



OKLAHOMA
INSURANCE
DEPARTMENT

2021 STATUTE & RULE CHANGES



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Regulatory Compliance/ Insurer Operations

SB 122

Credit for Reinsurance

Effective November 1, 2021

36 O.S. § 5122

- The measure contains model law from the NAIC, as these revisions are necessary to ensure state-based regulation is consistent with a covered agreement, which is a US federal treaty with the European Union.
- Model law 785 and 786 are required to be adopted with an effective date of Sept. 1, 2022 with enforcement of the standard to commence Jan. 1, 2023. It should be noted that the Dodd-Frank Wall Street Reform and Consumer Protection Act requires adoption of state insurance measures to be completed and “consistent” with the Covered Agreement in order to avoid federal preemption of state-based insurance financial regulation.

SB 529

Standard Nonforfeiture Annuity

Effective November 1, 2021

36 O.S. § 4030.5

- The Standard Nonforfeiture Annuity Law decreases the interest rate floor level from one percent (1%) to point one five percent (.15%) for Individual Deferred Annuities.

SB 792

Bail Bond Omnibus Bill

Effective November 1, 2021

59 O.S. § 1306

- Allows the Insurance Commissioner to authorize a bondsman exceeding the maximum amount of Federal Deposit Insurance Corporation basic deposit coverage when a state of emergency or disaster is declared.
- The measure also requires bondsmen to deposit cash or other forms of compensation within 2 business days after receiving such compensation in an established, separate non-interest-bearing trust account.

- Additionally, the measure provides for bonds posted for a petition for revocation of a suspended sentence, a petition for acceleration of a deferred sentence or any violation of a probationary term to be exonerated by operation of law in certain circumstances. Premiums for a bail bond shall be considered earned when the defendant on the bond is released from custody and is not incarcerated in any capacity or if the bondsman and the payor of the bond premium have agreed in writing that the purpose of the bond is to secure the transfer of the defendant to another jurisdiction. The payor of the premium or the depositor of any collateral may request the return of any unearned bond premiums.

SB 887

Insurance Omnibus Bill

Effective May 12, 2021

36 O.S. § 311.4, 615.2, 638, 953.1, 996, 1116, 1219, 1250.5, 1250.7, 1250.8, 1435.20, 1445, 1450, 2004, 2006, 2007, 2008, 2023, 3101, 3105, 3108, 3639.1, 4030, 4030.1, 4055.7, 4055.9, 4103, 4112, 6060.11, 6060.12, 6124.2, 6216.1, 6217, 6470.35, 6552, 6753, 6904, 6907, 6911, 6919, 6920, & 6929. Repealed: 1435.40, 1612.1, & 6221.

- The law provides for a Business Character Report to contain data that is up to 6 months old instead of 1 year.
- Insurance carriers are also authorized to provide reasonable exceptions to the rate of the insurer, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by certain catastrophic events outlined in the measure. Applicants for the exception must request the exception in writing.
- The law authorizes the Oklahoma Automobile Insurance Plan to issue policies of insurance in the name of the plan for the applicants as it relates to equitable apportionment. Participating members shall be liable to the plan for all costs, expenses, and liabilities in proportion to its share of voluntary market premium and must file an annual audited financial statement with the Commissioner.
- The measure provides for surplus line licensees to be fined \$25.00 per policy, per day for failing to remit the surplus line tax.
- Additionally, the measure requires insurers to reimburse clean claims filed electronically within 1 year and provides for notices of expiration for claims to be given not more than 1 year after the date of the loss.
- The measure also creates the Motor Service Club limited lines category for limited line insurance.
- Third party administrators shall also be required to notify the Commission of any termination of employment within 30 days instead of 15. Any entity making application to the Oklahoma Insurance Department as a third-party administrator (TPA) or within 30 days of a change for a licensed TPA shall provide current National Association of Insurance Commissioners Biographical Affidavits and independent third-party background reports from a NAIC-approved vendor on behalf of all officers.

