STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 2225 By: Grau

AS INTRODUCED

An Act relating to poor persons; amending 56 O.S. 2011, Section 237B, which relates to child support liens on insurance proceeds; extending applicability to life insurance claims; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 56 O.S. 2011, Section 237B, is amended to read as follows:

Section 237B. A. For the purposes of this section, the word "claimant" has the same meaning as defined in the Unfair Claims Settlement Practices Act in Title 36 of the Oklahoma Statutes and is limited to an individual who makes a personal injury, wrongful death, ~~or~~ workers' compensation or life insurance claim against an insured or under an insurance policy.

B. Prior to remitting Five Hundred Dollars ($500.00) or more on a claim under a contract of insurance, every insurer authorized to transact insurance pursuant to Title 36 of the Oklahoma Statutes shall exchange information with the Oklahoma Department of Human

Services, as set forth in Section 237 of Title 56 of the Oklahoma Statutes, to ascertain whether the claimant owes past due child support to the state or to an individual to whom the Department is providing child support services.

C. The Department shall develop and implement an insurance industry data match reporting system. Such system shall be operated by the Department and shall use data exchanges to compare claimant information held by insurers with the Department's Child Support Enforcement Division's Services' database of child support obligors who owe past due child support.

D. 1. To comply with the requirements of this section, an insurer shall either provide the Department with information about the claimant or match information made available by the Department.

2. An insurer that elects to provide the Department with information about each claimant shall:

a. provide to the Department, not less than ten (10) business days prior to making payment to such claimant:

(1) the claimant's name,

(2) address,

(3) date of birth,

(4) social security number as appearing in the insurer's files, and

(5) such other information appearing in the insurer's files as the Department may require by rule;

b. use a method and format prescribed by the Department; provided, if the insurer is unable to use a method and format prescribed, the insurer shall cooperate with the Department to identify another method or format, including submission of written materials; and

c. be in compliance with the requirements to provide information if the insurer participates in an insurance industry database which contains the necessary information and authorizes the Department to obtain the information from the database for the purpose of compliance with this section and Section 135 of Title 43 of the Oklahoma Statutes.

3. An insurer that elects to match information made available by the Department and such claimant owes past due child support, the insurer shall notify the Department, not less than ten (10) business days prior to making payment to such claimant, of:

a. the claimant's name,

b. address,

c. date of birth,

d. social security number as appearing in the insurer's files, and

e. other information appearing in the insurer's files as the Department may require by rule, using a method and format prescribed by the Department.

E. 1. Upon receiving notice of a match as set forth in this section, the Department's Child Support Enforcement Division Services shall send the insurer a notice of lien pursuant to Section 135 of Title 43 of the Oklahoma Statutes.

2. The insurer shall withhold the full amount of past support as set forth in the notice of lien and shall remit that amount to the Centralized Support Registry as provided by Section 413 of Title 43 of the Oklahoma Statutes.

3. The lien shall encumber the right of the claimant to payment under the policy, and the insurer shall disburse to the claimant only that portion of the payment, if any, after the lien has been satisfied.

F. The child support lien shall be inferior to any lien or claim for:

1. Services and expenses documented and related to the claim, such as attorney fees or health care expenses;

2. Damage to or a loss of real property; or

3. Damage to or a loss of a motor vehicle to the extent that it would be exempt from claims of general creditors pursuant to Section 1 of Title 31 of the Oklahoma Statutes.

G. The provisions of the Employee Retirement Income Security Act limiting, for contracts of insurance, the amounts which may be assigned or attached in order to satisfy child support obligations shall apply to the provisions of this section.

H. 1. An insurer that fails, without reasonable cause, to comply with the data exchange requirements of this section shall be liable for a penalty to the Department in an amount up to Ten Thousand Dollars ($10,000.00) and be subject to an equitable action to compile compliance with the data exchange requirements.

2. In addition to the penalties in the previous paragraph, an insurer that fails to exchange information or that fails or refuses to surrender property subject to a child support lien to the Department shall be liable for the amount of the child support which should have been withheld and paid to the Department.

I. The information obtained by the Department or an insurer pursuant to the provisions of this section shall be used only to aid in collection of child support. Disclosure of the information for any other purpose shall constitute a misdemeanor. Any person convicted of violating this provision shall be subject to a fine not to exceed One Thousand Dollars ($1,000.00) or imprisonment in the county jail for a term not to exceed one (1) year, or both such fine and imprisonment.

J. 1. Upon the request of an insurer, a claimant governed by this section shall provide to the insurer the individual's:

a. current address,

b. date of birth, and

c. social security number.

2. The insurer may inform the claimant that the request is being made in accordance with this section for the purpose of assisting the Department in enforcing child support liens arising pursuant to Section 135 of Title 43 of the Oklahoma Statutes.

3. Any claimant who refuses to provide the information required by this section shall not receive payment on the claim, and the insurer that declines payment on this basis shall be exempt from suit and immune from liability under this section or any other section or in any common law action in law or equity.

K. The Department is authorized to enter into any contracts or cooperative agreements necessary to carry out the provisions of this section.

L. An insurer shall be immune from civil liability to an individual or agency for acting in accordance with this section.

M. The Department shall promulgate rules to implement the provisions of this section.

SECTION 2. This act shall become effective November 1, 2015.

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