

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
BILL NO. 2120

By: McEntire of the House

and

Montgomery of the Senate

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 607.1, as last amended by Section 2, Chapter
73, O.S.L. 2016 (36 O.S. Supp. 2020, Section 607.1),
9 which relates to insurers; modifying conditions that
10 consider an entity an insurer; requiring notice and
11 filing for asserted insolvent insurers; directing
12 compliance with the Insurance Commissioner's
13 requirements; authorizing supervision of insurer;
14 imposing fine; authorizing promulgation of rules; and
15 providing an effective date.

14 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
15 entire bill and insert

16 "An Act relating to insurance; amending 36 O.S. 2011,
17 Section 607.1, as last amended by Section 2, Chapter
18 73, O.S.L. 2016 (36 O.S. Supp. 2020, Section 607.1),
19 which relates to insurers; modifying conditions that
20 consider a certain entity an insurer; requiring
21 notice and filing for asserted insolvent insurers;
22 directing compliance with the Insurance
23 Commissioner's requirements; authorizing supervision
24 of insurer; imposing fine; authorizing promulgation
of rules; and providing an effective date.

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

1 SECTION 1. AMENDATORY 36 O.S. 2011, Section 607.1, as
2 last amended by Section 2, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
3 2020, Section 607.1), is amended to read as follows:

4 Section 607.1. A. An entity organized pursuant to the
5 Interlocal Cooperation Act (an "Interlocal Entity") for the purpose
6 of transacting insurance, ~~except those Interlocal Entities created~~
7 ~~pursuant to the terms of The Governmental Tort Claims Act,~~ and that
8 insures an Oklahoma educational institution shall be considered an
9 insurer ~~at such time that the entity has within a twelve-month~~
10 ~~period received aggregate premiums of One Million Dollars~~
11 ~~(\$1,000,000.00)~~ for all kinds of insurance that the entity
12 transacts. ~~Such an~~ The entity shall ~~be eligible to qualify for and~~
13 hold a certificate of authority to transact insurance in this state.

14 B. ~~Notwithstanding the provisions of subsection A of this~~
15 ~~section, any~~ Any entity organized pursuant to the Interlocal
16 Cooperation Act that insures an Oklahoma educational institution and
17 has within a twelve-month period received premiums or contributions
18 of any amount for any kind of insurance that the Interlocal Entity
19 transacts shall have an annual audit by an independent certified
20 public accountant and shall file an audited financial report by an
21 independent certified public accountant with the Insurance
22 Commissioner within one hundred eighty (180) days immediately
23 following the close of the Interlocal Entity's fiscal year. The
24 annual audited financial report shall be presented in conformity

1 with accounting principles generally accepted in the United States
2 of America and include:

3 1. The report of an independent certified public accountant in
4 accordance with accounting principles generally accepted in the
5 United States of America;

6 2. A balance sheet reporting assets, liabilities and equity;

7 3. A statement of operations;

8 4. A statement of cash flows;

9 5. A statement of changes in assets, liabilities and equity;

10 6. Footnotes to financial statements; and

11 7. An unqualified opinion from the certified public accountant
12 that the audited financial report represents a fair presentation of
13 the Interlocal Entity's financial position in conformity with
14 accounting principles generally accepted in the United States of
15 America.

16 C. Any entity subject to the provisions of subsection B of this
17 section, except those entities which purchase full insurance
18 coverage as determined by the Commissioner, shall file with the
19 Insurance Commissioner an actuarial opinion prepared by a qualified
20 actuary within one hundred eighty (180) days immediately following
21 the close of the Interlocal Entity's fiscal year. The actuarial
22 opinion should certify the amount and adequacy of the Interlocal
23 Entity's reserves for loss and loss adjustment expenses, including
24 amounts for Incurred But Not Reported (IBNR) Claims, and the

1 adequacy of the Interlocal Entity's premiums. The actuarial opinion
2 shall be consistent with the appropriate Actuarial Standards of
3 Practice (ASOP) as promulgated by the Actuarial Standards Board.

4 As used in this section, "qualified actuary" means an individual
5 who is a member of the American Academy of Actuaries and who has met
6 the Qualification Standards for Actuaries Issuing Statements of
7 Actuarial Opinions in the United States promulgated by the American
8 Academy of Actuaries.

9 D. Extensions of the filing date may be granted by the
10 Commissioner for thirty-day periods upon a showing by the Interlocal
11 Entity and its independent certified public accountant or qualified
12 actuary of the reasons for requesting an extension and determination
13 by the Commissioner of good cause for an extension. The request for
14 extension must be submitted in writing not less than ten (10) days
15 prior to the due date in sufficient detail to permit the
16 Commissioner to make an informed decision with respect to the
17 requested extension.

