

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 15. PROPERTY AND CASUALTY**

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 1.	General Provisions
365:15-1-3.	Property and casualty form filings [AMENDED]
365:15-1-3.1.	Workers' compensation medical claims small deductible form
[AMENDED]	
365:15-1-14.	Notice of cancellation or non-renewal [AMENDED]
365:15-1-24.	Appeals of rating classifications [NEW]
Subchapter 9.	Medical Professional Liability Rate Setting
365:15-9-10.	Property and casualty rate, loss cost and manual rule filings
[AMENDED]	
Appendix C.	Excess Consent Rate Application [REVOKED]
Appendix C.	Excess Consent Rate Application [NEW]

**AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1, 924.3, 987, and 6821.

**DATES:**

**Comment period:**

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**Public hearing:**

March 7, 2013

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March 25, 2013

**Submitted to Governor:**

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**Submitted to Senate:**

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**Gubernatorial approval:**

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Failure of the Legislature to disapprove the rules resulted in approval on May 21, 2013

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May 21, 2013

**Effective:**

July 14, 2013

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**ANALYSIS:**

365:15-1-3 is amended to update the address of the Oklahoma Insurance Commissioner. 365:15-1-3.1 is amended to conform to the renumbered provisions of the Workers' Compensation Code in Title 85 enacted in 2011. 365:15-1-14 is amended to extend the time period that insurers are required to provide notice for non-renewal of homeowners and any other personal residential insurance coverage. 365:15-1-24 is added to provide a procedure for an employer to appeal its rating classification for workers' compensation insurance pursuant to 36 O.S. § 924.3. 365:15-9-10 is amended to update the address of the Oklahoma Insurance Commissioner. Appendix C is revoked and renewed to update the address of the Oklahoma Insurance Commissioner.

**CONTACT PERSON:**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 14, 2013:**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**365:15-1-3. Property and casualty form filings**

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting form filings to the Insurance Commissioner as required by Article 36 of the Insurance Code.

(b) **Procedures.** Policy forms, endorsements and revisions thereto, by insurance companies and advisory organizations licensed in Oklahoma, shall be submitted in compliance with this section, or shall be rejected for filing, and the entity that made such submission shall be so notified.

(1) **Filing requirements.** The Insurance Code, Article 36, requires that each insurer shall make its form filings by line of business directly with the Insurance Commissioner. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed advisory organization that makes such filings.

(2) **Filing fees.**

(A) Form filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction, regardless of the number of members or subscribers.

(C) Filings by advisory organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, ~~P.O. Box 53408, Oklahoma City, OK 73152 3408.~~ 3625 NW 56<sup>th</sup> Street, Suite 100, Oklahoma City, Oklahoma 73112.

(4) **Number of copies.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to the SERFF General Instructions. All paper filings including the cover letter, all exhibits, forms and additional information submitted to the Insurance Commissioner shall be typewritten or printed and submitted with one (1) legible copy of all material. Companies that file as a group listing

all companies on the transmittal letter may accomplish this requirement by submitting one (1) typewritten or printed legible copy of all material.

(5) **Effective date of filings.** The effective date of form filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken through the System for Electronic Rate and Form Filing (SERFF). Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to Life, Accident and Health. Life, Accident and Health filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted which arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Filing form and content.** All filings shall contain the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A "RE" or "caption" briefly describing the content and context of the filing.

(C) A list or index of the forms filed in the filing letter or attached thereto including the form numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including, reasoning therefore, illustrative examples, including "John Doe" specimen form, and a comparison of currently approved and proposed materials (side by side comparison or marked copy).

(E) A concise statement to identify the form to be replaced by the filing including the approval date in this jurisdiction and the identifying filing number of the filing containing the form to be replaced as assigned by the Insurance Department.

(F) If a form is being withdrawn or amended due to court decisions in any jurisdiction, the filing entity shall furnish the legal citation, and if from another jurisdiction, a copy of such decision or opinion with its filing.

(G) If a form filing is due to a federal law or regulation of a federal agency, the filing entity shall furnish the legal citation and a copy of the pertinent provisions.

(H) Completed transmittal forms and exhibits.

(10) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(11) **Duration of filings.** All filings are in effect until withdrawn or amended by the insurer or rating organization, with approval of the Insurance Commissioner or until abrogated by the Insurance Commissioner.

