



# OKLAHOMA INSURANCE DEPARTMENT



*Legislative, Administrative Code, and O.I.D.  
Changes 2012*



# ANTI-FRAUD



*2012 Legislative Update*



# SB1439 – Anti-Fraud

## **Section 1 – Aggregation**

(Amends 21 O.S. 2011, Section 1451)

- Allows the aggregation of small thefts into a single crime large enough to be felony.

## **Section 2 – Fraudulent Insolvency**

(Amends 21 O.S. 2011, Section 1639)

- Makes the crime of intentionally bankrupting an insurance company a felony.



## **SB1439 – Cont...**

### **Section 3 – Insurance Fraud Fine**

(Amends 21 O.S. 2011, Section 1662)

- Allows a fine of twice the amount stolen.

### **Section 4 – Fraud Investigation**

(Amends 36 O.S. 2011, Section 361)

- Clarifies that insurance related crimes may be investigated.

**EFFECTIVE IMMEDIATELY**



## **SB1439 – Cont...**

### **Section 5 – Immunity**

(Amends 36 O.S. 2011, Section 363)

- Broadens immunity for those who report insurance fraud.

### **Sections 6-7 – Forfeiture**

(New Law 36 O.S. 2011, Section 364-365)

- Replicates the drug forfeiture statutes for those who engage in insurance fraud, allowing the seizure of the instruments and fruits of the crime.

**EFFECTIVE IMMEDIATELY**



# INSURANCE PRODUCERS



*Legislative, Administrative Code, and O.I.D.  
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# HB2453 – Omnibus

## **Section 3 – Application Examination Requirements**

(Amends 36 O.S. 2011, Section 1435.6)

- Places a 2 year expiration date on the insurance producer license exam.
- Allows someone who failed a licensing exam twice to retest within 30 days.

## **Section 11a – Out Buildings**

(Amends 36 O.S. 2011, Section 3639.1)

- Treats out buildings like the home in regards to cancellations, renewal, and increases in premiums.

## **Section 11b – Short-term Auto Policies**

(Amends 36 O.S. 2011, Section 3639.1)

- Clarifies that short-term auto policies do not need to give 30 day cancellation notice.



## **HB2453 – Omnibus**

### **Section 12 – Continuation of Coverage**

(Amends 36 O.S. 2011, Section 4509)

- Once a carrier receives notice of an employee being terminated from a group health insurance plan, the carrier must offer the employee continuation coverage within 30 days.
- Upon receiving the notice the employee has 31 days to accept the offer and pay any required premium.





# SB1152 - Rebates

## **Section 1. 10(d) – Inducements**

(Amends 36 O.S. 2011, Section 1204)

- Changes inducement to purchase limit from \$25 to \$100.

**EFFECTIVE NOVEMBER 1<sup>st</sup>, 2012**



# SB1621 – Associational Health Plans

## **Section 1 – Bona Fide Association**

(Amends 36 O.S. 2011, Section 6512)

- Defines a bona fide association substantially the same as federal law (42 USC § 300GG-91). Allows small employers to become part of a large risk pool.

## **Section 3 – Association Only**

(36 O.S. 2011, Section 6519)

- Must be a member of the association to purchase.
- Carriers not required to offer outside of the association.



## **SB1621 – Cont...**

### **Section 2 – Defined as Large Group Plan**

(Amends 36 O.S. 2011, Section 6513)

- Recognizes bona fide associational health plans as a large groups.

### **Section 2.C – Small Group Protections**

(Amends 36 O.S. 2011, Section 6513)

- Makes these plans subject to Small Group Reform initial rating restrictions (6515) and small group reform consumer protections (4502).
- Requires an 80% retention rate.
- Limits contracts between small employers and bona fide association health plans to 2 years.
- Allows any appointed producer to sell the product.

**EFFECTIVE NOVEMBER 1<sup>st</sup>, 2012**



# **SB 1905 – Military Retirees**

## **Sections 1 – Group Health Exemption**

(New Law 36 O.S. Section 1165)

- Retired military who show proof of federal health coverage cannot be required to participate in a contributory employer-sponsored plan.

