

ENROLLED SENATE
BILL NO. 2046

By: Brown and Gumm of the
Senate

and

Ritze, Hickman and Moore of
the House

An Act relating to insurance; amending 36 O.S. 2001, Section 307, as last amended by Section 4, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2009, Section 307), which relates to duties of the Insurance Commissioner; requiring the Insurance Commissioner to administer and enforce certain laws; creating the Health Care Choice Act; providing short title; authorizing the Insurance Commissioner to negotiate certain compacts with other states; providing for the disapproval of such compacts by the legislature or Governor; deeming approval and effectiveness of the compact under certain conditions; specifying how certain examination by the Insurance Commissioner should be conducted; exempting certain insurers from offering certain benefits; authorizing domestic insurers to sell certain policies; requiring certain applications to contain specified provisions; requiring certain health benefit plan to contain specified provisions; making certain insurers subject to premium taxes; authorizing the Insurance Commissioner to promulgate certain rules; specifying conditions that certain foreign insurers must meet in order to sell certain health benefit plans; amending 36 O.S. 2001, Section 6537, as amended by Section 3, Chapter 404, O.S.L. 2008 (36 O.S. Supp. 2009, Section 6537), which relates to the Health Insurance High Risk Pool; authorizing the establishment and

operation of other high risk pools; authorizing the Board of Directors to use funds from other sources to operate other pools; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 307, as last amended by Section 4, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2009, Section 307), is amended to read as follows:

Section 307. The Insurance Commissioner shall be charged with the duty of administration and enforcement of the provisions of the Oklahoma Insurance Code and of any requirements placed on an insurance company pursuant to ~~subsection L of section 1111 of Title 47 of the Oklahoma Statutes or any other law applicable within this state.~~ The Insurance Commissioner shall have jurisdiction over complaints against all persons engaged in the business of insurance, and shall hear all matters either in person, by authorized disinterested employees, or by hearing examiners appointed by the Commissioner for that purpose. It shall be the duty of the Insurance Commissioner to file and safely keep all books and papers required by law to be filed with the Insurance Department, and to keep and preserve in permanent form a full record of proceedings, including a concise statement of the conditions of such insurers and other entities reported and examined by the Department and its examiners. The Commissioner shall, annually, at the earliest practicable date after returns are received from the several authorized insurers and other organizations, make a report to the Governor of the State of Oklahoma of the affairs of the Office of the Insurance Commissioner, which report shall contain a tabular statement and synopsis of the several statements, as accepted by the Insurance Commissioner, which shall include with respect to each insurance company the admitted assets, liabilities except capital, capital and surplus, Oklahoma premium income, amount of claims paid in Oklahoma, and such other matters as may be of benefit to the public. The Commissioner may educate consumers and make recommendations regarding the subject of insurance in this state, and shall set forth in a statement the various sums received and

disbursed by the Department, from and to whom and for what purpose. Such report shall be published by and subject to the order of the said Insurance Commissioner. The Insurance Commissioner shall, upon retiring from office, deliver to the qualified successor all furniture, records, papers and property of the office.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4413 of Title 36, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 4 of this act shall be known and may be cited as the "Health Care Choice Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4414 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Legislature recognizes the need for individuals, employers, and other purchasers of health insurance coverage in this state to have the opportunity to choose health insurance plans that are more affordable and flexible than existing market policies offering accident and health coverage. Therefore, the Oklahoma Legislature seeks to increase the availability of health insurance coverage by allowing insurers authorized to engage in the business of insurance in other states to issue accident and health policies in Oklahoma.

B. The Insurance Commissioner may negotiate one or more compacts with other states to allow insurers domiciled in such compacting states to sell specified lines of coverage in Oklahoma without being granted a certificate of authority by Oklahoma. Such compacts shall provide for appropriate protection of Oklahoma consumers by allowing the Commissioner to regulate the market conduct and financial solvency of the nonadmitted insurers pursuant to compact provisions. The terms of any such compact shall be presumed a valid exercise of the discretionary authority of the Commissioner. The compact shall be subject to disapproval by a majority vote of both houses of the state legislature, in the form of a concurrent resolution, or by the Governor, in the form of an executive order. Such disapproval by the legislature or by the governor shall be done prior to the effective date of the compact, if the effective date occurs while the legislature is in session.

