

1 ENGROSSED HOUSE
2 BILL NO. 1160

By: Tedford of the House

and

Reinhardt of the Senate

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7 An Act relating to insurance; amending 36 O.S. 2021,
8 Sections 2002, 2003, 2004, 2007, 2009, 2020.1, and
9 2020.2, which relate to the Oklahoma Property and
10 Casualty Insurance Guaranty Association Act;
11 modifying purpose; modifying applicability; modifying
12 definitions; providing definitions; modifying the
13 powers and duties of the Association; clarifying
14 parties; clarifying timelines; permitting the
15 Association to join certain organizations; permitting
16 the Association to make certain payments; prohibiting
17 use of the existence of the Association to sell or
18 solicit insurance; clarifying that certain records
19 are not public records; providing exceptions;
20 providing for codification; and providing an
21 effective date.

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

23 SECTION 1. AMENDATORY 36 O.S. 2021, Section 2002, is
24 amended to read as follows:

Section 2002. A. The purpose of the Oklahoma Property and
Casualty Insurance Guaranty Association Act is to provide a
mechanism for the payment of covered claims under certain insurance
policies, to avoid excessive delay in payment, ~~to avoid~~ and to the
extent provided in this act, minimize financial loss to claimants or

1 policyholders because of the insolvency of an insurer, and to
2 provide an association to assess the cost of protection among
3 insurers.

4 B. The Oklahoma Property and Casualty Insurance Guaranty
5 Association Act shall be construed to effect the purpose provided
6 for in subsection A of this section which shall constitute an aid
7 and guide to interpretation of the Oklahoma Property and Casualty
8 Insurance Guaranty Association Act.

9 SECTION 2. AMENDATORY 36 O.S. 2021, Section 2003, is
10 amended to read as follows:

11 Section 2003. The Oklahoma Property and Casualty Insurance
12 Guaranty Association Act shall apply to all kinds of direct
13 insurance, but shall not be applicable to the following:

- 14 1. Life, annuity, health, or disability insurance;
- 15 2. Ocean marine insurance;
- 16 3. Fidelity or surety bonds, or any other bonding obligations;
- 17 4. Title, as defined in Sections 702, 703, 705, 708 and 709 of
18 this title, mortgage or financial guaranty insurance or other forms
19 of insurance offering protection against investment risks;
- 20 5. Credit insurance, insurance of warranties or service
21 contracts, annuities, vendors single interest insurance, collateral
22 protection insurance; ~~and~~
- 23 6. Any transaction or combination of transactions between a
24 person, including affiliates of the person, and an insurer,

1 including affiliates of the insurer, which involves the transfer of
2 investment or credit risk unaccompanied by transfer of investment
3 risk; and

4 7. Any insurance provided by or guaranteed by a government.

5 SECTION 3. AMENDATORY 36 O.S. 2021, Section 2004, is
6 amended to read as follows:

7 Section 2004. As used in the Oklahoma Property and Casualty
8 Insurance Guaranty Association Act:

9 1. "Affiliate" means a person who directly or indirectly,
10 through one or more intermediaries, controls, is controlled by, or
11 is under common control with another person on December 31 of the
12 year next preceding the date the insurer becomes an insolvent
13 insurer;

14 2. "Association" means the Oklahoma Property and Casualty
15 Insurance Guaranty Association as created in Section 2005 of this
16 title;

17 3. "Assumed claims transaction" means:

18 a. policy obligations that have been assumed by the
19 insolvent insurer, prior to the entry of a final order
20 of liquidation, pursuant to a plan, approved by a
21 domestic commissioner of the assuming insurer, which
22 transfers the direct policy obligations and future
23 policy renewals from one insurer to another insurer,
24 or

1 b. an assumption reinsurance transaction in which all of
2 the following have occurred:

3 (1) the insolvent insurer assumed, prior to the entry
4 of a final order of liquidation, the claim or
5 policy obligations of another insurer under the
6 claims or policies,

