

SENATE FLOOR VERSION

February 6, 2024

SENATE BILL NO. 1627

By: Seifried

An Act relating to insurance; amending 36 O.S. 2021, Section 3639, which relates to cancellation requirements; providing for electronic delivery; updating statutory language; amending 85A O.S. 2021, Section 42, which relates to cancellation requirements; conforming language; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2021, Section 3639, is amended to read as follows:

Section 3639. A. The provisions of this section apply to commercial marine policies, commercial automobile policies, commercial property insurance policies, commercial casualty insurance policies, and commercial fire insurance policies.

B. As used in this section:

1. "Renewal" or "to renew" means the issuance or offer of issuance by an insurer of a policy succeeding a policy previously issued and delivered by the same insurer or an insurer within the same group of insurers, or the issuance of a certificate or notice

1 extending the term of an existing policy for a specified period
2 beyond its expiration date;

3 2. "Nonpayment of premium" means the failure or inability of
4 the named insured to discharge any obligation in connection with the
5 payment of premiums on a policy of insurance subject to this
6 section, whether such payments are payable directly to the insurer
7 or its agent or indirectly payable under a premium finance plan or
8 extension of credit;

9 3. "Cancellation" means termination of a policy at a date other
10 than its expiration date;

11 4. "Expiration date" means the date upon which coverage under a
12 policy ends. It also means, for a policy written for a term longer
13 than one (1) year or with no fixed expiration date, each annual
14 anniversary date of such policy; and

15 5. "Nonrenewal" or "refusal to renew" means termination of a
16 policy at its expiration date.

17 C. After coverage has been in effect for more than forty-five
18 (45) business days or after the effective date of the renewal of a
19 commercial marine, commercial automobile, commercial property,
20 commercial casualty or commercial fire insurance policy, a notice of
21 cancellation shall not be issued by any licensed insurer or surplus
22 or excess lines insurer unless it is based on at least one of the
23 following reasons with at least ten (10) ~~days~~ days' notice to the
24 insured:

1 1. Nonpayment of premium;

2 2. Discovery of fraud or material misrepresentation in the
3 procurement of the insurance or with respect to any claims submitted
4 thereunder;

5 3. Discovery of willful or reckless acts or omissions on the
6 part of the named insured which increase any hazard insured against;

7 4. The occurrence of a change in the risk which substantially
8 increases any hazard insured against after insurance coverage has
9 been issued or renewed;

10 5. A violation of any local fire, health, safety, building, or
11 construction regulation or ordinance with respect to any insured
12 property or the occupancy thereof which substantially increases any
13 hazard insured against;

14 6. A determination by the Commissioner that the continuation of
15 the policy would place the insurer in violation of the insurance
16 laws of this state;

17 7. Conviction of the named insured of a crime having as one of
18 its necessary elements an act increasing any hazard insured against;
19 or

20 8. Loss of or substantial changes in applicable reinsurance.

21 D. An insurer may refuse to renew a policy if the insurer gives
22 to the first-named insured at the address shown on the policy
23 written notice that the insurer will not renew the policy. Such
24 notice shall be given at least forty-five (45) days before the

1 expiration date. Notice may be sent by electronic means if the
2 recipient consents to such method of delivery and the insurer is in
3 compliance with the provisions of the Uniform Electronic
4 Transactions Act. Electronic delivery is considered to be
5 equivalent to any delivery method required by law, including first-
6 class mail, postage prepaid, certified mail, certificate of mail, or
7 certificate of mailing. If notice is given by mail or sent by
8 electronic means, ~~said~~ such notice shall be deemed to have been
9 given on the day ~~said~~ the notice is mailed or sent electronically.
10 If the notice is mailed or sent electronically less than forty-five
11 (45) days before expiration, coverage shall remain in effect until
12 forty-five (45) days after notice is mailed or sent electronically.
13 Earned premium for any period of coverage that extends beyond the
14 expiration date shall be considered pro rata based upon the previous
15 year's rate. For purposes of this section, the transfer of a
16 policyholder between companies within the same insurance group is
17 not a refusal to renew. In addition, changing deductibles, changes
18 in premium, changes in the amount of insurance, or reductions in
19 policy limits or coverage are not refusals to renew.

20 Notice of nonrenewal shall not be required if the insurer or a
21 company within the same insurance group has offered to issue a
22 renewal policy, or ~~if~~ if the named insured has obtained replacement
23 coverage or has agreed in writing to obtain replacement coverage.

1 If an insurer provides the notice required by this subsection
2 and thereafter the insurer extends the policy for ninety (90) days
3 or less, an additional notice of nonrenewal is not required with
4 respect to the extension.

5 E. An insurer shall give to the named insured at the mailing
6 address shown on the policy, written notice of premium increase,
7 change in deductible, reduction in limits or coverage at least
8 forty-five (45) days prior to the expiration date of the policy. If
9 the insurer fails to provide such notice, the premium, deductible,
10 limits and coverage provided to the named insured prior to the
11 change shall remain in effect until notice is given or until the
12 effective date of replacement coverage obtained by the named
13 insured, whichever first occurs. If notice is given by mail, ~~said~~
14 such notice shall be deemed to have been given on the day ~~said~~ the
15 notice is mailed. If the insured elects not to renew, any earned
16 premium for the period of extension of the terminated policy shall
17 be calculated pro rata at the lower of the current or previous
18 year's rate. If the insured accepts the renewal, the premium
19 increase, if any, and other changes shall be effective the day
20 following the prior policy's expiration or anniversary date.