**EFFECTIVE November 1, 2012**



# HB 1968 – Life Insurance

## Sections 1 & 2 – Lawful Foreign Travel

(Amends 36 O.S. 2011, Section 1250.5, 4024)

- Life insurance may not be denied or rated based on travel to lawful destinations.

**EFFECTIVE August 24, 2012**



# SB1617 – Surplus Lines Taxes

## **Section 1 – Broker Is Responsible**

(Amends 36 O.S. 2011, Section 1101.1, 1107)

- Clarifies that the broker remits the filings and tax.

**EFFECTIVE IMMEDIATELY**



# ADJUSTERS



*2012 Legislative Update*



## **HB2453 – Omnibus**

### **Section 13 –Insurance Adjusters Licensing Act**

(Amends 36 O.S. 2011, Section 6206)

- Places a 2 year expiration limit on the insurance adjuster license exam.

### **Section 14 –Insurance Adjusters Licensing Act**

(Amends 36 O.S. 2011, Section 6217)

- Removes mandate for workers' compensation insurance adjusters to complete 6 hours of Oklahoma specific continuing education.





## **HB2453 – Cont...**

### **Section 15 – New Reporting Requirement (New Law 36 O.S., Section 6222)**

- Replicates producer reporting requirements for adjusters.
  - Report administrative action taken by any other jurisdiction within 30 days.
  - Report any criminal charges within 30 days.

**EFFECTIVE NOVEMBER 1<sup>st</sup>, 2012**



# INSURANCE COMPANIES



*Legislative, Administrative Code, and O.I.D.  
Changes 2012*



# HB2318 – Financial Exams

## Section 1 – Domestic Financial Exams

(Amends Title 36 O.S. 2011, Section 309.2)

- Extends from 3 years to 5 the minimum requirement to perform financial examination of every domestic insurer.
- Allows the Commissioner to establish criteria which indicate that a company may be examined in a lesser timeframe if conditions warrant.



# HB2446 – PEO Oversight

## **Section 1 – Late Fee**

(Amends 40 O.S. 2011, Section 600.4)

- Creates a \$500 late fee at the end of a 30 day grace period.
- Grants the commissioner the authority to reject for cause a registration or renewal.

## **Section 2 – Registration Revocation**

(New Law, 40 O.S, Section 600.9)

- Allows the commissioner, after notice and hearing, to suspend or revoke a registration.



# HB2453 – Omnibus

## **Section 6, 7, 8 & 9 – Investment of Certain Funds**

(Amends 36 O.S. 2011, Sections 1608-9, 1620, 1703)

- Clarifies that insurers cannot use as deposit investments securities that are prefunded or are declining in balance.
- Clarifies that “time deposits” are considered cash instruments.

## **Section 10 – Releasing Deposits**

(Amends 36 O.S. 2011, Section 1707)

- Clarifies that deposits can only be released after proper request is filed by the insurer and after financial review proving acceptable financial conditions.

## **Section 11a – Out Buildings**

(Amends 36 O.S. 2011, Section 3639.1)

- Treats out buildings like the home in regards to cancellations, renewal, and increases in premiums.



## **HB2453 – Cont...**

### **Section 11b – Short-term Auto Policies**

(Amends 36 O.S. 2011, Section 3639.1)

- Clarifies that short-term auto policies do not need to give 30 day cancellation notice.

### **Section 16 – External Review**

(Amends, 36 O.S. 2011, Section 6475.13)

- Allows the Commissioner to promulgate rules regarding independent review organizations.
  - These rules may create more uniform pricing.
- Allows the Commissioner to accept the standards of a national recognized accreditation entity if those standards are similar to Oklahoma's.



# HB2458 – Surplus Lines Taxes

## **Section 1 – Tax Effective Date**

(Amends 36 O.S. 2011, section 1100)

- Clarifies that the new tax collection arrangement is effective August 25th, 2011.

