

1 **SENATE FLOOR VERSION**

2 February 17, 2020

3 SENATE BILL NO. 1601

By: Paxton

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5  
6 An Act relating to the Insurance Business Transfer  
7 Act; amending Section 3, Chapter 232, O.S.L. 2018, as  
8 amended by Section 2, Chapter 381, O.S.L. 2019 (36  
9 O.S. Supp. 2019, Section 1683), Section 5, Chapter  
10 232, O.S.L. 2018 (36 O.S. Supp. 2019, Section 1685),  
11 and Section 8, Chapter 232, O.S.L. 2018, as amended  
12 by Section 4, Chapter 381, O.S.L. 2019 (36 O.S. Supp.  
13 2019, Section 1688), which relate to definitions,  
14 notice by applicant and fees; amending definitions;  
15 modifying persons Insurance Commissioner is required  
16 to notify in certain circumstances; clarifying  
17 timeline for required fee; and providing an effective  
18 date.

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

20 SECTION 1. AMENDATORY Section 3, Chapter 232, O.S.L.  
21 2018, as amended by Section 2, Chapter 381, O.S.L. 2019 (36 O.S.  
22 Supp. 2019, Section 1683), is amended to read as follows:

23 Section 1683. 1. "Affiliate" has the meaning ascribed to such  
24 term in Section 1631 of Title 36 of the Oklahoma Statutes.

2. "Applicant" means a transferring insurer or reinsurer  
applying under Section 1686 of this title. A transferring insurer  
and assuming insurer may file a joint application and be considered  
a single applicant.

1           3. "Assuming insurer" means an insurer domiciled in the State  
2 of Oklahoma that assumes or seeks to assume policies from a  
3 transferring insurer pursuant to this act. An assuming insurer may  
4 be a company established pursuant to the Oklahoma Captive Insurance  
5 Company Act.

6           4. "Court" means the District Court of Oklahoma County,  
7 Oklahoma.

8           5. "Department" means the Oklahoma Insurance Department.

9           6. "Commissioner" means the Oklahoma Insurance Commissioner.

10          7. "Implementation order" means an order issued by the Court  
11 under Section 1686 of this title.

12          8. "Insurance Business Transfer" means a transfer and novation  
13 in accordance with this act. Insurance Business Transfers will  
14 transfer insurance obligations or risks, or both, of existing or in-  
15 force contracts of insurance or reinsurance from a transferring  
16 insurer to an assuming insurer. Once approved pursuant to this act,  
17 the Insurance Business Transfer will effect a novation of the  
18 transferred contracts of insurance or reinsurance with the result  
19 that the assuming insurer becomes directly liable to the  
20 policyholders of the ~~transferring insurer~~ subject business and the  
21 transferring insurer's insurance obligations or risks, or both,  
22 under the ~~contracts~~ subject business are extinguished.

23          9. "Insurance Business Transfer Plan" or "Plan" means the plan  
24 submitted to the Department to accomplish the transfer and novation

1 pursuant to an Insurance Business Transfer, including any associated  
2 transfer of assets and rights from or on behalf of the transferring  
3 insurer to the assuming insurer.

4 10. "Independent expert" means an impartial person who has no  
5 financial interest in either the assuming insurer or transferring  
6 insurer, has not been employed by or acted as an officer, director,  
7 consultant or other independent contractor for either the assuming  
8 insurer or transferring insurer within the past twelve (12) months,  
9 is not appointed by the Commissioner to assist in any capacity in  
10 any proceeding initiated pursuant to Article 18 or Article 19 of  
11 Title 36 of the Oklahoma Statutes and is receiving no compensation  
12 in connection with the transaction governed by this act other than a  
13 fee based on an hourly basis that is not contingent on the approval  
14 or consummation of an Insurance Business Transfer and provides proof  
15 of insurance coverage that is satisfactory to the Commissioner.

16 11. "Insurer" means an insurance or surety company, including a  
17 reinsurance company, and shall be deemed to include a corporation,  
18 company, partnership, association, society, order, individual or  
19 aggregation of individuals engaging in or proposing or attempting to  
20 engage in any kind of insurance or surety business, including the  
21 exchanging of reciprocal or inter-insurance contracts between  
22 individuals, partnerships and corporations.

23 12. "Policy" means a policy, annuity contract or certificate of  
24 insurance or a contract of reinsurance pursuant to which the insurer

1 agrees to assume an obligation or risk, or both, of the policyholder  
2 or to make payments on behalf of, or to, the policyholder or its  
3 beneficiaries, and shall include property, casualty, life, health  
4 and any other line of insurance the Commissioner finds via  
5 regulation is suitable for an insurance business transfer.

6 13. "Policyholder" means an insured or a reinsured under a  
7 policy that is part of the subject business.

8 14. "Subject business" means the policy or policies that are  
9 the subject of the Insurance Business Transfer Plan.

10 15. "Transfer and novation" means the transfer of insurance  
11 obligations or risks, or both, of existing or in-force policies from  
12 a transferring insurer to an assuming insurer, and is intended to  
13 effect a novation of the transferred policies with the result that  
14 the assuming insurer becomes directly liable to the policyholders of  
15 the ~~transferring insurer on the transferred policies~~ subject  
16 business and the transferring insurer's insurance obligations or  
17 risks, or both, under the ~~transferred policies~~ subject business are  
18 extinguished.