7 (2) the assumption of the claim or policy obligations
8 has been approved, if an approval is required, by
9 the appropriate regulatory authorities, and

10 (3) as a result of the assumption, the claim or
11 policy obligations became the direct obligations
12 of the insolvent insurer through novation of the
13 claims or policies;

14 4. "Claimant" means any person instituting a covered claim;
15 provided that no person who is an affiliate of the insolvent insurer
16 may be a claimant;

17 5. "Commissioner" means the Insurance Commissioner of Oklahoma;

18 6. "Control" means the possession, direct or indirect, of the
19 power to direct or cause the direction of the management and
20 policies of a person, whether through the ownership of voting
21 securities, by contract other than a commercial contract for goods
22 or nonmanagement services, or otherwise, unless the power is the
23 result of an official position with or corporate office held by the
24 person. Control shall be presumed to exist if a person, directly or

1 indirectly, owns, controls, holds with the power to vote, or holds
2 proxies representing ten percent (10%) or more of the voting
3 securities of any other person. This presumption may be rebutted by
4 a showing that control does not exist in fact;

5 7. "Covered claim" means:

6 a. an unpaid claim, including one of unearned premiums,
7 submitted by a claimant, which arises out of and is
8 within the coverage and is subject to the applicable
9 limits of an insurance policy to which this act
10 applies, if the insurer becomes an insolvent insurer
11 after the effective date of this act and the policy
12 was issued by the insurer, and:

13 (1) the claimant or insured is a resident of this
14 state at the time of the insured event, provided
15 that for entities other than an individual, the
16 residence of a claimant or insured is the state
17 in which its principal place of business is
18 located at the time of the insured event, or

19 (2) the claim is a first-party claim for damage to
20 property from which the claim arises is
21 permanently located with a permanent location in
22 this state,

23 b. "Covered claim" includes claim obligations that arose
24 through the issuance of an insurance policy by a

1 member insurer, which are later allocated,
2 transferred, merged into, novated, assumed by, or
3 otherwise made the sole responsibility of a member or
4 nonmember insurer if:

5 (1) the original member insurer has no remaining
6 obligations on the policy after the transfer,

7 (2) a final order of liquidation with a finding of
8 insolvency has been entered against the insurer
9 that assumed the member's coverage obligations by
10 a court of competent jurisdiction in the
11 insurer's state of domicile,

12 (3) the claim would have been a covered claim, as
13 defined in subparagraph a of paragraph 7 of this
14 section, if the claim had remained the
15 responsibility of the original member insurer and
16 the order of liquidation had been entered against
17 the original member insurer, with the same claim
18 submission date and liquidation date, and

19 (4) in cases where the member's coverage obligations
20 were assumed by a nonmember insurer, the
21 transaction received prior regulatory or judicial
22 approval,

23 c. "Covered claim" shall not include:
24

- 1 (1) any amount awarded as punitive or exemplary
2 damages,
- 3 (2) any amount sought as a return of premium under
4 any retrospective rating plan,
- 5 (3) any amount due any reinsurer, insurer, insurance
6 pool, or underwriting association, health
7 maintenance organization, hospital plan
8 corporation, professional health service
9 corporation or self-insurer as subrogation
10 recoveries, reinsurance recoveries, contribution,
11 indemnification or otherwise. No claim for any
12 amount due any reinsurer, insurer, insurance
13 pool, or underwriting association, health
14 maintenance organization, hospital plan
15 corporation, professional health service
16 corporation or self-insurer may be asserted
17 against a person insured under a policy issued by
18 an insolvent insurer other than to the extent the
19 claim exceeds the association obligation
20 limitations set ~~for~~ forth in Section 2007 of this
21 title,
- 22 (4) any claims excluded pursuant to Section ~~15~~ 2020.2
23 of this ~~act~~ title due to the high net worth of an
24 insured,