- The measure changes the licensing fee for limited line producers from \$20.00 annually to \$40.00 biannually.
- The measure modifies the membership of the Oklahoma Property and Casualty Insurance Guaranty Association and authorizes each insurer to appoint an alternate representative. Any person serving as an alternate representative shall, while serving, have all the powers and responsibilities of the appointed insurer representative. Additionally, the Association may use legal postings on its website to satisfy notification requirements. The measure provides for insurance policies issued by members and later transferred to another insurer to be considered to have been issued by a member insurer which is an insolvent insurer in the event that the insurer to which the policy has been transferred.
- Prepaid funeral benefit permit holders are prohibited from changing the name under which the permit holder operates unless they receive permission to do so from the Commissioner. The permit holder must first obtain permission for such a change from the Commissioner 30 days prior to the change. The Commissioner may deny or approve any request to change the name.
- Certificates of dormancy, as defined by the measure, may be issued by the Commissioner. Dormant captive insurance companies are companies that ceased transacting the business of insurance and have no remaining liabilities. Such companies shall not be liable for any insurance taxes and may possess a total of \$25,000.00 in unimpaired, paid-in capital, and surplus funds. Dormant companies shall be subject to examination by the Commissioner.
- It modifies the date by which the Insurance Commissioner must make certain reports related to mental health parity provided to the Commissioner available to the public from June 1 to December 31 of each year.
- It adds electronic payments as a means of payment throughout Title 36.
- It removes the process in which the Health Commissioner would transmit applications to the Insurance Commissioner for HMO's.
- The statute repeals language disallowing individuals working for government (municipality to federal) from obtaining a P&C producer license. It also repeals an advisory board not in use and aligns us with the Statutory Accounting Principles.
- Finally, the measure adds clarifying language relating to the cancellation of homeowner policies and providing notice.

SB 1030

Market Conduct Annual Statements

Effective November 1, 2021

63 O.S. § 311.4

- Clarifies deadlines for Market Conduct Annual Statements to be in alignment with the NAIC filing deadlines already established.
- Allows the Insurance Commissioner to levy a civil penalty of up to \$1,000 per violation for any violation of his provision.

SB 1035

Risk Retention Groups/Captives

Effective November 1, 2021

63 O.S. § 6453

- Updates definition for risk retention group.
- The measure requires all risk retention groups chartered in the state to file with the Insurance Department and the National Association of Insurance Commissioners (NAIC) an annual statement in a form prescribed by the Association and in electronic form if required by the Insurance Commissioner.
- The measure requires the risk retention group or purchasing group to submit an appropriate revision of changes in any item of the plan of operation or feasibility study within ten (10) days of the change to the Insurance Commissioner for approval.
- The measure adds new definitions for the following terms:
 - » Board of Directors or Board
 - » Director
 - » Disclose
 - » Service Providers
 - » Series
 - » Series captive insurance company
- Existing risk retention groups are required to comply with certain governance standards within one year of the effective date of this act. Risk retention groups licensed after the effective date, must be in compliance at the time of licensure.
- The measure provides the requirements and conditions for the Board of Directors of risk retention groups. The measure also requires the risk retention group to have an audit committee with certain conditions. The risk retention group or purchasing group is required to pay a filing fee determined by the Commissioner for application of charter. At the time of application for charter, the risk retention group is required to provide the Commissioner a summary of certain information which will then be forwarded to the National Association of Insurance Commissioners. This will satisfy the requirements of Oklahoma law. The measure requires each risk retention group to pay premium taxes and taxes on premiums of direct business for risk and report premiums for direct business for risks to the Commissioner.
- The measure requires a special purpose captive insurance company to pay the Department of Insurance a non-refundable application fee of three-hundred dollars (\$300.00). The measure requires the Insurance Commissioner to specify the amount relating to the minimum capital and surplus of a series captive insurance company.
- Adds in additional language to enhance confidentiality as seen in other sections of the Insurance Code.
- The measure requires modifications, assets, and liabilities by use of GAAP accounting principles to be reported with certain requirements.
- Sets minimum capital and surplus requirements for series captive insurance structures.

