

1 **SENATE FLOOR VERSION**

2 April 5, 2021

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

By: McEntire of the House

and

Montgomery of the Senate

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

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

20 SECTION 1. AMENDATORY 36 O.S. 2011, Section 607.1, as
21 last amended by Section 2, Chapter 73, O.S.L. 2016 (36 O.S. Supp.
22 2020, Section 607.1), is amended to read as follows:

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

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

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

19 | 1. The report of an independent certified public accountant in
20 | accordance with accounting principles generally accepted in the
21 | United States of America;

22 | 2. A balance sheet reporting assets, liabilities and equity;

23 | 3. A statement of operations;

24 | 4. A statement of cash flows;

- 1 5. A statement of changes in assets, liabilities and equity;
- 2 6. Footnotes to financial statements; and
- 3 7. An unqualified opinion from the certified public accountant
- 4 that the audited financial report represents a fair presentation of
- 5 the Interlocal Entity's financial position in conformity with
- 6 accounting principles generally accepted in the United States of
- 7 America.

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

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

1 D. Extensions of the filing date may be granted by the
2 Commissioner for thirty-day periods upon a showing by the Interlocal
3 Entity and its independent certified public accountant or qualified
4 actuary of the reasons for requesting an extension and determination
5 by the Commissioner of good cause for an extension. The request for
6 extension must be submitted in writing not less than ten (10) days
7 prior to the due date in sufficient detail to permit the
8 Commissioner to make an informed decision with respect to the
9 requested extension.

10 E. The Commissioner may assess a fine for failure to file the
11 required annual audit or actuarial opinion in an amount of not more
12 than Five Hundred Dollars (\$500.00) per day.

13 F. The audited financial reports and actuarial opinions
14 required herein are subject to public inspection pursuant to the
15 Oklahoma Open Records Act.

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

22 1. Notify the insurer and its participating members of the
23 determination by the Commissioner that the provisions of this
24 subsection shall apply;

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

5 3. Notify the insurer if the Commissioner determines to further
6 supervise the insurer following receipt of the written plan of
7 action from the insurer.

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

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

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

5 J. The Commissioner may promulgate rules to implement the
6 provisions of this section.

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

8 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
9 April 5, 2021 - DO PASS AS AMENDED

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