- 1 (5) any first-party claims by an insured that is an
2 affiliate of the insolvent company,
- 3 (6) any fee or other amount relating to goods or
4 services sought by or on behalf of any attorney
5 or other provider of goods and services retained
6 by the insolvent insurer or an insured prior to
7 the date it was determined to be insolvent,
- 8 (7) any fee or other amount sought by or on behalf of
9 any attorney or other provider of goods and
10 services retained by any insured or claimant in
11 connection with the assertion or prosecution of
12 any claim, covered or otherwise, against the
13 Association,
- 14 (8) any claims for interest,
- 15 (9) any claim filed with the association or a
16 liquidator for protection afforded under the
17 policy of the insured for incurred-but-not-
18 reported losses, or
- 19 (10) notwithstanding any other provision of this act
20 or any other law to the contrary, a claim that is
21 filed with the ~~association~~ Association on the
22 earlier of:
- 23
24

1 (a) the final date set by the court for filing
2 of claims against the liquidator or receiver
3 of an insolvent insurer, or

4 (b) a date that is later than eighteen (18)
5 months after the date of the order of
6 liquidation or that is unknown and
7 unreported as of said date; provided,
8 however, that this shall not include any
9 claim for workers' compensation benefits
10 pursuant to Title 85A of the Oklahoma
11 Statutes and the applicable rules of OAC
12 Title 810;

13 8. "Cybersecurity insurance", for purposes of this act,
14 includes first-party and third-party coverage, in a policy or
15 endorsement, written on a direct, admitted basis for losses and loss
16 mitigation arising out of or relating to data privacy breaches,
17 unauthorized information network, security intrusions, computer
18 viruses, ransomware, cyber extortion, identity theft, and similar
19 exposures;

20 9. "Insolvent insurer" means an insurer that is licensed to
21 transact insurance in this state either at the time the policy was
22 issued, when the obligation with respect to the covered claim was
23 assumed under an assumed claims transaction, or when the insured
24 event occurred and against whom a final order of liquidation has

1 | been entered after the effective date of this act with a finding of
2 | insolvency by a court of competent jurisdiction in the state of
3 | domicile of the insurer;

4 | ~~9.~~ 10. "Insured" means any named insured, any additional
5 | insured, any vendor, lessor or any other party identified as an
6 | insured under the policy;

7 | ~~10.~~

8 | 11. a. "Member insurer" means any person who:

- 9 | (1) writes any kind of direct insurance to which the
10 | Oklahoma Property and Casualty Insurance Guaranty
11 | Association Act applies pursuant to Section 2003
12 | of this title, including the exchange of
13 | reciprocal or inter-insurance contracts, and
14 | (2) is licensed to transact insurance in this state,
15 | except those insurers enumerated in Section 110
16 | of this title or those insurers that are
17 | otherwise exempted by law or order of the
18 | Commissioner;i

- 19 | b. An insurer shall cease to be a member insurer
20 | effective on the day following the termination or
21 | expiration of its license to transact the kinds of
22 | insurance to which the Oklahoma Property and Casualty
23 | Insurance Guaranty Association Act applies; however,
24 | the insurer shall be liable as a member insurer for

1 any and all obligations, including but not limited to
2 obligations for assessments levied after the
3 termination or expiration, which relate to any insurer
4 that becomes an insolvent insurer prior to the
5 termination or expiration of the license of the
6 insurer; and

7 c. "Member insurer" does not mean:

8 (1) a "surplus lines insurer" or a person writing
9 surplus lines insurance as defined in Section
10 1101.1 of this title, or

11 (2) a "risk retention group" as defined in Section
12 6453 of this title, or

13 (3) a "captive insurance company" as defined in
14 Section 6470.2 of this title;

15 ~~11.~~ 12. "Net direct written premiums" means direct gross
16 premiums written in this state on insurance policies to which this
17 act applies, including but not limited to policy and membership
18 fees, less the following amounts:

- 19 a. return premiums,
20 b. premiums on policies not taken, and
21 c. dividends paid or credited to policyholders on direct
22 business. "Net direct written premiums" does not
23 include premiums on contracts between insurers or
24 reinsurers;