State Government/ OID Operations

HB 1146

Civil Service & Human Capital Modernization Act

Effective January 1, 2021

62 O.S. § 34.301

- This measure places all state employee positions under the administration of the Human Capital Management Division of the Office of Management and Enterprise Services beginning January 1, 2022.
- Persons employed by the Governor, Lt. Governor, Speaker of the House, or President Pro Tempore of the Senate, as well as elected officials, political appointees, and up to 5% of an agency's executive management shall not be placed under the Division's administration.
- The measure directs the Division to establish and maintain a dispute resolution system for state agencies and employees, to promulgate rules necessary to perform duties required by the measure, receive and act on complaints arising from disciplinary actions by state employees, use administrative law judges as independent contractors, submit quarterly reports on workload statistics to the Legislature, and create and administer a confidential whistleblower program. The measure sunsets the Oklahoma Merit Protection Commission on December 31, 2022.

HB 2123

Patient's Right to Pharmacy Choice Commission

Effective May 11, 2021

36 O.S. § 6966

- Creates and defines "Pharmacy Choice Commission" when used with reference to the administration of the Oklahoma Insurance Code. The Insurance Commissioner has the duty of administration and enforcement of the provisions of the Oklahoma Insurance Code and determining the duties assigned to the Patient's Right to Pharmacy Choice Commission.
- It requires the Insurance Commissioner on a quarterly basis to report to the Pharmacy Choice Commission an accounting of matters relating to pharmacy benefit managers including, but not limited to, the number and types of complaints:
 - » Received
 - » Resolved by hearing
 - » Resolved by settlement
 - » Determined not to be violations
 - » That are outstanding

- Adds to the powers and authority of the Insurance Commissioner to require restitution and approve and sign settlement agreements. Any violation that cannot be settled shall go to hearing before the Pharmacy Choice Commission.
- Prohibits the Pharmacy Choice Commission members from receiving any compensation related to conducting a hearing including per diem or mileage for any travel or expenses related to appointment on the Commission. Pharmacy benefit managers that are examined are required to pay all reasonable charges incurred in such examination including expenses of the Pharmacy Choice Commission.
- The Insurance Commissioner is authorized to examine all records of Pharmacy benefit managers pursuant to Oklahoma Insurance law.
- Modifies the required response time to inquiries sent from the Commissioner from 30 days to 20 days.
- Provides the breadth of authority directed to the Pharmacy Choice Commission in relation to hearings, penalties, and fines.
- Lastly, it requires the Insurance Commissioner to set a hearing within 30 days of notice and requires a notice of the hearing to be provided to the complainant within a reasonable period of time.

HB 2403

Licenses & Certificates

Effective November 1, 2021

36 O.S. § 1453.13

- Requires the Insurance Department to only terminate a producer license that failed to renew after a twelve (12) month inactive period upon paper notification 90 days prior to termination.

HB 2893

Insurance Premium Tax

Effective July 1, 2021

37 O.S. § 312.1

- The measure eliminates the second year of an insurance premium tax apportionment change provided in HB 2742 (2020). The action will restore apportionment fractions to the schedule prior to HB 2742.
- Apportioned revenue to the Oklahoma Police Pension and Retirement System, the Oklahoma Firefighters Pension System and the Oklahoma Law Enforcement Employees Retirement System will increase by \$45,591,612, while revenue accruing to the Education Reform Revolving Fund will decrease by an identical amount.

HB 2900

General Appropriations Bill

Effective July 1, 2021

Section 135 of HB 2900

- Appropriated to the Special Cash Fund of the State Treasury from any monies not otherwise appropriated from the State Insurance Commissioner Revolving Fund (200 Fund) the sum of Six Million Five Hundred Thousand Dollars (\$6,500,000.00) for availability of appropriation.

