

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2445

By: Quinn

4
5 AS INTRODUCED

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

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

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

21 Section 375. There is hereby created and established a fund to
22 be known as "CompSource Oklahoma", to be administered by a President
23 and Chief Executive Officer, without liability on the part of the
24 state beyond the amount of said fund, for the purpose of insuring
25 employers against liability for compensation under Sections ~~131~~ 375
26 through ~~151~~ 401 of this title, and for assuring for the persons
27 entitled thereto compensation provided by the workers' compensation
28 law, and for the further purpose of insuring persons, firms and

1 corporations against loss, expense or liability by reason of bodily
2 injury, death by accident, occupational disability, or occupational
3 disease suffered by employees, for which the insured may be liable
4 or have assumed liability. Said fund may further provide insurance
5 for employers against liability incurred as the result of injuries
6 sustained by employees engaged in employment subject to the
7 Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C.,
8 Section 901 et seq., or employees engaged in employment subject to
9 Title IV of the Federal Coal Mine Health and Safety Act of 1969 as
10 amended by the Black Lung Benefits Act of 1972, as enacted or as may
11 be amended by the Congress of the United States.

12 (a) Effective November 1, 2012, CompSource Oklahoma shall
13 operate as a workers' compensation insurer subject to all of the
14 applicable provisions of Title 36 of the Oklahoma Statutes.
15 Effective November 1, 2012, and after receiving a certificate of
16 authority from the Department of Insurance, CompSource Oklahoma
17 shall be deemed a "member insurer" under the Oklahoma Property and
18 Casualty Insurance Guaranty Association Act, Article 20A of Title 36
19 of the Oklahoma Statutes. Notwithstanding any other provisions of
20 this section, CompSource Oklahoma is only liable for assessments by
21 the Oklahoma Property and Casualty Insurance Guaranty Fund, and the
22 Fund, with respect to an insolvency of CompSource Oklahoma, shall
23 only be liable for a claim with a date of injury that occurs after
24 November 1, 2012. CompSource Oklahoma shall be a revolving fund and

1 shall consist of all premiums received and paid into said fund for
2 insurance issued, all property and securities acquired by and
3 through the use of monies belonging to the fund and all interest
4 earned upon monies belonging to the fund and deposited or invested
5 as herein provided.

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

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

13 (d) CompSource Oklahoma shall ~~report to the Insurance~~
14 ~~Commissioner no later than the last day of February of each year the~~
15 ~~amount~~ be subject to the requirements of Title 36 of the Oklahoma
16 Statutes including the payment of premium taxes, maintenance taxes,
17 and any other taxes or fees for which it would be liable if it were
18 operating as a ~~private carrier~~ domestic mutual insurance company.

19 (e) The official name of the fund which is known as "The State
20 Insurance Fund" shall be designated in all future references as
21 "CompSource Oklahoma". Any references in the Oklahoma Statutes to
22 The State Insurance Fund shall be deemed references to CompSource
23 Oklahoma.

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

3 Section 379. The CompSource Oklahoma President and Chief
4 Executive Officer is hereby vested with full power, authority and
5 jurisdiction over CompSource Oklahoma. He or she shall perform any
6 duties which are necessary or convenient in the exercise of any
7 power, authority, or jurisdiction over the fund in the
8 administration thereof, or in connection with the insurance business
9 to be carried on by him or her under the provisions of Sections ~~131~~
10 375 through ~~151~~ 401 of this title as fully and completely as a
11 governing body of a private insurance carrier might or could do
12 including the acquisition, operation and maintenance of an
13 electronic data processing facility.

14 The Board of Managers of CompSource Oklahoma shall function in
15 all aspects as a governing body of a domestic mutual insurance
16 company and have full power and authority to ~~fix and determine the~~
17 propose rates to be charged by CompSource Oklahoma for insurance.
18 The Board shall engage the services of an independent actuary who is
19 a member in good standing with the Casualty Actuary Society or the
20 American Academy of Actuaries to develop and recommend actuarially
21 sound rates. CompSource Oklahoma shall be subject to the
22 requirements of Title 36 of the Oklahoma Statutes and shall include
23 the recommendations of its independent actuary as part of its filing
24 under that title.

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

3 Section 382. A. In conducting the business and affairs of
4 CompSource Oklahoma, the CompSource Oklahoma President and Chief
5 Executive Officer, or other officer to whom such power and authority
6 may be delegated by the CompSource Oklahoma President and Chief
7 Executive Officer, as provided by Section ~~133~~ 381 of this title,
8 shall have full power and authority:

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

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

20 3. To enter into contracts of insurance insuring persons, firms
21 and corporations against loss, expense or liability by reason of
22 bodily injury, death by accident, occupational disability, or
23 occupational disease suffered by employees for which the insured may
24 be liable or have assumed liability, including, but not limited to,

1 contracts of insurance or reinsurance for the purpose of insuring
2 employers operating in this state and their employees who may work
3 outside this state;

4 4. To purchase reinsurance for any risk or any portion of any
5 risk of CompSource Oklahoma. The purchase of reinsurance may be
6 made through intermediaries, exclusive of the provisions of The
7 Oklahoma Central Purchasing Act;

8 5. To inspect and audit, cause to be inspected and audited, or
9 require production of the records of employers insured with or
10 applying for insurance with CompSource Oklahoma against liability
11 for compensation;

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

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

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

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

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

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

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

7 E. Any premium or assessments collected by CompSource Oklahoma
8 in excess of the amount necessary to fund its projected ultimate
9 incurred losses and expenses and not paid to policyholders insured
10 under CompSource Oklahoma in conjunction with dividend programs
11 shall be retained by CompSource Oklahoma.

12 F. CompSource Oklahoma losses are the sole and exclusive
13 responsibility of CompSource Oklahoma, and payment for such losses
14 must be funded in accordance with this section and must not come,
15 directly or indirectly, from insurers ~~or any guaranty association~~
16 ~~for such insurers~~, except for reinsurance purchased by CompSource
17 Oklahoma or the Oklahoma Property and Casualty Insurance Guaranty
18 Association.

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

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