1 ~~12.~~ 13. "Novation" means that the assumed claim or policy
2 obligations became the direct obligations of the insolvent insurer
3 through consent of the policyholder and that thereafter the ceding
4 insurer or entity initially obligated under the claims or policies
5 is released by the policyholder from performing its claim or policy
6 obligations. Consent shall be express and an implied novation shall
7 not be allowed for the purposes, implementation and application of
8 the Oklahoma Property and Casualty Insurance Guaranty Association
9 Act;

10 ~~13.~~ 14. "Person" means the individual or other entities as
11 defined in Section 104 of this title;

12 ~~14.~~ 15. "Receiver" means liquidator, rehabilitator, conservator
13 or ancillary receiver, as the context requires; and

14 ~~15.~~ 16. "Self-insurer" means a person who covers its liability
15 through a qualified individual or group self-insurance program or
16 any other formal program created for the specific purpose of
17 covering liabilities typically covered by insurance.

18 SECTION 4. AMENDATORY 36 O.S. 2021, Section 2007, is
19 amended to read as follows:

20 Section 2007. A. The Oklahoma Property and Casualty Insurance
21 Guaranty Association shall:

22 1. Be obligated to pay the covered claims existing prior to the
23 determination of insolvency if the claims arise within thirty (30)
24 days after the determination of insolvency, or before the policy

1 expiration date if less than thirty (30) days after the
2 determination, or before the insured replaces the policy or causes
3 its cancellation, if the insured does so within thirty (30) days of
4 the determination. The obligation shall be satisfied by paying to
5 the claimant an amount as follows:

6 a. the full amount of a covered claim for benefits under
7 a workers' compensation insurance coverage,

8 b. an amount not exceeding Ten Thousand Dollars
9 (\$10,000.00) per policy for a covered claim for the
10 return of unearned premium, ~~and~~

11 c. an amount not exceeding One Hundred Fifty Thousand
12 Dollars (\$150,000.00) per claimant for all other
13 covered claims except for claims relating to a
14 cybersecurity insurance policy, and

15 d. in no event shall the Association be obligated to pay
16 an amount in excess of Five Hundred Thousand Dollars
17 (\$500,000.00) for all first- and third-party claims
18 under a policy or endorsement providing, or that is
19 found to provide, cybersecurity insurance coverage and
20 arising out of or related to a single insured event,
21 regardless of the number of claims made or the number
22 of claimants.

23 In no event shall the Association be obligated to pay a claimant
24 an amount in excess of the obligation of the insolvent insurer under

1 the policy or coverage from which the claim arises or in excess of
2 the limits of the obligation of the Association existing on the date
3 on which the order of liquidation is filed with the court clerk;

4 2. Any obligation of the ~~association~~ Association to defend an
5 insured shall cease upon the payment or tender by the ~~association~~
6 Association of an amount equal to the lesser of the covered claim
7 obligation limit of the ~~association~~ Association or the applicable
8 policy limit;

9 3. As payor of last resort, have all rights, duties and
10 obligations of the insolvent insurer as if the insurer had not
11 become insolvent including, but not limited to, the right to pursue
12 and retain salvage and subrogation recoverable on covered claim
13 obligations to the extent paid by the ~~association~~ Association. The
14 ~~association~~ Association shall not be deemed the insolvent insurer
15 for the purpose of conferring jurisdiction;

16 4. Allocate claims paid and expenses incurred among the three
17 accounts set out in Section 2005 of this title separately, and
18 assess member insurers separately for each account amounts necessary
19 to pay the obligations of the Association under this section
20 subsequent to a member insurer becoming an insolvent insurer, the
21 expenses of handling covered claims subsequent to an insolvency, and
22 other expenses authorized by the Oklahoma Property and Casualty
23 Insurance Guaranty Association Act, Sections 2001 through 2020 of
24 this title and Sections 2020.1 and 2020.2 of this title. The

