

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 1030By: Quinn

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6 AS INTRODUCED

7 An Act relating to the Insurance Department; amending
8 36 O.S. 2011, Sections 309.1, 309.2, as amended by
9 Section 1, Chapter 154, O.S.L. 2012 (36 O.S. Supp.
10 2020, Section 309.2) and 311.4, as amended by Section
11 1, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2020,
12 Section 311.4), which relate to definitions, nature
13 and frequency of examinations and filing fees;
14 defining terms; adding types of examinations
15 Insurance Commissioner may conduct; conforming
16 language; specifying standards, data and materials
17 Commissioner may use in certain market analysis;
18 specifying actions Commissioner may use in certain
19 circumstances; requiring Commissioner to select
20 certain market conduct actions in regards to cost;
21 requiring Commissioner to eliminate certain requests
22 for information; specifying focus of market conduct
23 actions; authorizing Commissioner to allow insurer
24 opportunity to resolve certain issues; providing
25 deadline for paying certain fee; establishing civil
26 penalty for violation; providing enforcement method
27 of penalty; and providing an effective date.

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

31 SECTION 1. AMENDATORY 36 O.S. 2011, Section 309.1, is
32 amended to read as follows:

33 Section 309.1. As used in Sections 309.1 through 309.7 of this
34 title:

1 1. "Commissioner" means the Insurance Commissioner;

2 2. "Company" means any person engaging in or proposing or
3 attempting to engage in any transaction or kind of insurance or
4 surety business and any person or group of persons who may otherwise
5 be subject to the administrative or regulatory authority of the
6 Commissioner;

7 3. "Department" means the Insurance Department;

8 4. "Examiner" means any individual or firm having been
9 authorized by the Commissioner to conduct an examination;

10 5. "Insurer" means every person engaged in the business of
11 making contracts of insurance or indemnity including not-for-profit
12 hospital service and medical indemnity corporations; ~~and~~

13 6. "Market Analysis" means a process whereby market conduct
14 surveillance personnel collect and analyze information from filed
15 schedules, reports, data calls, surveys and other sources in order
16 to develop a baseline understanding of the marketplace and identify
17 patterns or practices of insurers or companies licensed to do
18 business in this state that deviate significantly from industry
19 standards or that pose a potential risk to insurance consumers. For
20 the purpose of this section, "market conduct surveillance" means any
21 of the full range of activities that the Insurance Commissioner may
22 initiate to assess and address the market practices of any company
23 licensed or registered pursuant to this title to conduct business in
24 this state, including market analysis, market regulatory

1 investigations, interrogatories and market conduct examinations.

2 "Interrogatory" means a set of questions used to evaluate an
3 insurer's handling of compliance or processing issues; and

4 ~~6.~~ 7. "Person" means any individual, aggregation of
5 individuals, trust, association, recognized legal entity, or any
6 affiliate thereof.

7 SECTION 2. AMENDATORY 36 O.S. 2011, Section 309.2, as
8 amended by Section 1, Chapter 154, O.S.L. 2012 (36 O.S. Supp. 2020,
9 Section 309.2), is amended to read as follows:

10 Section 309.2. A. The Insurance Commissioner or an examiner
11 may conduct an examination, including a financial and market conduct
12 examination, under Sections 309.1 through 309.7 of this title of any
13 company as often as the Commissioner deems appropriate but shall at
14 a minimum, conduct a financial examination of every domestic insurer
15 licensed in this state not less frequently than once every five (5)
16 years. The Commissioner may also conduct market analysis or market
17 regulatory investigation, except as provided in subsection E of this
18 section, as often as the Commissioner deems appropriate. The
19 Commissioner shall, at a minimum, conduct or cause to be conducted a
20 financial examination of every foreign insurer licensed in this
21 state not less frequently than once every five (5) years. The
22 Commissioner may accept examinations conducted by other states on
23 foreign insurers domiciled in such states pursuant to subsection D
24 of this section. In scheduling and determining the nature, scope

