

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2863

By: Shelton

AS INTRODUCED

An Act relating to insurance; creating the Earthquake Insurance Act of 2012; defining terms; requiring certain insurers to offer insurance for losses due to earthquakes; specifying period in which offer shall be made; specifying contents of mandatory offer; authorizing Insurance Commissioner to approve certain modifications to mandatory offer; specifying optional methods insurers may use to provide coverage; requiring insurers to maintain proof of the offer of coverage; providing for the renewal or modification of certain policies; requiring insurers to offer coverage periodically or at renewal of policy; requiring insurers to provide certain notice to insured if coverage is declined by the insured; prohibiting insurers from discriminating against insured for acceptance of coverage; specifying fire insurance policies shall not be exempted by earthquake-related fires; requiring insurers to disclose certain discounts and surcharges available to insured; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6975.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

1 A. Sections 1 through 11 of this act shall be known and may be
2 cited as the "Earthquake Insurance Act of 2012".

3 B. As used in the Earthquake Insurance Act of 2012:

4 1. "Residential property insurance" means a policy that insures
5 a residential structure of not more than four dwelling units, a
6 condominium unit, or a manufactured home or mobile home, and their
7 contents, located in this state, or a tenant's policy insuring
8 personal contents of a residential unit. Excluded from this
9 definition are:

10 a. insurance for real property or its contents used for
11 any commercial, industrial, or business purpose,
12 except a structure of four or fewer dwelling units,
13 and

14 b. an insurance policy that does not include any peril
15 insured against in a standard fire policy; and

16 2. "Mandatory offer" means the offer of earthquake insurance
17 specified in Section 2 of this act.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6975.2 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 No policy of residential property insurance may be issued, or
22 for policies in effect on November 1, 2012, initially renewed, by
23 any insurer unless the named insured is offered coverage for loss
24 caused by the peril of earthquake.

1 1. That coverage may be provided in the residential-property-
2 insurance policy by policy provision or by endorsement, or in a
3 separate insurance policy.

4 2. The offer may be made by the insurer, or by an agent or
5 broker acting at the direction and on behalf of the insurer.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6975.3 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

9 A. The mandatory offer required pursuant to Section 2 of the
10 Earthquake Insurance Act of 2012 may be made:

11 1. Before the issuance or renewal of the residential property
12 insurance policy;

13 2. When the residential property insurance policy is issued or
14 renewed; or

15 3. Within sixty (60) days following the residential-property-
16 insurance policy issuance or renewal.

17 B. The mandatory offer shall be directed to the applicant or
18 insured and state the following:

19 "1. Your homeowners insurance policy does cover loss from
20 earthquakes;

21 2. Oklahoma law requires that your insurer offer you earthquake
22 coverage. It is your option whether to accept that offer;

23 3. Earthquake insurance coverage may be different from your
24 homeowners insurance coverage. It may provide less protection, and

1 it may have exclusions and limitations that are not present in your
2 homeowners policy;

3 4. This disclosure form is not part of your earthquake
4 insurance policy. Only your earthquake insurance policy determines
5 whether a loss is covered, and if so, the amount payable;

6 5. The company will provide within ten (10) days of your
7 written request an explanation of the cost and details of the
8 earthquake coverages available for your structure, your personal
9 property, and the cost of living outside your home if you cannot
10 return home because of earthquake-related damage; and

11 6. Your earthquake coverage will become effective on the day we
12 receive your signed acceptance of this offer.”

13 C. The signature of the applicant or insured accepting the
14 mandatory offer, or the failure of the applicant or insured to
15 return a signed mandatory offer within sixty (60) days of the date
16 it was provided, establish a conclusive presumption that the
17 insurer, agent, or broker has complied with this section.

18 D. The Insurance Commissioner may approve modifications to the
19 mandatory offer that do not conflict with this section or otherwise
20 limit required earthquake insurance provisions or coverages.

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 6975.4 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:

24 An insurer may comply with the mandatory offer requirement by:

- 1 1. Underwriting directly the risk of earthquake loss;
- 2 2. Arranging for earthquake coverage to be offered by an
- 3 affiliated insurer; or
- 4 3. Arranging for earthquake coverage to be offered through a
- 5 nonaffiliated insurer.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 6975.5 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

9 A. Insurers shall maintain proof of mailing or delivery of the
10 mandatory offer of earthquake insurance required pursuant to Section
11 2 of the Earthquake Insurance Act of 2012.

12 B. An election by any named insured to accept or reject the
13 mandatory offer shall be binding on any other person insured and any
14 other party having an insurable interest in the insured property.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6975.6 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 A. After an offer of earthquake coverage is accepted the
19 coverage shall be continued for the policy term, unless the named
20 insured or the insurer terminates the residential property insurance
21 policy or the earthquake insurance policy.

22 B. An insurer may modify an existing earthquake insurance
23 policy if those modifications provide all applicable, required
24 earthquake insurance provisions and coverages.

1 C. An insurer that renews an existing earthquake insurance
2 policy under modified terms and conditions shall clearly explain in
3 or with its renewal notice all the modifications. The Insurance
4 Commissioner is authorized to approve or disapprove the renewal
5 notice, as necessary to assure the notice accurately discloses all
6 relevant information to the policyholder.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6975.7 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 A. If the mandatory offer is not accepted, the insurer shall
11 offer earthquake coverage every other year:

12 1. With any continuation, renewal, or reinstatement of the
13 residential property insurance policy following any lapse; or

14 2. With any other policy that extends, changes, supersedes, or
15 replaces the policy of residential property insurance.

16 B. The named insured may terminate the earthquake insurance
17 policy or coverage at any time.

18 SECTION 8. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6975.8 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 If the named insured does not accept the mandatory offer, the
22 insurer shall notify the named insured that the residential property
23 insurance policy does not provide earthquake coverage, whether
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1 following initial application or before or with renewal of the
2 residential property insurance policy.

3 SECTION 9. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6975.9 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An insurer shall not reject or cancel, or refuse to renew, a
7 residential property insurance policy after acceptance of a
8 mandatory offer solely because of that acceptance, unless the policy
9 is terminated by the named insured.

10 B. Residential property insurance underwriting standards shall
11 not be applied in any discriminatory fashion against a person who
12 accepts or continues earthquake coverage.

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6975.10 of Title 36, unless
15 there is created a duplication in numbering, reads as follows:

16 No provision of the Earthquake Insurance Act of 2012 exempts an
17 insurer from its obligation under a fire insurance policy to cover
18 the losses of a fire that is caused by, or that follows, an
19 earthquake.

20 SECTION 11. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6975.11 of Title 36, unless
22 there is created a duplication in numbering, reads as follows:

23 A. Every insurer subject to the Earthquake Insurance Act of
24 2012, with its mandatory offer, shall:

1 1. Disclose any discounts and surcharges applicable to the
2 offered earthquake insurance coverage; and

3 2. Disclose any discounts or surcharges for earthquake-hazard
4 reductions, including, without limitation, for tying or bracing the
5 dwelling frame to its foundation, reinforcing the fireplace chimney,
6 or securing the water heater.

7 B. All forms of disclosure and all discounts and surcharges are
8 subject to approval of the Insurance Commissioner.

9 C. Each insurer that offers earthquake insurance through agents
10 or brokers shall disclose to them all discounts or surcharges that
11 are required to be disclosed to the applicant or insured under the
12 Earthquake Insurance Act of 2012 and require them to make the
13 disclosures required by this section.

14 SECTION 12. This act shall become effective November 1, 2012.

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