19 16. "Transferring insurer" means an insurer or reinsurer that  
20 transfers and novates or seeks to transfer and novate obligations or  
21 risks, or both, under one or more policies to an assuming insurer  
22 pursuant to an Insurance Business Transfer Plan.

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1 SECTION 2. AMENDATORY Section 5, Chapter 232, O.S.L.  
2 2018 (36 O.S. Supp. 2019, Section 1685), is amended to read as  
3 follows:

4 Section 1685. A. Whenever notice is required to be given by  
5 the applicant under the Insurance Business Transfer Act and except  
6 as otherwise permitted or directed by the court or the Insurance  
7 Commissioner, the applicant shall, within fifteen (15) days of the  
8 event triggering the requirement, cause transmittal of the notice:

9 1. By first-class mail, postage prepaid to the chief insurance  
10 regulator in each jurisdiction in which the ~~applicant~~ transferring  
11 insurer:

- 12 a. holds or has ever held a certificate of authority, and
- 13 b. in which policies that are part of the subject  
14 business were issued or policyholders currently  
15 reside;

16 2. By certified first-class mail, postage prepaid to the  
17 National Conference of Insurance Guaranty Funds, the National  
18 Organization of Life and Health Insurance Guaranty Associations and  
19 all state insurance guaranty associations for the states in which  
20 the ~~applicant~~ transferring insurer:

- 21 a. holds or has ever held a certificate of authority, and
- 22 b. in which policies that are part of the subject  
23 business were issued or policyholders currently  
24 reside;

1           3. To reinsurers of the ~~applicant~~ subject business pursuant to  
2 the notice provisions of the reinsurance agreements applicable to  
3 the policies that are part of the subject business, or where an  
4 agreement has no provision for notice, by internationally recognized  
5 delivery service;

6           4. By United States mail, first-class postage prepaid to all  
7 policyholders holding policies that are part of the subject  
8 business, at their last-known address as indicated by the records of  
9 the applicant or to the address to which premium notices or other  
10 policy documents are sent. A notice of transfer shall also be sent  
11 to the transferring insurer's agents or brokers of record on the  
12 subject business; and

13           5. By publication in a newspaper of general circulation in the  
14 state in which the applicant has its principal place of business and  
15 in such other publications that the Commissioner requires.

16           B. If notice is given in accordance with this section, any  
17 orders under this act shall be conclusive with respect to all  
18 intended recipients of the notice, whether or not they receive  
19 actual notice.

20           C. Where this act requires that the applicant provide notice  
21 but the Commissioner has been named receiver of the applicant, the  
22 Commissioner shall provide the required notice.

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1 SECTION 3. AMENDATORY Section 8, Chapter 232, O.S.L.  
2 2018, as amended by Section 4, Chapter 381, O.S.L. 2019 (36 O.S.  
3 Supp. 2019, Section 1688), is amended to read as follows:

4 Section 1688. A. At the time of filing its final application  
5 with the Insurance Commissioner for review and approval of an  
6 Insurance Business Transfer Plan, the applicant shall pay a  
7 nonrefundable fee to the Insurance Department in the amount of Ten  
8 Thousand Dollars (\$10,000.00).

9 B. In the Commissioner's discretion, in connection with the  
10 Department's participation in the proceedings undertaken pursuant to  
11 the Insurance Business Transfer Act, the applicant shall reimburse  
12 the Department for any compensation and benefits paid to the  
13 personnel of the Department for time spent engaged in the  
14 proceedings, including but not limited to examiners, actuaries,  
15 attorneys, managers and paraprofessionals.

16 C. The Commissioner may retain independent attorneys,  
17 appraisers, actuaries, certified public accountants, or other  
18 professionals and specialists to assist Department personnel in  
19 connection with the review required by the Insurance Business  
20 Transfer Act, the cost of which shall be borne by the applicant.

21 D. The applicant shall pay the expenses of the Department and  
22 its authorized consultants incurred in fulfilling their obligations  
23 under this act, including the actual expenses of the Department or  
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1 the expenses and compensation of any consultants retained by the  
2 Department.

3 E. The transferring insurer and the assuming insurer shall  
4 jointly be obligated to pay any compensation, costs and expenses of  
5 the independent expert and any consultants retained by the  
6 independent expert and approved by the Department incurred in  
7 fulfilling the obligations of the independent expert under this act.  
8 Nothing in this act shall be construed to create any duty for the  
9 independent expert to any party other than the Department or the  
10 Court.

11 F. Failure to pay any of the requisite fees or reimbursements  
12 within thirty (30) days of demand shall be grounds for the  
13 Commissioner to request that the court dismiss the petition for  
14 approval of the Insurance Business Transfer Plan prior to the filing  
15 of an implementation order by the court or, if after the filing of  
16 an implementation order, the Commissioner may suspend or revoke the  
17 assuming insurer's certificate of authority to transact insurance  
18 business in this state.

19 SECTION 4. This act shall become effective November 1, 2020.

20 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE  
21 February 17, 2020 - DO PASS

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