1 and frequency of the examinations, the Commissioner shall consider
2 such matters as the results of financial statement analyses and
3 ratios, changes in management or ownership, actuarial opinions,
4 reports of independent certified financial examiners or public
5 accountants and other criteria as set forth in the Examiners'
6 Handbook adopted by the National Association of Insurance
7 Commissioners and in effect when the Commissioner exercises
8 discretion under this subsection. The Commissioner may also make
9 examinations upon the request of one or more persons pecuniarily
10 interested therein, who shall make affidavit of their belief, with
11 specifications of their reasons therefor, that the company is in an
12 unsound condition.

13 B. The Commissioner may adopt rules setting forth criteria and
14 informing domestic insurers of those factors which may contribute to
15 the Commissioner requiring the financial examination of an insurer
16 prior to the end of the five-year-examination requirement provided
17 in subsection A of this section.

18 C. For purposes of completing an examination of any company
19 under Sections 309.1 through 309.7 of this title, the Commissioner
20 may examine or investigate any person, or the business of any
21 person, insofar as such examination or investigation is, in the sole
22 discretion of the Commissioner, necessary or material to the
23 examination of the company.

1 D. In lieu of an examination under Sections 309.1 through 309.7
2 of this title of any foreign or alien insurer licensed in this
3 state, the Commissioner may accept an examination report on such
4 company as prepared by the insurance department for the company's
5 state of domicile or port-of-entry state if:

6 1. The insurance department was at the time of the examination
7 accredited under the National Association of Insurance
8 Commissioners' Financial Regulation Standards and Accreditation
9 Program; or

10 2. The examination is performed with the participation of one
11 or more examiners who are employed by an accredited state insurance
12 department and who, after a review of the examination work papers
13 and report, state under oath that the examination was performed in a
14 manner consistent with the standards and procedures required by
15 their insurance department.

16 E. 1. The Commissioner shall apply the following standards in
17 conducting market analysis or market regulatory investigation:

18 a. the Commissioner shall gather information from data
19 currently available to him or her,

20 b. the information shall be analyzed in order to develop
21 a baseline understanding of the marketplace and to
22 identify for further review insurers or practices that
23 deviated significantly from industry standards or that
24 may pose a potential risk to the Commissioner, and

1 c. the National Association of Insurance Commissioners
2 Market Regulation Handbook, as well as any other
3 handbook adopted by the Association, shall be used by
4 the Commissioner as a guide in performing the
5 analysis.

6 2. If the analysis supports further investigation or review by
7 the Commissioner into a particular insurer or practice, the
8 following continuum of market conduct actions may be considered
9 prior to conducting an on-site examination. These actions shall
10 include but are not limited to correspondence with an insurer,
11 conducting interviews with insurers, policy and procedures reviews,
12 and review of insurer self-evaluation, if not subject to a privilege
13 of confidentiality.

14 3. The Commissioner shall select a market conduct action that
15 is cost effective for the Insurance Department and the insurer or
16 company, while still protecting the insurance consumer.

17 4. Any materials or documents reviewed by the Commissioner
18 pursuant to paragraph 2 of this subsection are confidential.

19 5. The Commissioner shall take any steps reasonably necessary
20 to eliminate requests for information that duplicate information
21 provided as part of an insurer's annual financial statement, the
22 annual National Association of Insurance Commissioners market
23 conduct statement or other schedules, surveys or reports regularly
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1 submitted to the Commissioner, unless the information is state
2 specific.

3 6. Market conduct actions taken as a result of a market conduct
4 analysis shall focus on the general business practices and
5 compliance activities of insurers rather than identifying infrequent
6 or unintentional random errors that do not cause significant
7 consumer harm.

8 7. The insurer may be given an opportunity to resolve matters
9 that arise as a result of a market conduct analysis to the
10 satisfaction of the Commissioner before any additional conduct
11 actions are taken against the insurer.

