

**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]
Subchapter 3.	Claims Resolution and Unfair Claim Settlement Practices
365:15-3-5.	Failure to acknowledge pertinent communications
[AMENDED]	
Subchapter 7.	Property and Casualty Competitive Loss Cost Rating
Regulations	
365:15-7-17.	Suspension or modification of filing requirements
[REVOKED]	
365:15-7-32.	Use of "a" rates [AMENDED]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 907, 986, and 1250.16

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n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

The amendment to 365:15-1-3 adds that policies must provide for extended reporting period options based on rating plans filed with the Insurance Commissioner, in addition to the existing requirement of those approved by the Commissioner, since companies' rates are filed and advisory organizations' loss costs are approved. The amendment to 365:15-3-5 provides consistency with the statutory counterpart in allowing insurers to respond to inquiries within 30 days. Section 365:15-7-17 is being revoked because it is no longer needed since 36 O.S. § 903 has been repealed. The amendment to 365:15-7-32 removes "a" rate exemption language and replaces it with the requirement that companies justify the use of an "a" rating.

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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, 2011:

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.

(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.

SUBCHAPTER 3. CLAIMS RESOLUTION AND UNFAIR CLAIM SETTLEMENT PRACTICES

365:15-3-5. Failure to acknowledge pertinent communications

- (a) **Acknowledgment of receipt of claim.** Every property and casualty insurer, upon receiving notification of a claim shall, within ~~20~~ thirty (30) business days, acknowledge the receipt of such notice unless payment is made within such period of time. If any acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insured and dated. Notification given to an agent of an insurer shall be notification to the insurer.
- (b) **Response to inquiries from Insurance Department.** Every property and casualty insurer, upon receipt of any inquiry from the Insurance Department respecting a

claim shall, within ~~fifteen business days of receipt~~ thirty (30) days from the date of such inquiry, furnish the Department with an adequate response to the inquiry.

(c) **Response to other pertinent communications.** An appropriate reply shall be made within ~~20 business~~ thirty (30) days of receipt on all other pertinent communications from a claimant which reasonably suggests that a response is expected.

(d) **Insurer shall provide forms and assistance on claims to first party claimants.** Every property and casualty insurer, upon receiving notification for claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within ~~20 business~~ thirty (30) days of notification of a claim shall constitute compliance with subsection (a) of this section.

SUBCHAPTER 7. PROPERTY AND CASUALTY COMPETITIVE LOSS COST RATING REGULATION

365:15-7-17. Suspension or modification of filing requirements [REVOKED]

~~(a) — **Review of rates prior to use.** The Insurance Commissioner in his review of a filing may accept for the filer the use of rates without being filed for the kind of insurance or classes of risks for which he determines that rates cannot be practically filed before the rates are used.~~

~~(b) — **Rates submitted on individual risk basis.** The filer shall submit such rates on an individual risk basis or maintain records for future examination as the Insurance Commissioner deems advisable.~~

~~(c) — **Loss and expense experience report.** The filer shall maintain loss and expense experience for annual reporting to the Insurance Commissioner or to his designated statistical agent in such form and detail necessary to determine compliance with the standards set forth in the Property and Casualty Competitive Loss Cost Rating Act.~~

365:15-7-32. Use of "a" rates

(a) ~~As used in Section 997 of Title 36 of the Oklahoma Statutes, an An "a" rate is a rating rule or rate expressed as the symbol "a" or the words "refer to company" listed opposite a classification code on the manual rule and rate pages.~~

(1) An insurer may not use an "a" rate if any advisory organization or any other insurer has established a manual rate based upon experience for the coverage.

(2) Once an advisory organization or any insurer acquires sufficient experience to establish a manual rate for such coverage, then the coverage is no longer considered to be eligible for "a" rating.

(b) ~~An insurer claiming an "a" rate exemption shall file with the Commissioner a statement justifying the use of the exemption an "a" rating. The statement shall include the policies and procedures for underwriting and developing "a" rates and any formal guidelines established by the insurer for these situations. The filing shall include an acknowledgment that the coverage is no longer eligible for "a" rating once an advisory organization or an insurer acquires sufficient experience to establish a manual rate for such coverage. The justification statement shall be filed within thirty (30) days of the use of the rule and rate.~~

