

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 738

By: Montgomery of the Senate

and

McEntire of the House

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10 COMMITTEE SUBSTITUTE

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

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

22 SECTION 1. AMENDATORY 36 O.S. 2011, Section 607.1, as
23 last amended by Section 2, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
24 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~~

1 ~~pursuant to the terms of The Governmental Tort Claims Act, that~~
2 insures an Oklahoma educational institution shall be considered an
3 insurer ~~at such time that the entity has within a twelve-month~~
4 ~~period received aggregate premiums of One Million Dollars~~
5 ~~(\$1,000,000.00)~~ for all kinds of insurance that the entity
6 transacts. Such an entity shall ~~be eligible to qualify for and hold~~
7 a certificate of authority to transact insurance in this state.

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

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

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

- 1 3. A statement of operations;
- 2 4. A statement of cash flows;
- 3 5. A statement of changes in assets, liabilities and equity;
- 4 6. Footnotes to financial statements; and
- 5 7. An unqualified opinion from the certified public accountant
- 6 that the audited financial report represents a fair presentation of
- 7 the Interlocal Entity's financial position in conformity with
- 8 accounting principles generally accepted in the United States of
- 9 America.

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

22 As used in this section, "qualified actuary" means an individual
23 who is a member of the American Academy of Actuaries and who has met
24 the Qualification Standards for Actuaries Issuing Statements of

1 Actuarial Opinions in the United States promulgated by the American
2 Academy of Actuaries.

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

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

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

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

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

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

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

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

23 I. The Commissioner may assess a fine for failure to timely
24 file a written plan of action required under subsection G of this

1 section in an amount of not more than Five Hundred Dollars (\$500.00)
2 per day.

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

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

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7 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/08/2021 - DO
8 PASS, As Amended.

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