

An Act

ENROLLED SENATE
BILL NO. 738

By: Montgomery of the Senate

and

McEntire of the House

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

SUBJECT: Insurance

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

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

Section 607.1 A. An entity organized pursuant to the Interlocal Cooperation Act (an "Interlocal Entity") for the purpose of transacting insurance, ~~except those Interlocal Entities created 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 (\$1,000,000.00)~~ for all kinds of insurance that the entity

transacts. Such an entity shall ~~be eligible to qualify for and~~ hold a certificate of authority to transact insurance in this state.

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

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

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

3. A statement of operations;

4. A statement of cash flows;

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

6. Footnotes to financial statements; and

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

C. Any entity subject to the provisions of subsection B of this section, except those entities which purchase full insurance coverage as determined by the Commissioner, shall file with the Insurance Commissioner an actuarial opinion prepared by a qualified actuary within one hundred eighty (180) days immediately following

the close of the Interlocal Entity's fiscal year. The actuarial opinion should certify the amount and adequacy of the Interlocal Entity's reserves for loss and loss adjustment expenses, including amounts for Incurred But Not Reported (IBNR) Claims, and the adequacy of the Interlocal Entity's premiums. The actuarial opinion shall be consistent with the appropriate Actuarial Standards of Practice (ASOP) as promulgated by the Actuarial Standards Board.

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

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

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

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

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

1. Notify the insurer and its participating members of the Commissioner's determination;

2. Require the insurer to file with the Insurance Commissioner a written plan of action to abate the Commissioner's determination within thirty (30) days of notification; and

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

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

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

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

SECTION 2. This act shall become effective November 1, 2021.

Passed the Senate the 29th day of April, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____