

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2788

By: Ortega

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 1250.7, which relates to the acceptance or
9 denial of certain insurance claims; requiring the
10 payment of certain claims within certain period;
11 specifying requirements; providing for exception;
12 requiring issuance of funds in certain circumstances;
13 specifying requirements; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1250.7, is
17 amended to read as follows:

18 Section 1250.7 A. Within forty-five (45) days after receipt by
19 a property and casualty insurer of properly executed proofs of loss,
20 the first party claimant shall be advised of the acceptance or
21 denial of the claim by the insurer, or if further investigation is
22 necessary. No property and casualty insurer shall deny a claim
23 because of a specific policy provision, condition, or exclusion
24 unless reference to such provision, condition, or exclusion is
included in the denial. A denial shall be given to any claimant in

1 writing, and the claim file of the property and casualty insurer
2 shall contain a copy of the denial. If there is a reasonable basis
3 supported by specific information available for review by the
4 Commissioner that the first party claimant has fraudulently caused
5 or contributed to the loss, a property and casualty insurer shall be
6 relieved from the requirements of this subsection. In the event of
7 a weather-related catastrophe or a major natural disaster, as
8 declared by the Governor, the Insurance Commissioner may extend the
9 deadline imposed under this subsection an additional twenty (20)
10 days.

11 B. If a claim is denied for reasons other than those described
12 in subsection A of this section, and is made by any other means than
13 writing, an appropriate notation shall be made in the claim file of
14 the property and casualty insurer until such time as a written
15 confirmation can be made.

16 C. Every property and casualty insurer shall complete
17 investigation of a claim within sixty (60) days after notification
18 of proof of loss unless such investigation cannot reasonably be
19 completed within such time. If such investigation cannot be
20 completed, or if a property and casualty insurer needs more time to
21 determine whether a claim should be accepted or denied, it shall so
22 notify the claimant within sixty (60) days after receipt of the
23 proofs of loss, giving reasons why more time is needed. If the
24 investigation remains incomplete, a property and casualty insurer

1 shall, within sixty (60) days from the date of the initial
2 notification, send to such claimant a letter setting forth the
3 reasons additional time is needed for investigation. Except for an
4 investigation of possible fraud or arson which is supported by
5 specific information giving a reasonable basis for the
6 investigation, the time for investigation shall not exceed one
7 hundred twenty (120) days after receipt of proof of loss. Provided,
8 in the event of a weather-related catastrophe or a major natural
9 disaster, as declared by the Governor, the Insurance Commissioner
10 may extend this deadline for investigation an additional twenty (20)
11 days.

12 D. Insurers shall not fail to settle first party claims on the
13 basis that responsibility for payment should be assumed by others
14 except as may otherwise be provided by policy provisions.

15 E. Insurers shall not continue or delay negotiations for
16 settlement of a claim directly with a claimant who is neither an
17 attorney nor represented by an attorney, for a length of time which
18 causes the claimant's rights to be affected by a statute of
19 limitations, or a policy or contract time limit, without giving the
20 claimant written notice that the time limit is expiring and may
21 affect the claimant's rights. Such notice shall be given to first
22 party claimants thirty (30) days, and to third party claimants sixty
23 (60) days, before the date on which such time limit may expire.

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1 F. No insurer shall make statements which indicate that the
2 rights of a third party claimant may be impaired if a form or
3 release is not completed within a given period of time unless the
4 statement is given for the purpose of notifying a third party
5 claimant of the provision of a statute of limitations.

6 G. If a lawsuit on the claim is initiated, the time limits
7 provided for in this section shall not apply.

8 H. If property damage loss claims are paid to a mortgagee, the
9 mortgagee shall release the claim funds to the insured claimant no
10 later than ten (10) days after the insured claimant provides proof
11 that the claim repairs have been made. The mortgagee shall not
12 require the insured claimant to repair any portion of the property
13 not associated with the property damage loss claim. If the
14 mortgagee determines that there is sufficient reason to withhold the
15 claim funds from the insured claimant, the mortgagee shall provide
16 the insured claimant those reasons in writing.

17 I. If a property damage loss claim exceeds Twenty Thousand
18 Dollars (\$20,000.00), the insurer or mortgagee shall issue fifty
19 percent (50%) of the claim funds directly to the insured claimant
20 for use as security for any contractor repairing the property damage
21 or for the purchase of materials needed for repair. The insurer or
22 mortgagee may require written verification of payment to a
23 contractor or contractors by the insured claimant.

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SECTION 2. This act shall become effective November 1, 2012.

53-2-8401 SDR 01/11/12