(12) **Advisory organization deviations.** Every member of, or subscriber to, a licensed rating organization may adhere to any filings made on its behalf by its Advisory Organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the Advisory Organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify

the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn or replaced by the insurer with approval of the Insurance Commissioner.

(13) **Group filings.** Where filings are made on behalf of more than one insurer, the filing shall list the insurer or insurers by individual name and not by Company group.

(14) **Members of or subscribers to a licensed advisory organization.**

(A) **Filings.** A licensed advisory organization may make filings on behalf of its members and subscribers except deviation filings.

(B) **Adherence to filings.** Every member of or subscriber to a licensed advisory organization may adhere to any filings made on its behalf by such organization except that any such member or subscriber may deviate from such filings upon compliance with this section and approval of the Insurance Commissioner

(C) **Individual company filings.** Members and subscribers shall not file individual forms that have been filed on their behalf by the appropriate advisory organization. Declaration pages, policy "jackets" and other forms not normally filed by the rating organization shall be filed by the insurer directly with the Insurance Commissioner.

(D) **Filing requirements; advisory organization form deviation.** If form deviations are proposed, the insurer shall file the form including supporting documentation with the Insurance Commissioner and furnish copies to the appropriate rating organization.

(E) **Agency filings.** "Agency Filings" by a Rating Organization on behalf of its members or subscribers shall be accepted by the Insurance Commissioner in instances where the rating organization does not have a filing in effect for the coverage involved.

(15) **Independent filings.** If the insurer is filing an independently developed form, the filing shall comply with the following:

(A) File Policy Forms, Endorsements, and other materials, with the Insurance Commissioner and designate them as "Independent Filings".

(B) File support of each filing in accordance with this section.

(C) For revisions, file form with the Insurance Commissioner.

(16) **Reference filings.**

(A) **Advisory Organization Filings**

(i) **Filings permitted without reference filing agreement.** Advisory Organization forms used in whole or in part may be adopted by participating insurers of a licensed advisory organization by "Reference Filings" subject to the approval of the Insurance Commissioner. When making such type filing submit a filing memorandum identifying the forms used. Departures and exceptions, if any, shall be accompanied by the necessary supporting data. Such adoption shall apply only to current filings and shall have no automatic effect as to future filings. Each advisory organization filing shall be separately and specifically adopted.

(ii) **Filings permitted with reference filing agreement.** Approved Advisory Organization material may be adopted by participating insurers of a licensed advisory organization by filing a REFERENCE FILING AGREEMENT with the Insurance Commissioner identifying the forms and material to be used. Such adoption shall apply from the date it is

approved by the Insurance Commissioner to filings in effect on that date and to all applicable future filings. It shall remain in effect until such time as the agreement is withdrawn with the approval of the Commissioner.

(iii) **Reference filing.** If filing by "Reference Filing" DO NOT file forms.

(B) **Other than Advisory Organization filings.** An insurer may adopt another insurer's filing by filing forms on the filing insurer's format and by advising the Insurance Commissioner of the names(s) of the insurer whose program is being copied, the Oklahoma filing number, and the date(s) the program was filed for that insurer. Unless an exception is granted by the Insurance Commissioner, this procedure applies only to the filing of the initial program for the adopting insurer and is subject to the review of the Insurance Commissioner.

(17) **Resubmittal of filings.** All resubmissions of disapproved or rejected filings shall be presented to the Insurance Commissioner in the same manner as required by this section for an original filing. In addition the cover letter or completed transmittal forms addressed to the Insurance Commissioner shall state the full and complete history of the filing, the reason for disapproval or rejection, and the factors which distinguish the resubmittal so it warrants reconsideration.

(18) **Retroactive filings.** The Insurance Commissioner has no authority to and shall not approve filings proposing a retroactive effective date except in cases of a filing correcting an error in a previously approved filing and in cases where required or necessitated by Statute.

(19) **Delivery of policy to insured.** In any instance whereby a policy of insurance is effected the insured shall be furnished with either:

(A) The original policy;

(B) A copy of the original policy or a duplicate policy printed with ten point or larger type; or

(C) A certificate including provisions and conditions of the original policy printed with ten point or larger type.

(20) **Coverage elimination after policy issuance.** Any endorsement which eliminates or restricts coverage and which is issued during the policy term shall be identified as accepted by the insured, by the signature of the insured thereon, and a signed copy (original, computer generated or microfilm) of such endorsement shall be retained in the files of the insurer for one year after the expiration of the policy.

