

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1601

By: Paxton

AS INTRODUCED

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

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

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

Section 1683. 1. "Affiliate" has the meaning ascribed to such 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

1 and assuming insurer may file a joint application and be considered
2 a single applicant.

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

8 4. "Court" means the District Court of Oklahoma County,
9 Oklahoma.

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

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

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

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

1 9. "Insurance Business Transfer Plan" or "Plan" means the plan
2 submitted to the Department to accomplish the transfer and novation
3 pursuant to an Insurance Business Transfer, including any associated
4 transfer of assets and rights from or on behalf of the transferring
5 insurer to the assuming insurer.

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

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

1 12. "Policy" means a policy, annuity contract or certificate of
2 insurance or a contract of reinsurance pursuant to which the insurer
3 agrees to assume an obligation or risk, or both, of the policyholder
4 or to make payments on behalf of, or to, the policyholder or its
5 beneficiaries, and shall include property, casualty, life, health
6 and any other line of insurance the Commissioner finds via
7 regulation is suitable for an insurance business transfer.

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

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

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

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

SECTION 2. AMENDATORY Section 5, Chapter 232, O.S.L.

2018 (36 O.S. Supp. 2019, Section 1685), is amended to read as follows:

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

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

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

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

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