## **Section 2 – Home State Definition**

(Amends 36 O.S. 2011, section 1100.1)

- Cleans up definitions including “home state,” no substantive change.
  - Key points of definition is who owes the surplus lines tax to Oklahoma and who owes it to another state.

## **Section 3 – Potential Multi-state Agreements**

(Amends 36 O.S. 2011, section 1100.2)

- Clarifies that the Commissioner may choose to keep Oklahoma independent of multi-state agreements.



## **HB2458 – Cont...**

### **Section 5 – Payments to Oklahoma**

(Amends 36 O.S. 2011, section 1101.1)

- Clarifies that all surplus lines taxes are to be paid to the Commissioner until Oklahoma joins a multi-state agreement when Oklahoma is the home state of the insured.

### **Section 11 – Reporting in Oklahoma**

(Amends 36 O.S. 2011, Section 1107)

- Clarifies that reports are to be filed with Oklahoma until Oklahoma joins a multi-state agreement when Oklahoma is the home state of the insured.

### **Section 15 & 16 – Records and Payments**

(Amends 36 O.S. 2011, Sections 1113 & 1114)

- Clarifies record keeping and nature and scope of premium tax payment in the event Oklahoma chooses to remain independent.

**EFFECTIVE IMMEDIATELY**





## **HB2458 – Cont...**

### **Section 8 – Attorney Fees**

(Amends 36 O.S. 2011, Section 1105)

- Clarifies that a state agency may collect attorney fees in any action against a surplus lines insurer.

### **Section 17 – Tax Rate**

(Amends 36 O.S. 2011, Section 1115)

- Clarifies that the Oklahoma 6% tax rate applies and not the tax rates of other states when Oklahoma is the home state of the insured.

### **Section 20 – Access to Documents**

(Amends 36 O.S. 2011, Section 1120)

- Clarifies the Commissioner's access to documents.



# SB1617 – Surplus Lines Taxes

## **Section 1, 3 – Broker Is Responsible**

(Amends 36 O.S. 2011, Section 1101.1, 1107)

- Clarifies that the broker remits the filings and the tax.

**EFFECTIVE IMMEDIATELY**



# SB1617 – Captives

## **Section 5 – Service of Process Agent**

(Amends 36 O.S. 2011, Section 6470.3)

- Deletes requirement that a service of process agent, for a captive company, needs to be a licensed Insurance Professional.

## **Section 6 – Premium Tax Limit**

(Amends 36 O.S. 2011, Section 6470.19)

- Caps the Premium Tax payable by a Captive Insurance Company at \$100,000 per year.

**EFFECTIVE IMMEDIATELY**



# SB1474 – Self Audits

## Section 1 – Confidentiality

(New Law 36 O.S. 2011, Section 6830)

- Internal self-audits are not discoverable in criminal, civil or administrative matters.
- Those involved in developing the audit may not be called to testify about the audit.
- In connection with an exam the company may voluntarily submit the audit to the Commissioner without waving its confidentiality. It does not become an open record.

**EFFECTIVE November 1, 2012**



## **SB1474 – Cont...**

### **Section 2 – Limits of Confidentiality**

(New Law 36 O.S. 2011, Section 6831)

- Privilege may be voluntarily waived.
- If it is used to prepare a witness in a trial.
- If it shows non-compliance and if compliance is not initiated with a reasonable amount of time.
- If privilege is asserted in bad faith.
- In a criminal proceeding the court may order it released if there is a compelling reason and no other reasonable way to get the information.

**EFFECTIVE November 1, 2012**



## **SB1474 – Cont...**

### **Section 3 – Hearing on Confidentiality**

(New Law 36 O.S. 2011, Section 6832)

- When the audit is requested the company has 30 days to assert privilege.
- The court shall schedule within 45 days an in camera hearing.
- If it shows non-compliance and if compliance is not initiated with a reasonable amount of time.
- If the court orders disclosure privilege is not waived for any other proceeding.