1 assessments of each member insurer shall be in the proportion that
2 the net direct written premiums of the member insurer for the
3 calendar year preceding the assessment on the kinds of insurance in
4 the account bear to the net direct written premiums of all
5 participating insurers for the calendar year preceding the
6 assessment on the kinds of insurance in the account. Each member
7 insurer shall be notified in writing of the assessment not later
8 than thirty (30) days before it is due. No member insurer may be
9 assessed in any year an amount greater than two percent (2%) of the
10 net direct written premiums of that member or one percent (1%) of
11 that surplus of the member insurer as regards policyholders for the
12 calendar year preceding the assessment on the kinds of insurance in
13 the account, whichever is less. If the maximum assessment, together
14 with the other assets of the Association, does not provide in any
15 one (1) year in any account an amount sufficient to make all
16 necessary payments from that account, the funds available may be
17 prorated and the unpaid portion shall be paid as soon thereafter as
18 funds become available. The Association shall pay claims in any
19 order which it deems reasonable, including the payment of claims as
20 the claims are received from the claimants or in groups or
21 categories of claims. The Association may exempt or defer, in whole
22 or in part, the assessment of any member insurer, if the assessment
23 would cause the financial statement of the member insurer to reflect
24 amounts of capital or surplus less than the minimum amounts required

1 for a certificate of authority by any jurisdiction in which the
2 member insurer is authorized to transact insurance. During the
3 period of deferment, no dividends shall be paid to shareholders or
4 policyholders. Deferred assessments shall be paid when the payments
5 will not reduce capital or surplus below required minimums. The
6 payments may be refunded to those companies receiving larger
7 assessments by virtue of the deferment, or, at the election of any
8 company credited against future assessments. Each member insurer
9 serving as a servicing facility may set off against any assessment
10 authorized payments made on covered claims and expenses incurred in
11 the payment of covered claims by a member insurer if they are
12 chargeable to the account for which the assessment is made;

13 5. Investigate claims brought against the Association and
14 adjust, compromise, settle and pay covered claims to the extent of
15 the obligation of the Association and deny all other claims. The
16 Association shall pay claims in any order that it may deem
17 reasonable, including, but not limited to, the payment of claims as
18 they are received from claimants or in groups of categories of
19 claims. The Association shall have the right to select and to
20 direct legal counsel under liability insurance policies for the
21 defense of covered claims;

22 6. Notify claimants in this state as deemed necessary by the
23 Commissioner and upon the request of the Commissioner, to the extent
24 records are available to the Association. Notification may include,

1 but shall not be limited to, a legal posting on the website of the
2 Association;

3 7. a. Handle claims through employees or through one or more
4 insurers or other persons designated as servicing
5 facilities. Designation of a servicing facility is
6 subject to approval of the Commissioner, but such
7 designation may be declined by a member insurer.

8 b. The Association shall have the right to review and
9 contest as set forth in this paragraph, settlements,
10 releases, compromises, waivers and judgments to which
11 the insolvent insurer or its insureds were parties
12 prior to the entry of the order of liquidation. In an
13 action to enforce settlements, releases and judgments
14 to which the insolvent insurer or its insureds were
15 parties prior to the entry of the order of
16 liquidation, the Association shall have the right to
17 assert the following defenses:

18 (1) the Association shall not be bound by a
19 settlement, release, compromise or waiver
20 executed by an insured or the insurer, or any
21 judgment entered against the insured or the
22 insurer by consent or through a failure to
23 exhaust all appeals, if the settlement, release,
24 compromise waiver or judgment was:

1 (a) executed or entered within one hundred
2 twenty (120) days prior to the entry of an
3 order of liquidation, and the insured or the
4 insurer did not use reasonable care in
5 entering into the settlement, release,
6 compromise, waiver or judgment, or did not
7 pursue all reasonable appeals of an adverse
8 judgment, or

9 (b) executed by or taken against an insured or
10 the insurer based on default, fraud,
11 collusion or the failure of the insurer to
12 defend,