18 E. The Commissioner may assess a fine for failure to file the
19 required annual audit or actuarial opinion in an amount of not more
20 than Five Hundred Dollars (\$500.00) per day.

21 F. The audited financial reports and actuarial opinions
22 required herein are subject to public inspection pursuant to the
23 Oklahoma Open Records Act.

1 G. If there is substantial evidence that an insurer subject to
2 the provisions of this section is insolvent or the condition of that
3 insurer renders the continuance of its business hazardous to the
4 public or to holders of its policies or certificates of insurance or
5 if an insurer has exceeded its powers or fails to comply with the
6 laws of this state, the Insurance Commissioner shall:

7 1. Notify the insurer and its participating members of the
8 determination by the Commissioner that the provisions of this
9 section shall apply;

10 2. Require the insurer to file with the Commissioner a written
11 plan of action to abate the Commissioner's determination within
12 thirty (30) days of receiving notification pursuant to paragraph 1
13 of this subsection; and

14 3. Notify the insurer if the Commissioner determines to further
15 supervise the insurer following receipt of the written plan of
16 action from the insurer.

17 H. 1. An insurer subject to the provisions of subsection G of
18 this section shall comply with any lawful requirements of the
19 Commissioner and if placed under supervision pursuant to paragraph 3
20 of subsection G of this section, shall have ninety (90) days from
21 the date of notice of the supervision except as otherwise provided
22 by the Commissioner, to comply with any additional requirements of
23 the Commissioner.

1 2. The Commissioner may determine at any time during or after
2 the ninety-day period that judicial or administrative proceedings
3 should be initiated to place the insurer in conservation,
4 rehabilitation or liquidation proceedings or other delinquency
5 proceedings, pursuant to Sections 1801 through 1920 of this title.
6 If the insurer does not comply with the requirements of the
7 Commissioner, supervision may continue until such requirements are
8 completed or until the Commissioner approves or completes pursuit of
9 additional options, as provided in the Insurance Code.

10 I. The Commissioner may assess a fine for failure to timely
11 file a written plan of action required under paragraph 2 of
12 subsection G of this section in an amount of not more than Five
13 Hundred Dollars (\$500.00) per day.

14 J. The Commissioner may promulgate rules to implement the
15 provisions of this section.

16 SECTION 2. This act shall become effective November 1, 2021.”
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1 Passed the Senate the 22nd day of April, 2021.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

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9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2120

By: McEntire of the House

3 and

4 Montgomery of the Senate

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7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 607.1, as last amended by Section 2, Chapter
9 73, O.S.L. 2016 (36 O.S. Supp. 2020, Section 607.1),
10 which relates to insurers; modifying conditions that
11 consider an entity an insurer; requiring notice and
12 filing for asserted insolvent insurers; directing
13 compliance with the Insurance Commissioner's
14 requirements; authorizing supervision of insurer;
15 imposing fine; authorizing promulgation of rules; and
16 providing an effective date.

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

18 SECTION 3. AMENDATORY 36 O.S. 2011, Section 607.1, as
19 last amended by Section 2, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
20 2020, Section 607.1), is amended to read as follows:

21 Section 607.1 A. An entity organized pursuant to the
22 Interlocal Cooperation Act (an "Interlocal Entity") for the purpose
23 of transacting insurance, ~~except those Interlocal Entities created~~
24 ~~pursuant to the terms of The Governmental Tort Claims Act, that~~
insures an Oklahoma educational institution shall be considered an
insurer ~~at such time that the entity has within a twelve month~~
~~period received aggregate premiums of One Million Dollars~~

1 ~~(\$1,000,000.00)~~ for all kinds of insurance that the entity
2 transacts. Such an entity shall ~~be eligible to qualify for and~~ hold
3 a certificate of authority to transact insurance in this state.