If the legislature is not in session on the presumed effective date of the compact, the compact may be disapproved within fifteen (15) days of the commencement of the next legislative session. If the legislature or the Governor does not disapprove the compact within the specified time periods, the compact shall be deemed approved and shall become effective upon the effective date specified in the compact.

C. Any examination by the Commissioner of the market conduct and solvency of any out-of-state companies seeking to offer health benefit plans in this state, or who have been given approval to offer health benefit plans in this state, shall be conducted in the same manner and under the same terms and conditions as examinations of companies located in this state.

D. The out-of-state insurers shall not be required to offer or provide state-mandated health benefits required by Oklahoma law or regulations in health insurance policies sold to Oklahoma residents.

E. Domestic insurers authorized to sell specified lines of coverage in Oklahoma may sell policies that are substantially comparable to policies sold by out-of-state insurers pursuant to this section. Domestic insurers selling policies pursuant to this section shall be required to comply with the provisions of this section.

F. Each written application for participation in an out-of-state health benefit plan shall contain the following language in boldface type at the beginning of the document:

"This policy is primarily governed by the laws of (insert state where the master policy is filed); therefore, all of the rating laws applicable to policies filed in this state do not apply to this policy, which may result in increases in your premium at renewal that would not be permissible in an Oklahoma-approved policy. Any purchase of individual health insurance should be considered carefully since future medical conditions may make it impossible to qualify for another individual health policy. For information concerning individual health coverage under an Oklahoma-approved policy, please consult your insurance agent or the Oklahoma Department of Insurance."

G. Each out-of-state health benefit plan shall contain the following language in boldface type at the beginning of the document:

"The benefits of this policy providing your coverage are governed primarily by the law of a state other than Oklahoma. While this health benefit plan may provide you a more affordable health insurance policy, it may also provide fewer health benefits than those normally included as state-mandated health benefits in policies in Oklahoma. Please consult your insurance agent to determine which Oklahoma state-mandated health benefits are excluded under this policy."

H. Nonadmitted, out-of-state insurers selling specified lines of coverage in Oklahoma pursuant to the provisions of the Health Care Choice Act shall be subject to payment of any applicable premium taxes pursuant to Section 624 of Title 36 of the Oklahoma Statutes.

I. The Commissioner may promulgate rules necessary for the administration and implementation of the Health Care Choice Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4416 of Title 36, unless there is created a duplication in numbering, reads as follows:

Pursuant to the provisions of the Health Care Choice Act, a foreign health insurer may sell, offer and provide a health benefit plan to residents in this state, if that insurer:

1. Offers the same health benefits plan in its domiciliary state and is in compliance with all applicable laws, regulations, and other requirements of its domiciliary state;
2. Obtains a certificate of authority to do business as a foreign health insurer in the state pursuant to the provisions of Section 3 of this act;
3. Participates, on a nondiscriminatory basis, in the Oklahoma Life and Health Insurance Guaranty Association Act; and

4. Participates on a nondiscriminatory basis and in the same manner as admitted, participating insurers to the Health Insurance High Risk Pool.

SECTION 5. AMENDATORY 36 O.S. 2001, Section 6537, as amended by Section 3, Chapter 404, O.S.L. 2008 (36 O.S. Supp. 2009, Section 6537), is amended to read as follows:

Section 6537. The Health Insurance High Risk Pool may:

1. Exercise powers granted to insurers under the laws of this state;

2. Sue or be sued;

3. In addition to imposing assessments under Section 6536 of this title, levy interim assessments against insurers and reinsurers to ensure the financial ability of the plan to cover claims, expenses and administrative expenses incurred or estimated to be incurred in the operation of the plan prior to the end of a calendar year. Any interim assessment shall be due and payable within thirty (30) days of the receipt of the assessment notice by the insurer. Interim assessments shall be credited against the insurer's and reinsurer's annual assessment; ~~and~~

4. Request the Insurance Commissioner to check the reports, records, books and papers of the Insurance Department to determine the financial condition of an insurer for purposes of Section 6540 of this title; and

5. Have the authority to establish and operate other high risk pools which shall not be funded by assessments as provided for in Section 6536 of this title. The Board of Directors of the Health Insurance High Risk Pool may use funds from other sources as they become available to operate other pools established pursuant to this paragraph.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 25th day of May, 2010.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2010.

Presiding Officer of the House
of Representatives