13 (2) if a court of competent jurisdiction finds that
14 the Association is not bound by a settlement,
15 release, compromise, waiver or judgment for the
16 releases provided for in division (1) of
17 subparagraph b of this paragraph, the settlement,
18 release, compromise, waiver or judgment shall be
19 set aside and the Association shall be permitted
20 to defend any covered claim on the merits. The
21 settlement, release, compromise, waiver or
22 judgment shall not be considered as evidence of
23 liability in connection with any claim brought
24 against the Association or any other party

1 pursuant to the Oklahoma Property and Casualty
2 Insurance Guaranty Association Act, and

3 (3) the Association shall have the right to assert
4 any statutory defenses or rights of offset
5 against any settlement, release, compromise or
6 waiver executed by an insured or the insurer, or
7 any judgment taken against the insured or the
8 insurer.

9 c. As to any covered claims arising from a judgment under
10 any decision, verdict or finding based on the default
11 of the insolvent insurer or its failure to defend, the
12 Association, either on its own behalf or on behalf of
13 an insured, may apply to have the judgment, order,
14 decision, verdict or finding set aside by the same
15 court or administrator that entered the judgment,
16 claim, decision, verdict or finding and shall be
17 permitted to defend on the merits;

18 8. Reimburse each servicing facility for obligations of the
19 Association paid by the facility and for reasonable expenses
20 incurred by the facility while handling claims on behalf of the
21 Association and pay the other expenses of the Association authorized
22 by the Oklahoma Property and Casualty Insurance Guaranty Association
23 Act;

1 9. Have standing to appear before any court of this state which
2 has jurisdiction over an impaired or insolvent insurer for whom the
3 Association is or may become obligated pursuant to the provisions of
4 the Oklahoma Property and Casualty Insurance Guaranty Association
5 Act. Standing shall extend to all matters germane to the powers and
6 duties of the Association including, but not limited to, proposals
7 for rehabilitation, acquisition, merger, reinsuring, or guaranteeing
8 the covered policies of the impaired or insolvent insurer, and the
9 determination of covered policies and contractual obligations of the
10 impaired or insolvent insurer; and

11 10. Notwithstanding any other provision of the Oklahoma
12 Property and Casualty Insurance Guaranty Association Act, an
13 insurance policy issued by a member insurer and later allocated,
14 transferred, assumed by or otherwise made the sole responsibility of
15 another insurer pursuant to any provision of law providing for the
16 division of an insurance company, or the statutory assumption or
17 transfer of designated policies under which there is no remaining
18 obligation to the transferring entity, shall be considered to have
19 been issued by a member insurer which is an insolvent insurer for
20 the purposes of this ~~Act~~ act in the event that the insurer to which
21 the policy has been allocated, transferred, assumed or otherwise
22 made the sole responsibility of is placed in liquidation. An
23 insurance policy that was issued by an insurer who is not a member
24 insurer and subsequently allocated, transferred, assumed by or

1 otherwise made the sole responsibility of a member insurer under any
2 provision of law providing for the division of an insurance company
3 shall not be considered to have been issued by a member insurer
4 pursuant to this ~~Act~~ act.

5 B. The Association may:

6 1. Employ or retain persons as are necessary to handle claims
7 and perform other duties of the Association;

8 2. Borrow funds necessary to effect the purposes of the
9 Oklahoma Property and Casualty Insurance Guaranty Association Act in
10 accordance with the plan of operation;

11 3. Sue or be sued;

12 4. Negotiate and become a party to contracts as are necessary
13 to carry out the purpose of the Oklahoma Property and Casualty
14 Insurance Guaranty Association Act;

15 5. Refund to member insurers in proportion to the contribution
16 of each member insurer that amount by which the assets of the
17 Association exceed its liabilities, if at the end of any calendar
18 year the board of directors finds that the assets of the Association
19 exceed the liabilities as estimated by the board of directors for
20 the coming year;

