

1
2 STATE OF OKLAHOMA

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

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2120

By: McEntire of the House

and

Montgomery of the Senate

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9 COMMITTEE SUBSTITUTE

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

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

23 SECTION 1. AMENDATORY 36 O.S. 2011, Section 607.1, as
24 last amended by Section 2, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
2020, Section 607.1), is amended to read as follows:

21 Section 607.1. A. An entity organized pursuant to the
22 Interlocal Cooperation Act (an "Interlocal Entity") for the purpose
23 of transacting insurance, ~~except those Interlocal Entities created~~
24 ~~pursuant to the terms of The Governmental Tort Claims Act,~~ and that

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

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

- 20 1. The report of an independent certified public accountant in
21 accordance with accounting principles generally accepted in the
22 United States of America;
- 23 2. A balance sheet reporting assets, liabilities and equity;
- 24 3. A statement of operations;

1 4. A statement of cash flows;

2 5. A statement of changes in assets, liabilities and equity;

3 6. Footnotes to financial statements; and

4 7. An unqualified opinion from the certified public accountant
5 that the audited financial report represents a fair presentation of
6 the Interlocal Entity's financial position in conformity with
7 accounting principles generally accepted in the United States of
8 America.

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

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

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. If there is substantial evidence that an insurer subject to
19 the provisions of this section is insolvent and the condition of
20 that insurer renders the continuance of its business hazardous to
21 the public or to holders of its policies or certificates of
22 insurance or if an insurer has exceeded its powers or fails to
23 comply with the laws of this state, the Insurance Commissioner
24 shall:

1 1. Notify the insurer and its participating members of the
2 determination by the Commissioner that the provisions of this
3 section shall apply;

4 2. Require the insurer to file with the Commissioner a written
5 plan of action to abate the Commissioner's determination within
6 thirty (30) days of receiving notification pursuant to paragraph 1
7 of this subsection; and

8 3. Notify the insurer if the Commissioner determines to further
9 supervise the insurer following receipt of the written plan of
10 action from the insurer.

11 H. 1. An insurer subject to the provisions of subsection G of
12 this section shall comply with any lawful requirements of the
13 Commissioner and if placed under supervision pursuant to paragraph 3
14 of subsection G of this section, shall have ninety (90) days from
15 the date of notice of the supervision except as otherwise provided
16 by the Commissioner, to comply with any additional requirements of
17 the Commissioner.

18 2. The Commissioner may determine at any time during or after
19 the ninety-day period that judicial or administrative proceedings
20 should be initiated to place the insurer in conservation,
21 rehabilitation or liquidation proceedings or other delinquency
22 proceedings, pursuant to Sections 1801 through 1920 of this title.
23 If the insurer does not comply with the requirements of the
24 Commissioner, supervision may continue until such requirements are

1 completed or until the Commissioner approves or completes pursuit of
2 additional options, as provided in the Insurance Code.

3 I. The Commissioner may assess a fine for failure to timely
4 file a written plan of action required under paragraph 2 of
5 subsection G of this section in an amount of not more than Five
6 Hundred Dollars (\$500.00) per day.

7 J. The Commissioner may promulgate rules to implement the
8 provisions of this section.

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

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