

BULLETIN NO. PC 2011-01

**TO: ALL PROPERTY AND CASUALTY INSURERS LICENSED IN
THE STATE OF OKLAHOMA**

FROM: OKLAHOMA INSURANCE DEPARTMENT

**RE: ALLOWING DEFENSE EXPENSES WITHIN THE LIMITS OF
CERTAIN LIABILITY POLICIES**

DATE: MARCH 29, 2011

Be advised that Commissioner's Order No. 09-455-PRJ issued on April 21, 2009 by the Oklahoma Insurance Department ("Department") concerning the prohibition of inclusion of defense expenses within the limits of liability of insurance policies has been withdrawn and is replaced by Commissioner's Order No. 11-0351-PRJ.

Order No. 09-455-PRJ was based upon § 365:15-1-15 of the Oklahoma Administrative Code, which prohibits defense expenses within the limits of liability but permits this prohibition to be waived under certain circumstances and for certain types of insurance policies. Order No. 09-455-PRJ waived the prohibition for the types of policies listed therein and required that those policies have at least a \$1 million dollar per occurrence or claim limit of liability.

Notable changes appearing in Order No. 11-0351-PRJ are as follows:

- The requirement that policies including defense expenses within the limits of liability have a \$1 million dollar per occurrence or claim limit has been removed. There is now no minimum limit requirement.
- An endorsement for any of the coverages permitted to include defense expenses within the limits of liability may be attached to the liability portion of any commercial policy. The endorsement must

have its own limit of liability which does not affect the limit of liability of the policy to which it is attached.

- It is the responsibility of the insurer to place the notice that the policy includes defense expenses within the limits of liability on the declarations page of the policy, as well as on any endorsement that includes defense expenses within the limit of liability.

The Department encourages affected insurers to read Order No. 11-0351 -PRJ in its entirety. It is posted on the Department's website at <http://www.ok.gov/oid/> under News and Events/Notices/Legal Notices/From the Commissioner.

Questions or comments applicable to this bulletin should be directed to Deputy Insurance Commissioner Denise Engle at 405-521-2828 of the Rate and Form Compliance Division of the Oklahoma Insurance Department, Five Corporate Plaza, 3625 N.W. 56th Street, Suite 100, Oklahoma City, OK 73112.

The Oklahoma Insurance Department encourages readers of this notice to periodically check the Department's website for news and updates to bulletins and other relevant material.