4 B. ~~Notwithstanding the provisions of subsection A of this~~
5 ~~section, any~~ Any entity organized pursuant to the Interlocal
6 Cooperation Act that insures an Oklahoma educational institution and
7 has within a twelve-month period received premiums or contributions
8 of any amount for any kind of insurance that the Interlocal Entity
9 transacts shall have an annual audit by an independent certified
10 public accountant and shall file an audited financial report by an
11 independent certified public accountant with the Insurance
12 Commissioner within one hundred eighty (180) days immediately
13 following the close of the Interlocal Entity's fiscal year. The
14 annual audited financial report shall be presented in conformity
15 with accounting principles generally accepted in the United States
16 of America and include:

- 17 1. The report of an independent certified public accountant in
18 accordance with accounting principles generally accepted in the
19 United States of America;
- 20 2. A balance sheet reporting assets, liabilities and equity;
- 21 3. A statement of operations;
- 22 4. A statement of cash flows;
- 23 5. A statement of changes in assets, liabilities and equity;
- 24 6. Footnotes to financial statements; and

1 7. An unqualified opinion from the certified public accountant
2 that the audited financial report represents a fair presentation of
3 the Interlocal Entity's financial position in conformity with
4 accounting principles generally accepted in the United States of
5 America.

6 C. Any entity subject to the provisions of subsection B of this
7 section, except those entities which purchase full insurance
8 coverage as determined by the Commissioner, shall file with the
9 Insurance Commissioner an actuarial opinion prepared by a qualified
10 actuary within one hundred eighty (180) days immediately following
11 the close of the Interlocal Entity's fiscal year. The actuarial
12 opinion should certify the amount and adequacy of the Interlocal
13 Entity's reserves for loss and loss adjustment expenses, including
14 amounts for Incurred But Not Reported (IBNR) Claims, and the
15 adequacy of the Interlocal Entity's premiums. The actuarial opinion
16 shall be consistent with the appropriate Actuarial Standards of
17 Practice (ASOP) as promulgated by the Actuarial Standards Board.

18 As used in this section, "qualified actuary" means an individual
19 who is a member of the American Academy of Actuaries and who has met
20 the Qualification Standards for Actuaries Issuing Statements of
21 Actuarial Opinions in the United States promulgated by the American
22 Academy of Actuaries.

23 D. Extensions of the filing date may be granted by the
24 Commissioner for thirty-day periods upon a showing by the Interlocal

1 Entity and its independent certified public accountant or qualified
2 actuary of the reasons for requesting an extension and determination
3 by the Commissioner of good cause for an extension. The request for
4 extension must be submitted in writing not less than ten (10) days
5 prior to the due date in sufficient detail to permit the
6 Commissioner to make an informed decision with respect to the
7 requested extension.

8 E. The Commissioner may assess a fine for failure to file the
9 required annual audit or actuarial opinion in an amount of not more
10 than Five Hundred Dollars (\$500.00) per day.

11 F. The audited financial reports and actuarial opinions
12 required herein are subject to public inspection pursuant to the
13 Oklahoma Open Records Act.

14 G. The Insurance Commissioner shall, if there is substantial
15 reason to believe that any insurer subject to this section is
16 insolvent, or if any such insurer's condition is such as to render
17 the continuance of its business hazardous to the public or to
18 holders of its policies or certificates of insurance, or it has
19 exceeded its powers, or it has failed to comply with the law, or if
20 such insurer gives its consent:

21 1. Notify the insurer and its participating members of the
22 Commissioner's determination;
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1 2. Require the insurer to file with the Insurance Commissioner
2 a written plan of action to abate the Commissioner's determination
3 within thirty (30) days of notification; and

4 3. If the Commissioner makes a further determination to
5 supervise, notify the insurer that it is under supervision pursuant
6 to this section.

7 H. An insurer subject to subsection G of this section shall
8 comply with the lawful requirements of the Commissioner and, if
9 placed under supervision, shall have ninety (90) days from the date
10 of notice within which to comply with the requirements of the
11 Commissioner unless the Commissioner designates a lesser or greater
12 period of time or unless the Commissioner determines at any time
13 during or after the ninety-day period of time that judicial or
14 administrative proceedings should be initiated to place such insurer
15 in conservation, rehabilitation or liquidation proceedings or other
16 delinquency proceedings, pursuant to Sections 1801 through 1920 of
17 this title. If such insurer does not comply with such requirements,
18 such supervision may continue until such requirements are remedied
19 or until the Commissioner approves or completes pursuit of
20 additional options as provided in the Insurance Code.

21 I. The Commissioner may assess a fine for failure to timely
22 file a written plan of action required under subsection G of this
23 section in an amount of not more than Five Hundred Dollars (\$500.00)
24 per day.

1 J. The Insurance Commissioner may promulgate rules to implement
2 the provisions of this section.

3 SECTION 4. This act shall become effective November 1, 2021.

4 Passed the House of Representatives the 9th day of March, 2021.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ____ day of _____, 2021.

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Presiding Officer of the Senate

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