

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 4279

By: Sneed and Phillips of the
House

and

Quinn of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2021, Sections 6413, 6414, 6415, 6417, and 6418, which relate to the Market Assistance Association Act; modifying the definition of insurer; modifying the definition of member; modifying policies of insurance required by members to issue; clarifying that act applies to homeowners' liability insurance; modifying notification requirements of member insurers; modifying procedure for amendments to the plan of operation; modifying Market Assistance Association Board of Directors membership; modifying the term of members; specifying that the remaining Board of Directors shall fill vacancies; directing that the Board of Directors shall consider whether all Association member insurers are fairly represented; clarifying that the Association shall submit instead of file a statement; clarifying that liability insurance means homeowners' liability insurance; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2021, Section 6413, is amended to read as follows:

Section 6413. As used in the Market Assistance Association Act:

1. "Association" means the Market Assistance Association established pursuant to this act;

2. "Board" means the Board of Directors of the Market Assistance Association;

3. "Commissioner" means the Insurance Commissioner;

4. "Insurer" means any entity licensed to issue homeowners' or homeowners' liability insurance; and

5. "Member" means all ~~property and casualty~~ insurers licensed ~~in the State of Oklahoma or writing homeowners' or liability insurance in the~~ this state for both property and casualty lines of business. These entities are required to be a participant in the Association as a condition of doing business in Oklahoma.

SECTION 2. AMENDATORY 36 O.S. 2021, Section 6414, is amended to read as follows:

Section 6414. A. The Association created pursuant to the Market Assistance Association Act shall have the power on behalf of its members to:

1. Require members to issue policies of insurance, ~~including primary, excess, and incidental coverages,~~ to applicants, subject to limitations specified in the plan of operation required by the Market Assistance Association Act; irregardless of the type of

1 insurance coverage, the limits of liability for homeowners'
2 liability insurance, shall be governed by the amounts specified in
3 subsection A of Section 154 of Title 51 of the Oklahoma Statutes;
4 and

5 2. Call upon member insurers who have expertise or familiarity
6 with a particular line of homeowners' liability insurance to assist
7 in underwriting such insurance.

8 B. The Board after consultation with the Association, the
9 Insurance Commissioner and other affected entities, shall promulgate
10 a plan of operation consistent with the provisions of this section,
11 to become effective no later than ninety (90) days after the date of
12 the inception of the Association.

13 1. The plan of operation shall provide for economic, fair and
14 nondiscriminatory administration and for prompt and efficient
15 provision of insurance, and shall contain other provisions
16 including, but not limited to, the following:

- 17 a. preliminary assessment of all members for initial
18 expenses necessary to commence operations of the
19 Association,
- 20 b. establishment of necessary facilities,
- 21 c. management of the Association,
- 22 d. assessment of members, and assessment of policyholders
23 if a market assistance association for professionals
24 is declared, to defray losses and expenses,

- 1 e. establishment of committees as may be necessary to
2 facilitate the administration of the Association,
- 3 f. procedures providing that an insured shall have proof
4 that he or she has coverage that has been canceled or
5 nonrenewed by his or her current carrier and has
6 subsequently requested and been refused homeowners' or
7 homeowners' liability coverage from two insurers
8 licensed to do business in this state, or that his or
9 her premium has been increased by seventy-five percent
10 (75%) or more from the previous year, before
11 requesting insurance coverage from the Association,
- 12 g. appointment of members of the Association on a
13 rotating basis to provide homeowners' and homeowners'
14 liability insurance coverage based upon direct
15 premiums for homeowners' and homeowners' liability
16 insurance, written in the state in the preceding
17 calendar year,
- 18 h. procedures for determining amounts of insurance to be
19 provided by members of the Association, and
- 20 i. procedures for two or more member insurers to share an
21 insured risk if coverage for that risk is beyond the
22 ability for one insurer,
- 23 ~~j. procedures requiring member insurers to notify their~~
24 ~~insureds not less than forty-five (45) days prior to~~

~~the renewal date for a policy, if the premium to be assessed will be increased to a rate greater than the rate assessed for the previous year. If such notification is not timely, then the premium shall be the same as the premium which was assessed for the coverage in the previous year.~~

2. The plan of operation shall provide that any balance remaining in the funds of the Association at the close of its fiscal year shall be added to the reserves of the Association and may be used for expenses of the Association or any successor association.

3. Amendments to the plan of operation may be made by the ~~board, subject to the approval of the Commissioner~~ Board.

C. All insurers who are members of the Association shall participate in the Association's writings, expenses, and losses in the proportion that the net direct premiums of each such member written during the preceding calendar year bears to the aggregate net direct premiums written in this state by all members of the Association. Each insurer's proportion of participation in the Association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the insurer that may be required by the board of directors. No member shall be obligated in any one (1) year to write liability insurance business from the Association ~~which~~ that would result in the member

1 insurer writing more than ten percent (10%) of its total annual
2 liability insurance, from all lines of liability insurance, from the
3 Association. Likewise, no member shall be obligated in any one (1)
4 year to write homeowners' insurance business from the Association
5 ~~which~~ that would result in the member insurer writing more than ten
6 percent (10%) of its total annual homeowners' insurance, from the
7 Association.