21 6. Lend monies to an insurer declared to be impaired by the
22 Commissioner. The Association, with approval of the Commissioner,
23 shall approve the amount, length and terms of the loan. "Impaired
24 Insurer" for purposes of this section shall mean an insurer

1 potentially unable to fulfill its contractual obligations, but shall
2 not mean an insolvent insurer;

3 7. Perform other acts as are necessary or proper to effectuate
4 the purpose of the Oklahoma Property and Casualty Insurance Guaranty
5 Association Act;

6 8. Intervene as a party in interest in any supervision,
7 conservation, liquidation, rehabilitation, impairment or
8 receivership in which policyholders' interests and interests of the
9 Association may be or are affected; and

10 9. Be designated or may contract as a servicing facility for
11 any entity which may be recommended by the board of directors of the
12 Association and shall be approved by the Commissioner.

13 SECTION 5. AMENDATORY 36 O.S. 2021, Section 2009, is
14 amended to read as follows:

15 Section 2009. A. The Commissioner shall:

16 1. Notify the Oklahoma Property and Casualty Insurance Guaranty
17 Association Executive Director of the existence of an insolvent
18 insurer as soon as possible but not later than three (3) days after
19 notice of the determination is received. The Association shall be
20 entitled to a copy of a complaint seeking an order of liquidation
21 with a finding of insolvency against a member company at the same
22 time that the complaint is filed with a court of competent
23 jurisdiction; and

24

1 2. Provide the Association with a statement of the net direct
2 written premiums of each member insurer upon the request of the
3 board of directors.

4 B. The Commissioner may:

5 1. Suspend or revoke, after the notice and hearing, the
6 certificate of authority to transact insurance in this state of any
7 member insurer which fails to pay an assessment when due or fails to
8 comply with the plan of operation. As an alternative, the
9 Commissioner may levy a fine on any member insurer which fails to
10 pay an assessment when due. The fine shall not exceed five percent
11 (5%) of the unpaid assessment per month, except that no fine shall
12 be less than One Hundred Dollars (\$100.00) per month;

13 2. Revoke the designation of any servicing facility if the
14 Commissioner finds claims are being handled unsatisfactorily; or

15 3. Examine or audit the Association.

16 C. Any final action or order of the Commissioner under the
17 Oklahoma Property and Casualty Insurance Guaranty Association Act
18 shall be subject to judicial review in a court of competent
19 jurisdiction.

20 SECTION 6. AMENDATORY 36 O.S. 2021, Section 2020.1, is
21 amended to read as follows:

22 Section 2020.1. A. The Oklahoma Property and Casualty
23 Insurance Guaranty Association may join one or more organizations of
24 other state associations of similar purposes, to further the

1 purposes and administer the powers and duties of the Association.
2 The Association may designate one or more of these organizations to
3 act as a liaison for the Association and, to the extent the
4 Association authorizes, to bind the Association in agreements or
5 settlements with receivers of insolvent insurance companies or their
6 designated representatives.

7 B. The Oklahoma Property and Casualty Insurance Guaranty
8 Association, in cooperation with other obligated or potentially
9 obligated guaranty associations, or their designated
10 representatives, shall make all reasonable efforts to coordinate and
11 cooperate with receivers, or their designated representatives, in
12 the most efficient and uniform manner, including the use of Uniform
13 Data Standards as promulgated or approved by the National
14 Association of Insurance Commissioners.

15 SECTION 7. AMENDATORY 36 O.S. 2021, Section 2020.2, is
16 amended to read as follows:

17 Section 2020.2. A. For purposes of this section, "high net
18 worth insured" means any insured whose net worth exceeds Fifty
19 Million Dollars (\$50,000,000.00) on December 31 of the year prior to
20 the year in which the insurer becomes an insolvent insurer; provided
21 that the net worth of an insured on that date shall be deemed to
22 include the aggregate net worth of the insured and all of its
23 subsidiaries and affiliates as calculated on a consolidated basis.

