



OKLAHOMA INSURANCE DEPARTMENT
STATE OF OKLAHOMA

BULLETIN NO. PC 2010-05 and LH 2010-04

**TO: ALL PROPERTY AND CASUALTY INSURERS
ALL ADVISORY ORGANIZATIONS
ALL JOINT UNDERWRITING ASSOCIATIONS
ALL LIFE AND HEALTH INSURERS
ALL HEALTH MAINTENANCE ORGANIZATIONS
Attention: State Filing Division**

RE: ARBITRATION CLAUSES

FROM: OKLAHOMA INSURANCE DEPARTMENT

DATE: OCTOBER 12, 2010

PURPOSE OF THIS BULLETIN

This bulletin is intended to establish uniform standards for arbitration clauses contained in the forms reviewed and approved by the Oklahoma Insurance Department's Rate and Form Compliance Division. Oklahoma law does not allow mandatory arbitration provisions in insurance contracts.

ARBITRATION GUIDELINES

Contracts that reference insurance, except those between insurers, are specifically excepted from Oklahoma's Uniform Arbitration Act, Okla. Stat. tit. 12, § 1855(D). Therefore, contracts of insurance are governed by public policy, as announced in Boughton v. Farmers Insurance Exchange, 354 P.2d 1085 (Okl. 1960) and followed in Cannon v. Lane, 867 P.2d 1235 (Okl. 1993).

At the same time, allowing parties the freedom of choice to choose a dispute resolution method that best fits their needs is something the Department does not wish to hinder. While mandatory, or binding, arbitration is not permitted in an insurance contract, clauses similar to what is enumerated in Okla. Stat. tit. 36, §

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3636(B) will be considered. That statute allows uninsured motorist coverage to include an arbitration provision that can be triggered by either party. However, if agreement by arbitration is not reached within three months from the date of the demand for arbitration, the insured retains the right to sue the tortfeasor.

Other, non-binding arbitration provisions can be considered as long as the right to a judicial review is maintained.

Binding arbitration clauses between two insurers are allowed. Examples of this are disputes involving property insurers and boiler and machinery insurers, or between reinsurers.

Questions regarding this bulletin should be directed to Kathie.Stepp@oid.ok.gov of the Rate and Form Compliance Division, Five Corporate Plaza, 3625 NW 56th, Suite 100, Oklahoma City, OK 73112.

The Oklahoma Insurance Department encourages readers of this notice to periodically check the Department's web site <http://www.ok.gov/oid/> for news and updates to Bulletins and other relevant material.