(21) **Uniform standard mortgage clause.** The mortgage clause to be used by Insurance Companies in Oklahoma shall be uniform Standard Form Number 127B September 1934 Edition or subsequent editions, except upon written application by an insurer or rating organization, a clause providing broader coverage may be approved by the Insurance Commissioner.

(22) **Claims-made policies.**

(A) The policy application and the Declarations page of each claims-made policy shall include a conspicuous notice indicating that the contract is a claims-made policy and advising the policyholder to read its provisions.

(B) The policy shall provide for extended reporting period options based on rules, rates or rating plans approved by or filed with the Insurance Commissioner. If so stated in the policy, the extended reporting period options shall not be required to

be offered if a policy is cancelled for nonpayment of premium or a material representation or fraud.

**(23) New forms, reductions in coverage.**

(A) Form filings that may result in the elimination of claims (losses) shall be considered as a relevant factor to be given due consideration by the Insurance Commissioner as respects rates in effect or proposed for the coverage involved.

(B) The filer shall fully disclose the rate consideration so that Commissioner can be notified of the form filing. The form filing may be disapproved if the rate effect has not been considered in rules, rates or rating plans approved by or filed with the Commissioner.

**365:15-1-3.1. Workers' compensation medical claims small deductible form**

The offer of a small deductible on all Oklahoma Workers' Compensation policies required pursuant to 85 O.S. § ~~64356(D)~~, shall be in the form set forth in Appendix B of this Chapter which shall be filed with and approved by the Insurance Commissioner. The form shall be provided to the proposed insured in writing separately from the application and shall read as set forth in Appendix B of this Chapter.

**365:15-1-14. Notice of cancellation or non-renewal**

(a) Unless otherwise provided, insurers shall give at least ten (10) days notice prior to the date of cancellation and twenty (20) days notice prior to the date of non-renewal of the insurance policy. If notice is given by mail, said notice shall be deemed to have been given on the day said notice is mailed. Proof of mailing of the notice of cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(b) Insurers shall give at least thirty (30) days notice prior to the date of non-renewal of a homeowner's insurance policy or any other personal residential insurance coverage.

(c) If notice is given by mail, said notice shall be deemed to have been given on the day said notice is mailed. Proof of mailing of the notice of cancellation or non-renewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

**365: 15-1-24. Appeals of rating classifications**

(a) Any employer engaged in a rating classification dispute reviewed by the NCCI Oklahoma Internal Review Panel may appeal the decision to the Insurance Commissioner by requesting a hearing within thirty (30) days of the date the Panel issues the decision.

(b) Upon receipt of a written request, the Commissioner shall either set down the matter for hearing within thirty (30) days from the date of receipt of the request by issuing notice of the hearing to the employer and the insurer or shall issue a written order denying the hearing.

(c) The Commissioner shall name the employer and the insurer as parties to the hearing. The Commissioner shall not be a party in an appeal of a rating classification.

(d) Procedure for hearings shall be governed by OAC 365:1-7-1 et seq. and the Administrative Procedures Act.

**SUBCHAPTER 9. MEDICAL PROFESSIONAL LIABILITY RATE SETTING**

**365:15-9-10. Property and casualty rate, loss cost and manual rule filings**

(a) **Purpose.** The purpose of this section is to specify the procedures for submitting rate, loss costs and manual rule filings to the Insurance Commissioner, which are submitted under the authority of 36 O.S. § 6821.

(b) **Procedures.** Rate, loss costs and manual rules and revisions by insurance companies and advisory organizations licensed in Oklahoma shall be submitted in compliance with this section or shall be rejected for filing. If a filing is rejected, the entity that made such submission shall be notified.

(1) **Filing requirements.** The rate, loss cost and manual rule filings allowed by this section are for medical professional liability insurance. Companies may satisfy their obligation to make such filings, where authorized by law, by becoming a member or subscriber to an Oklahoma licensed advisory organization which makes such filings.

(2) **Filing fees.**

(A) Rate, loss cost and manual rule filings shall be accompanied by the proper fees as specified in the Insurance Code. Fees shall not be paid in cash.

(B) Filings for groups of insurers shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(C) Filings by rating organizations shall be accompanied by the specified fee for each transaction regardless of the number of members or subscribers.

