

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2445

By: Quinn of the House

and

Aldridge of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to workers' compensation; amending 85
12 O.S. 2011, Sections 375, 379 and 382, which relate to
13 CompSource Oklahoma; requiring CompSource to operate
14 as a member insurer; limiting liability for certain
15 assessments; limiting liability in the event of
16 insolvency of CompSource; modifying powers and duties
17 of Board of Managers of CompSource; specifying
18 reinsurance purchased by CompSource or the Oklahoma
19 Property and Casualty Insurance Guaranty Association
20 may be used for payment of certain losses; and
21 providing an effective date.

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

23 SECTION 1. AMENDATORY 85 O.S. 2011, Section 375, is
24 amended to read as follows:

1 Section 375. There is hereby created and established a fund to
2 be known as "CompSource Oklahoma", to be administered by a President
3 and Chief Executive Officer, without liability on the part of the
4 state beyond the amount of said fund, for the purpose of insuring
5 employers against liability for compensation under Sections ~~131~~ 375
6 through ~~151~~ 401 of this title, and for assuring for the persons
7 entitled thereto compensation provided by the workers' compensation
8 law, and for the further purpose of insuring persons, firms and
9 corporations against loss, expense or liability by reason of bodily
10 injury, death by accident, occupational disability, or occupational
11 disease suffered by employees, for which the insured may be liable
12 or have assumed liability. Said fund may further provide insurance
13 for employers against liability incurred as the result of injuries
14 sustained by employees engaged in employment subject to the
15 Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C.,
16 Section 901 et seq., or employees engaged in employment subject to
17 Title IV of the Federal Coal Mine Health and Safety Act of 1969 as
18 amended by the Black Lung Benefits Act of 1972, as enacted or as may
19 be amended by the Congress of the United States.

20 (a) Effective November 1, 2012, CompSource Oklahoma shall
21 operate as a workers' compensation insurer subject to all of the
22 applicable provisions of Title 36 of the Oklahoma Statutes.
23 Effective November 1, 2012, and after receiving a certificate of

1 authority from the Department of Insurance, CompSource Oklahoma
2 shall be deemed a "member insurer" under the Oklahoma Property and
3 Casualty Insurance Guaranty Association Act, Article 20A of Title 36
4 of the Oklahoma Statutes. Notwithstanding any other provisions of
5 this section, CompSource Oklahoma is only liable for assessments by
6 the Oklahoma Property and Casualty Insurance Guaranty Fund, and the
7 Fund, with respect to an insolvency of CompSource Oklahoma, shall
8 only be liable for a claim with a date of injury that occurs after
9 November 1, 2012. CompSource Oklahoma shall be a revolving fund and
10 shall consist of all premiums received and paid into said fund for
11 insurance issued, all property and securities acquired by and
12 through the use of monies belonging to the fund and all interest
13 earned upon monies belonging to the fund and deposited or invested
14 as herein provided.

15 (b) Said fund shall be applicable to the payment of losses
16 sustained on account of insurance and to the payment of expenses in
17 the manner provided in Sections ~~131~~ 375 through ~~151~~ 401 of this
18 title.

19 (c) Said fund shall be fairly competitive with other insurance
20 carriers and it is the intent of the Legislature that said fund
21 shall become neither more nor less than self-supporting.

22 (d) CompSource Oklahoma shall ~~report to the Insurance~~
23 ~~Commissioner no later than the last day of February of each year the~~

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1 ~~amount~~ be subject to the requirements of Title 36 of the Oklahoma
2 Statutes including the payment of premium taxes and any taxes, other
3 than premium taxes, or fees for which it would be liable if it were
4 operating as a private carrier domestic mutual insurance company.

5 (e) The official name of the fund which is known as "The State
6 Insurance Fund" shall be designated in all future references as
7 "CompSource Oklahoma". Any references in the Oklahoma Statutes to
8 The State Insurance Fund shall be deemed references to CompSource
9 Oklahoma.

10 SECTION 2. AMENDATORY 85 O.S. 2011, Section 379, is
11 amended to read as follows:

12 Section 379. The CompSource Oklahoma President and Chief
13 Executive Officer is hereby vested with full power, authority and
14 jurisdiction over CompSource Oklahoma. He or she shall perform any
15 duties which are necessary or convenient in the exercise of any
16 power, authority, or jurisdiction over the fund in the
17 administration thereof, or in connection with the insurance business
18 to be carried on by him or her under the provisions of Sections ~~131~~
19 375 through ~~151~~ 401 of this title as fully and completely as a
20 governing body of a private insurance carrier might or could do
21 including the acquisition, operation and maintenance of an
22 electronic data processing facility.