24

1 B. 1. The Oklahoma Property and Casualty Insurance Guaranty
2 Association shall not be obligated to pay any first-party claims by
3 a high net worth insured; ~~and~~

4 2. The Association shall have the right to recover from a high
5 net worth insured all amounts paid by the ~~association~~ Association to
6 or on behalf of the insured, whether for indemnity, defense or
7 otherwise; and

8 3. The Association may also, at its sole discretion and without
9 assumption of any ongoing duty to do so, pay any cybersecurity
10 insurance obligations covered by a policy or endorsement of an
11 insolvent company on behalf of a high net worth insured as defined
12 in this section. In that case, the Association shall recover from
13 the high net worth insured under this section all amounts paid on
14 its behalf, all allocated claim adjusted expenses related to such
15 claims, the Association's attorney fees, and all court costs in any
16 action necessary to collect the full amount to the Association's
17 reimbursement under this section.

18 C. The Association shall not be obligated to pay any claim that
19 would otherwise be a covered claim that is an obligation to or on
20 behalf of a person who has a net worth greater than that allowed by
21 the insurance guaranty association law of the state of residence of
22 the claimant at the time specified by the applicable law of that
23 state, and which association has denied coverage to that claimant on
24 that basis.

1 D. The Association shall establish reasonable procedures for
2 requesting financial information from insureds on a confidential
3 basis for purposes of applying this section, provided that the
4 financial information may be shared with any other association
5 similar to the association and the liquidator for the insolvent
6 insurer on the same confidential basis. Any request to an insured
7 seeking financial information shall advise the insured of the
8 consequences of failing to provide the financial information. If an
9 insured refuses to provide the requested financial information where
10 it is requested and available, the Association may, until the time
11 as the information is provided, provisionally deem the insured to be
12 a high net worth insured for the purpose of denying a claim under
13 subsection B of this section.

14 E. In any lawsuit contesting the applicability of this section
15 where the insured has refused to provide financial information under
16 the procedure established pursuant to subsection D of this section,
17 the insured shall bear the burden of proof concerning its net worth
18 at the relevant time. If the insured fails to prove that its net
19 worth at the relevant time was less than the applicable amount, the
20 court shall award the association its full costs, expenses and
21 reasonable attorney fees in contesting the claim.

22 SECTION 8. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2020.3 of Title 36, unless there
24 is created a duplication in numbering, reads as follows:

1 No person, including an insurer, insurance producer, or
2 affiliate of an insurer, shall publish, disseminate, circulate, or
3 place before the public, or cause, directly or indirectly, to be
4 published, disseminated, circulated or placed before the public, in
5 any newspaper, magazine or other publication, or in the form of a
6 notice, circular, pamphlet, letter or poster, or over any radio
7 station or television station, or in any other way, any
8 advertisement, which uses the existence of the Insurance Guaranty
9 Association of this state for the purpose of sales, solicitation, or
10 inducement to purchase any form of insurance covered by the Oklahoma
11 Property and Casualty Insurance Guaranty Association law. However,
12 this section does not apply to the Insurance Guaranty Association or
13 to any other entity which does not sell or solicit insurance.

14 SECTION 9. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2020.4 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Except as provided in subsection B of this section, records
18 created, held by, or pertaining to the Oklahoma Property and
19 Casualty Insurance Guaranty Association are not public records under
20 the Oklahoma Open Records Act, are confidential, and are not subject
21 to inspection or disclosure.

22 B. Subsection A of this section does not apply to the plan of
23 operation required under Section 2008 of Title 36 of the Oklahoma
24 Statutes and other information required to be filed with the

1 Insurance Commissioner under Title 36 of the Oklahoma Statutes
2 unless otherwise prohibited from release by law.

3 SECTION 10. This act shall become effective November 1, 2025.

4 Passed the House of Representatives the 3rd day of March, 2025.

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Presiding Officer of the House
of Representatives

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9 Passed the Senate the ____ day of _____, 2025.

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Presiding Officer of the Senate

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