved, omission of a predecessor insurer to
5 file notice of time of termination of liability shall not constitute
6 basis for imposition of liability against such predecessor insurer.

7 SECTION 2. This act shall become effective November 1, 2008.

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9 51-2-9192 MMP 12/13/07

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