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1 The Board of Managers of CompSource Oklahoma shall function in
2 all aspects as a governing body of a domestic mutual insurance
3 company and have full power and authority to ~~fix and determine the~~
4 propose rates to be charged by CompSource Oklahoma for insurance.
5 The Board shall engage the services of an independent actuary who is
6 a member in good standing with the Casualty Actuary Society or the
7 American Academy of Actuaries to develop and recommend actuarially
8 sound rates. CompSource Oklahoma shall be subject to the
9 requirements of Title 36 of the Oklahoma Statutes and shall include
10 the recommendations of its independent actuary as part of its filing
11 under that title.

12 SECTION 3. AMENDATORY 85 O.S. 2011, Section 382, is
13 amended to read as follows:

14 Section 382. A. In conducting the business and affairs of
15 CompSource Oklahoma, the CompSource Oklahoma President and Chief
16 Executive Officer, or other officer to whom such power and authority
17 may be delegated by the CompSource Oklahoma President and Chief
18 Executive Officer, as provided by Section ~~133~~ 381 of this title,
19 shall have full power and authority:

20 1. To enter into contracts of insurance, insuring employers
21 against liability for compensation, and insuring to employees and
22 other persons entitled thereto compensation as provided by the
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1 Workers' Compensation Act Code, ~~Section 1 et seq.~~ Sections 301
2 through 413 of this title;

3 2. To decline to insure any risk in which the minimum
4 requirements of the law with regard to construction, equipment and
5 operation are not observed, or which is beyond the safe carrying of
6 CompSource Oklahoma, but shall not have power or authority, except
7 as otherwise provided in this act to refuse to insure any
8 compensation risk tendered with the premium therefor;

9 3. To enter into contracts of insurance insuring persons, firms
10 and corporations against loss, expense or liability by reason of
11 bodily injury, death by accident, occupational disability, or
12 occupational disease suffered by employees for which the insured may
13 be liable or have assumed liability, including, but not limited to,
14 contracts of insurance or reinsurance for the purpose of insuring
15 employers operating in this state and their employees who may work
16 outside this state;

17 4. To purchase reinsurance for any risk or any portion of any
18 risk of CompSource Oklahoma. The purchase of reinsurance may be
19 made through intermediaries, exclusive of the provisions of The
20 Oklahoma Central Purchasing Act;

21 5. To inspect and audit, cause to be inspected and audited, or
22 require production of the records of employers insured with or
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1 applying for insurance with CompSource Oklahoma against liability
2 for compensation;

3 6. To contract with physicians, surgeons and hospitals for
4 medical and surgical treatment and the care and nursing of injured
5 persons entitled to benefits from said fund;

6 7. To meet the reasonable expenses of conducting the business
7 of CompSource Oklahoma;

8 8. To produce a reasonable surplus to cover catastrophe hazard;
9 and

10 9. To administer a program in compliance with Section 924.3 of
11 Title 36 of the Oklahoma Statutes, whereby employers may appeal
12 rating classification decisions which are disputed. CompSource
13 Oklahoma shall notify employers of the availability of the program.

14 B. CompSource Oklahoma must be funded through actuarially sound
15 rates and premiums charged to its policyholders.

16 C. CompSource Oklahoma shall establish and use rates and rating
17 plans to assure that it is self-funding while those rates are in
18 effect.

19 D. No later than September 1 of each year, CompSource Oklahoma
20 shall obtain an independent actuarial certification of the results
21 of its operations for prior years.

22 E. Any premium or assessments collected by CompSource Oklahoma
23 in excess of the amount necessary to fund its projected ultimate
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1 incurred losses and expenses and not paid to policyholders insured
2 under CompSource Oklahoma in conjunction with dividend programs
3 shall be retained by CompSource Oklahoma.

4 F. CompSource Oklahoma losses are the sole and exclusive
5 responsibility of CompSource Oklahoma, and payment for such losses
6 must be funded in accordance with this section and must not come,
7 directly or indirectly, from insurers ~~or any guaranty association~~
8 ~~for such insurers~~, except for reinsurance purchased by CompSource
9 Oklahoma or the Oklahoma Property and Casualty Insurance Guaranty
10 Association.

11 SECTION 4. This act shall become effective November 1, 2012.

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13 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 03/05/2012 - DO
14 PASS, As Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.