8 D. An applicable insurer ceasing to be licensed or authorized
9 to transact insurance business pursuant to the Insurance Code shall
10 automatically cease to be a member of the Association effective at
11 12:01 a.m. on the day following the termination or expiration of its
12 certificate of authority and shall no longer be subject to the plan
13 of operation or requirements of the Association; provided, however,
14 such insurer shall remain liable for any annual assessments of the
15 Association based on expenses incurred by the Association while such
16 license or authority was in effect.

17 SECTION 3. AMENDATORY 36 O.S. 2021, Section 6415, is
18 amended to read as follows:

19 Section 6415. A. The business and functions of the Association
20 shall be managed and administered by a ~~board~~ Board of ~~eleven (11)~~
21 ~~directors composed of two directors selected by the American~~
22 ~~Insurance Association, who are representatives of Association~~
23 ~~members; two directors selected by the Alliance of American~~
24 ~~Insurers, who are representatives of Association members; two~~

~~directors selected by the National Association of Independent Insurers, who are representatives of Association members; two directors appointed by the Commissioner, who are representatives of Oklahoma domestic insurers who are Association members; one director who shall be the President of the Oklahoma Surplus Lines Association; and two directors appointed by the Commissioner, who are representatives of nonaffiliated foreign or alien insurers who are Association members~~ eight (8) directors composed of four directors representing Association members, two directors who are representatives of Oklahoma domestic insurers who are Association members, one director who represents a surplus lines carrier who is an Association member, and the Oklahoma Insurance Commissioner or an Oklahoma Insurance Department staff member chosen as a designee by the Oklahoma Insurance Commissioner. Each director shall designate a full-time salaried employee of the insurer to represent the director as an alternate in the absence of the director on the Board. ~~Each director shall serve for a term of two (2) years or until the Association is terminated, whichever comes first. The appointment to the board of directors shall be subject to approval by the Commissioner.~~ The term of office of each director shall continue until the appointment and qualification of a successor. Any vacancy on the Board shall be filled for the remaining period of the term by ~~appointment by the appointing authority which originally filled the vacant post, subject to the approval of the Commissioner~~

1 the remaining Board directors. ~~If no directors are selected and~~
2 ~~appointed within sixty (60) days after the effective date of the~~
3 ~~inception of the Association, the Commissioner shall appoint the~~
4 ~~initial directors of the Board.~~

5 B. The chairman shall call all meetings of the Board and shall
6 give reasonable notice of meetings to all directors. At any meeting
7 of the Board, each Board director or his predesignated alternate
8 shall have one vote. Six members of the Board or their
9 predesignated alternates shall constitute a quorum for the
10 transaction of business and the acts of a majority of the Board
11 members present at a meeting at which a quorum is present shall be
12 the acts of the Board. The Board shall meet as often as may be
13 required to perform the general duties of administration of the
14 Association, but not less frequently than annually.

15 C. In approving selections to the Board, the ~~Commissioner~~ Board
16 of Directors shall consider, among other things, whether all
17 Association member insurers are fairly represented.

18 D. Members of the Board and their predesignated alternates
19 shall serve without compensation but may be reimbursed from the
20 assets of the Association for all actual and necessary expenses
21 incurred by them in performance of their duties for the Board.

22 SECTION 4. AMENDATORY 36 O.S. 2021, Section 6417, is
23 amended to read as follows:
24

1 Section 6417. A. The Association shall ~~file with~~ submit to the
2 Insurance Commissioner, annually, from the date of its inception, a
3 statement prepared by an independent certified public accountant
4 which shall contain information with respect to its transactions,
5 condition, operations, and affairs during the preceding calendar
6 year. The statement shall contain such matters and information as
7 are prescribed and shall be in such form as is approved by the
8 Commissioner. The Commissioner may, at any time, require the
9 Association to furnish additional information with respect to its
10 transactions, condition, operations, and affairs, or any matter
11 connected therewith considered to be material and of assistance in
12 evaluating the scope, operation and experience of the Association.

13 B. The books of account, records, reports and other documents
14 of the Association shall be open and free for examination to the
15 Commissioner at all reasonable times.

16 C. The books of account, records, reports and other documents
17 of the Association shall be open to inspection by the members at
18 such times and under such conditions and regulations as the Board
19 shall determine.

20 D. The Association shall provide for the making of detailed
21 reports of liability approved or canceled, for the drawing up of
22 annual budgets of the Association and for the rendering of accounts
23 to each ~~member~~ Board member at least every twelve (12) months.

1 SECTION 5. AMENDATORY 36 O.S. 2021, Section 6418, is
2 amended to read as follows:

3 Section 6418. Each member insurer shall use the filed rate for
4 the homeowners' liability and homeowners' insurance being written.
5 Any variance from such rate, including a variance based upon debit,
6 shall be submitted or filed with the Insurance Commissioner.

7 SECTION 6. This act shall become effective November 1, 2022.

8

9 58-2-11541 MJ 05/11/22

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24