SB 758

Real Estate Appraisers Board

Effective July 1, 2021

59 O.S. § 858-709

- Sets forth clear guidance moving forward on the autonomy of the Insurance Department and the Real Estate Appraisers Board.

SB 913

Administrative Rules

Effective September 1, 2021

75 O.S. § 250.2-308.3

- Modifies the procedure for the approval of agency rules. The measure allows the Legislature to repeal an agency rule by joint resolution and removes the Governor's authority to repeal agency rules by declaration. Agencies exempted from the procedures of the Administrative Procedures Act or pursuing a preemptive rule are directed by the measure to publish exempt rules on any website associated with the agency.
- Every agency is also directed to publish agency rules on the website associated with the agency.
- Additionally, the measure requires agencies to respond to small businesses requesting a review of their rules no later than 90 business days and to the Legislature or Governor within 30 days instead of the 90 days currently provided for in law.
- The measure directs the Speaker of the House and President Pro Tempore of the Senate to establish a Joint Committee on Administrative Rules comprised of current members. The Joint Committee is to consider proposed rules, amended rules, and repeal requests submitted by an agency. Those rules approved by the Committee shall be presented to the Legislature for final approval for repeal.
- All Committee actions on items for consideration require a majority vote of both the Senate members and the House members of the Committee.
- Emergency rules must be sent to the chairs of the Joint Committee in addition to the other recipients outlined in current law.

- The measure provides that no agency may adopt any proposed rule, amendment, or revocation if the agency receives express written disapproval from the Governor or the cabinet secretary within 30 days of providing notice to the Governor and cabinet secretary. If the Governor or cabinet secretary does not disapprove within 30 days of notice of intent, the agency may proceed with the rulemaking process. If the Governor disapproves the rule, the Governor shall return the entire document to the agency and notice of such disapproval shall be given to the President Pro Tempore of the Senate, the Speaker of the House, and the chairs of the Joint Committee on Administrative Rules.
- Any rule not approved by the Governor pursuant to the provisions of this section shall not become effective unless otherwise approved by the Legislature by joint resolution.
- The measure creates a procedure for the expedited repeal of rules beginning September 1, 2021. An agency may submit a request for expedited repeal to the President Pro Tempore of the Senate and the Speaker of the House, whereupon they will assign the request to the Joint Committee to conduct the repeal process. Such a request shall be accompanied by a statement of the purpose for the repeal. Upon completion of the comment period, the Joint Committee may schedule a hearing on the agency repeal request. If the Committee approves the repeal, it shall be presented to the Legislature for final approval.

RULES

CHAPTER 1

Administrative Operations

Effective September 1, 2021

Subchapter 1. General Provisions

365:1-1-4

- Updates the Insurance Department's Address

CHAPTER 25

Other Licensees

Effective November 1, 2021

Subchapter 15. Captive Insurance Companies Regulation

365:25-15-2

- This new language adds incentives for smaller captives.

365:25-15-3

- These changes are made to ensure our rules are in alignment with 36 O.S. § 6470.24.1

365:25-15-9

- Clean up added for continuity purposes.

365:25-15-13

- Requires all business plan changes both in the nature of the captive business or otherwise to be filed with the Insurance Commissioner thirty (30) days in advance of the effective date of the change.

365:25-15-23

- Language is removed as it is specifically allowed in the Captive Act. Clarifies language and authority for OID if dormant captives have not resumed business after a five (5) year period. Also adds language for continuity purposes and to align with statute.

365:25-15-24

- Removes unnecessary language pursuant to Governors Executive Order on rule regulation (EO2020-03).

Subchapter 17. Consumer Protection in Annuity Transactions Regulation

365:25-17-3

- Removes unnecessary language pursuant to Governors Executive Order on rule regulation (EO2020-03).

Subchapter 29. Pharmacy Benefits Managers

365:25-29-10.

- Updates language to include the terminology of PBM. It also puts this section into alignment with the rest of the insurance code, requiring PBMs to respond to requests made by the Insurance Department in twenty (20) days instead of thirty (30).