12 F. The Commissioner may authorize any employee of the Insurance
13 Department to exercise the Commissioner's authority under Sections
14 309.1 through 309.7 of this title.

15 SECTION 3. AMENDATORY 36 O.S. 2011, Section 311.4, as
16 amended by Section 1, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2020,
17 Section 311.4), is amended to read as follows:

18 Section 311.4. A. Insurers authorized to do business under the
19 provisions of the Oklahoma Insurance Code shall annually file with
20 the Insurance Commissioner market conduct annual statements
21 reporting market conduct data of insurers on the thirty-first day of
22 December of the previous year. The statements shall report on the
23 lines of insurance and be in such general form and context as
24 approved by the National Association of Insurance Commissioners

1 (NAIC), and as supplemented for additional information required by
2 the Insurance Commissioner by rule. The statements shall be
3 prepared in accordance with NAIC instructions, including any
4 supplemental filings described in the NAIC instructions. If no
5 forms or instructions are available from the National Association of
6 Insurance Commissioners, the statements shall be in the form and
7 pursuant to instructions and deadlines as provided by the Insurance
8 Commissioner. Insurers not authorized by the Insurance Commissioner
9 to provide the lines of insurance approved by the National
10 Association or the Insurance Commissioner shall not be required to
11 file market conduct annual statements. For good cause shown, the
12 Insurance Commissioner may extend the time within which market
13 conduct annual statements may be filed. The Insurance Commissioner
14 may provide copies of market conduct annual statements, amendments,
15 and addendums to such statements and market conduct data taken from
16 such statements to the National Association of Insurance
17 Commissioners only if, prior to sharing of the market conduct annual
18 statements, amendments, addendums to such statements or market
19 conduct data taken from such statements, the National Association of
20 Insurance Commissioners enters into a written agreement with the
21 Insurance Commissioner to maintain the confidentiality of the shared
22 information.

23 B. The Insurance Commissioner may adopt rules implementing this
24 section including rules that:

1 1. Add lines of insurance to be reported in market conduct
2 annual statements; and

3 2. Require the filing of market conduct annual statements and
4 any amendments and addendums to such statements with the National
5 Association of Insurance Commissioners, and the payment of
6 applicable filing fees required by the NAIC.

7 C. Insurers shall pay a filing fee of Two Hundred Dollars
8 (\$200.00) to the Insurance Commissioner for the filing of the market
9 conduct annual statement due at the time of filing, in accordance
10 with NAIC filing deadlines.

11 D. No waiver of an applicable privilege or claim of
12 confidentiality in the documents, materials, or other information
13 shall occur as a result of disclosure to the Insurance Commissioner
14 or the Commissioner's designee under this section or as a result of
15 sharing the documents, materials or other information as provided in
16 this section.

17 E. Market conduct annual statements and any amendments and
18 addendums to such statements, filed with the Insurance Commissioner
19 pursuant to this section in electronic format or otherwise, shall be
20 treated as working papers and documents as set out in subsection F
21 of Section 309.4 of this title.

22 F. The Insurance Commissioner may use market conduct annual
23 statements or amendments or addendums to such statements to assist
24 in determining whether a market conduct examination or investigation
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1 of an insurer should be conducted. For purposes of completing a
2 market conduct examination of any company under Sections 309.1
3 through 309.7 of this title, the Insurance Commissioner may, in the
4 sole discretion of the Insurance Commissioner, use market conduct
5 annual statements or amendments or addendums to such statements to
6 assist in determining compliance with the laws of this state and
7 rules adopted by the Insurance Commissioner.

8 G. For any violation of this section, the Insurance
9 Commissioner may, after notice and opportunity for a hearing,
10 subject an insurer to a civil penalty of up to One Thousand Dollars
11 (\$1,000.00) for each occurrence. The civil penalty may be enforced
12 in the same manner in which civil judgments may be enforced.

13 SECTION 4. This act shall become effective November 1, 2021.

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