**EFFECTIVE November 1, 2012**



# SB1474 – Cont...

## **Section 5 – Records Not Covered**

(New Law 36 O.S. 2011, Section 6834)

- Any information or documents that available outside the audit can still be accessed.

**EFFECTIVE November 1, 2012**



# BAIL BONDS



*2012 Legislative Update*





# HJR1123 – Bail Bond Rules

## **SUBCHAPTER 5. BAIL BONDSMEN**

### **PART 1. CONTINUING EDUCATION FOR BAIL BONDSMEN**

#### **365:25-5-3. Education Requirements**

- (b) Retains the 8 hours of annual continuing education as part of the 16 hour biennial requirement.

#### **365:25-5-4. Application for course approval**

- Changes fee for course approval by commissioner to \$200 biennially from \$100 annually.

## **SUBCHAPTER 5. BAIL BONDSMEN**

### **PART 5. GENERAL PROVISIONS PERTAINING TO BAIL**

#### **365:25-5-34. Professional bondsman deposits**

- Allows additional deposits or replacement portion deposits to be made via certified mail. Additional or replaced deposit will not be added until the amount is accepted by the Oklahoma Insurance Department. They are not considered accepted on the postmark date.
- Initial deposits must be made in person at the department.



## HJR1123 – Cont...

### 365:25-5-35. Bondsman license renewal

- (3b) Eliminates “late renewal” application. Replaces with “reinstatement” application.
  - **Late renewal** (*old rule*) could be completed within 60 days at double the renewal fee (\$400).
  - After 60 days reapplication was required—including background check, testing and fees.
  - **Reinstatement** (*new rule*) can be completed within 1 year at double the application fee (\$500). No testing or background check required.

**EFFECTIVE JULY 14<sup>th</sup>**



## HJR1123 – Cont...

### **365:25-5-43. Appointments**

Effective date of bondsmen appointments to be when Commissioner “approves” and “notifies the bondsman’s resident court clerk.”



# SB1127 – Bail Bonds

## **Section 1.A – Character**

(Amends 59 O.S. 2011, Section 1305)

- Changes character requirements of a bail bondsmen from “good character and reputation” to “competent, trustworthy, financially responsible, and is of good personal and business reputation and character.”

## **Section 1.B – Documentation**

(Amends 59 O.S. 2011, Section 1305)

- Clarifies permission for the Insurance Commissioner to ask for documents that verifies information listed on applications.



## **SB1127 – Cont...**

### **Section 2 – Reporting Date**

(Amends 59 O.S. 2011, Section 1309)

- Bail bondsmen annual reports are now due in September.

### **Section 3 – Any Felony**

(Amends 59 O.S. 2011, Section 1315)

- Clarifies that no felon can become a licensed bail bondsman in Oklahoma.

**EFFECTIVE NOVEMBER 1<sup>st</sup>, 2012**



# REAL ESTATE APPRAISERS



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# SB1493 - REAB

## **Section 1 (D) – Federal Registry Fee**

(Amends 59 O.S. 2011, Section 858-708)

- Makes appraiser responsible for the \$40 federal registry fee. REAB will promulgate rules to collect the fee.

**EFFECTIVE JULY 1<sup>st</sup>, 2012**



# SB1493 - REAB

## Section 2 – License Upgrade

(Amends 59 O.S. 2011, Section 858-713)

- Requires reviewers be paid as contractors.
- Requires a second review if initially denied.
- If denied, the Board will provide recommendations for improvement.
- Requires notice and explanation if review is delayed beyond 90 days.

**EFFECTIVE JULY 1<sup>st</sup>, 2012**





# HB2748 - REAB

## **Section 1 – Reciprocity**

(Amends 59 O.S. 2011, Section 858-715)

- Grants reciprocity to appraisers licensed in other states that meet 12 U.S.C. 3351(b) and meet or exceed Oklahoma standards.

**EFFECTIVE November 1<sup>st</sup>, 2012**