21 This subsection shall not apply to:

22 1. Changes in a rate or plan filed with or approved by the
23 Insurance Commissioner or filed pursuant to the Property and
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1 Casualty Competitive Loss Cost Rating Act and applicable to an
2 entire class of business; ~~or~~

3 2. Changes based upon the altered nature of extent of the risk
4 insured; or

5 3. Changes in policy forms filed with or approved by the
6 Insurance Commissioner and applicable to an entire class of
7 business.

8 F. Proof of mailing of notice of cancellation, or of nonrenewal
9 or of premium or coverage changes, to the named insured at the
10 address shown in the policy, shall be sufficient proof of notice.

11 SECTION 2. AMENDATORY 85A O.S. 2021, Section 42, is
12 amended to read as follows:

13 Section 42. A. Contents. Every policy or contract of
14 insurance issued by a carrier to an employer to secure the payment
15 of compensation under ~~this act~~ the Administrative Workers'
16 Compensation Act shall contain:

17 1. a. Provisions that identify the insured employer and
18 either identify each covered employee or describe
19 covered employees by class or type of labor performed
20 and the estimated number of employees of each such
21 class or type.

22 b. No single policy of workers' compensation insurance
23 may be issued to any group of employers who are
24 unaffiliated with one another in terms of ownership,

1 control, or right to participate in the profits of the
2 affiliated enterprises;

3 2. Provisions that insolvency or bankruptcy of the employer or
4 discharge therein shall not relieve the carrier from payment of
5 compensation for compensable injuries sustained by an employee
6 during the term of the policy or contract;

7 3. a. The agreement of the carrier that it shall promptly
8 pay to the person entitled to compensation every
9 installment of compensation that may be awarded or
10 agreed on and that this obligation shall not be
11 affected by any default of the employer or by any
12 default in the giving of any notice required by the
13 policy or otherwise.

14 b. The agreement shall be construed to be a direct
15 obligation by the carrier to the person entitled to
16 compensation, enforceable in that person's name; and

17 4. Such other provisions as the Insurance Department allows or
18 requires carriers to include in workers' compensation policies.

19 B. Cancellation.

20 1. An employer may cancel coverage with a carrier by giving the
21 carrier at least thirty (30) days' notice, unless a shorter period
22 is permitted under subparagraph b of this paragraph.

23 a. Cancellation of coverage is effective at 12:01 a.m.
24 thirty (30) days after the date the cancellation

1 notice is received by the carrier, unless a later date
2 is specified in the notice to the carrier.

3 b. (1) An employer may cancel coverage effective less
4 than thirty (30) days after written notice is
5 received by the carrier where the employer
6 obtains other coverage or becomes a self-insurer.
7 Notice may be sent by electronic means if the
8 recipient consents to such method of delivery and
9 the insurer is in compliance with the provisions
10 of the Uniform Electronic Transactions Act.
11 Electronic delivery is considered to be
12 equivalent to any delivery method required by
13 law, including first-class mail, postage prepaid,
14 certified mail, certificate of mail, or
15 certificate of mailing.

16 (2) A cancellation under this subsection is effective
17 immediately on the effective date of the other
18 coverage or on authorization as a self-insurer.

19 2. a. A notice of cancellation from the carrier shall state
20 the hour and date that cancellation is effective.

21 b. A carrier shall not cancel coverage issued to an
22 employer under ~~this act~~ the Administrative Workers'
23 Compensation Act before the date specified for
24 expiration in the policy or contract or until at least

thirty (30) days have elapsed after a notice of cancellation has been mailed or sent electronically to the Commission and to the employer, or until ten (10) days have elapsed after the notice has been mailed or sent electronically to the employer and to the Commission if the cancellation is for nonpayment of premium.

c. If the employer procures other insurance within the notice period, the effective date of the new policy shall be the cancellation date of the old policy.

3. Cancellation of coverage by an employer or a carrier shall in no way limit liability that was incurred under the policy or contract before the effective date of cancellation.

C. Coverage.

1. No policy or contract of insurance shall be issued against liability under ~~this act~~ the Administrative Workers' Compensation Act unless the policy or contract covers the entire liability of the employer. Split coverage whereby some employees of an employer are insured by one carrier and other employees are insured by another carrier, or a plan of self-insurance, is expressly prohibited except for a policy issued covering the liability of an employer or of multiple employers as to specific jobs, ventures, contracts, or undertakings, but only if the policy meets with the reasonable satisfaction and approval of the Insurance Commissioner that the

1 policy is in the best interest of the employers and the employees
2 concerned and does not unduly or improperly affect the continuity of
3 workers' compensation coverage by seriously and negatively affecting
4 other carriers and agents with outstanding policies issued to any of
5 the employers in issue.

6 2. The terms of the policy or contract shall govern any
7 questions of liability between the employer and the carrier.

8 D. Under such rules as may be adopted by the Insurance
9 Commissioner, and notwithstanding other provisions of ~~this act~~ the
10 Administrative Workers' Compensation Act, he or she may certify five
11 or more employers as an insurance group which shall be considered an
12 employer for the purposes of ~~this act~~ the Administrative Workers'
13 Compensation Act.

14 SECTION 3. This act shall become effective November 1, 2024.

15 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
16 February 6, 2024 - DO PASS
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