(3) **Address requirements.** All filings shall be addressed as follows: Oklahoma Insurance Commissioner, ~~P.O. Box 53408, Oklahoma City, OK 73152-3408~~3625 NW 56<sup>th</sup> Street, Suite 100, Oklahoma City, Oklahoma 73112.

(4) **Number of copies.** All filings except those exempted shall be submitted through the System for Electronic Rate and Form Filing (SERFF) pursuant to SERFF General Instructions. All paper filings including the cover letter, all exhibits, rate sheets and additional information submitted to the Insurance Commissioner shall be submitted with one (1) legible copy of all material. Companies that file as a group and list all companies on the transmittal letter may accomplish this requirement by submitting one (1) typewritten or printed legible copy of all material. .

(5) **Effective date of filings.** The effective date of rate, loss cost and manual rule filings and the dates of required action by the Insurance Commissioner are governed by the applicable provisions of the Insurance Code.

(6) **Notice of Insurance Commissioner action.** The Insurance Commissioner shall indicate action taken through the System for Electronic Rate and Form Filing (SERFF). Nothing in this section shall preclude the Insurance Commissioner from the use of other forms of communication to secure information from the filing entity.

(7) **Life, accident and health insurance.** This section does not apply to life, accident and health insurance. Life, accident and health insurance filings shall be made in accordance with the applicable provisions of the Insurance Code and Rules of the Insurance Commissioner.

(8) **Postage requirements.** No submissions shall be accepted that arrive at the offices with postage due. No submissions will be returned unless the necessary postage accompanies the same.

(9) **Withdrawal of pending filings.** Pending filings may be withdrawn by the filing entity upon notice to the Insurance Commissioner prior to the approval or disapproval thereof. The notice shall include the reason for the withdrawal.

(10) **Filing form and content.** All filings shall include the following:

(A) The name of the filing entity and complete mailing address to which correspondence shall be sent.

(B) A RE or caption briefly describing the content and context of the filing.

(C) A list or index of the manual pages filed in the filing letter or attached thereto including the page numbers and edition date, if applicable.

(D) A complete description and full explanation of the changes made by the filing including reasoning therefor, illustrative examples, including John Doe specimen examples, and a comparison of currently approved and proposed materials (side by side comparison).

(E) A concise statement identifying the manual pages (rate and or rule) to be replaced by the filing. The statement shall include the approval date in this jurisdiction and the identifying Oklahoma Insurance Department's assigned filing number of the filing containing the documents to be replaced .

(F) Completed transmittal forms and exhibits.

(11) **Bureau deviations.** Every member of, or subscriber to, a licensed advisory organization may adhere to any filings made on its behalf by its rating organization, except that any such member or subscriber may deviate from such filings as authorized by this section if it has filed with the rating organization and with the Insurance Commissioner, the deviation to be applied and information necessary to justify the deviation. If such deviation is approved, it shall remain in force until such approval is withdrawn by the insurer with approval of the Insurance Commissioner.

**APPENDIX C. EXCESS CONSENT RATE APPLICATION [REVOKED]**

**APPENDIX C. EXCESS CONSENT RATE APPLICATION [NEW]**

TO: Oklahoma Insurance Commissioner  
3625 NW 56<sup>th</sup> Street, Suite 100  
Oklahoma City, Oklahoma 73112

Kindly file for \_\_\_\_\_  
(Insurer)

the following rates, which I understand, are in excess of those otherwise applicable.

This percentage increase is understood to apply to the manual premium \_\_\_\_\_%.

These rates are to apply to the following exposures: \_\_\_\_\_  
\_\_\_\_\_ and any exposures determined at final audit.

Kind of coverage: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Period of Coverage: \_\_\_\_\_

Policy Limits: \_\_\_\_\_

Manual Premium at above limits: \_\_\_\_\_  
(estimate if policy is subject to audit)

Proposed premium at above limits is: \_\_\_\_\_  
(estimate if policy is subject to audit)

I am agreeable to paying this premium because (2) \_\_\_\_\_  
\_\_\_\_\_

Named Insured \_\_\_\_\_  
Signed By \_\_\_\_\_ 3)  
Title \_\_\_\_\_  
Date \_\_\_\_\_ 4)

- (1) Submit in duplicate with stamped self-addressed envelope
- (2) To be completed by insured
- (3) Excess form shall be signed by insured
- (4) Date insured signed form