

SUBCHAPTER 7. COMPANIES**PART 5. OKLAHOMA INSURANCE HOLDING
COMPANY SYSTEM REGULATORY ACT****365:25-7-20. Purpose**

The purpose of this Part is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the Oklahoma Insurance Holding Company System Regulatory Act, 36 O.S. §1651, et seq. ("The Act"). The information called for by this Part is hereby declared to be necessary and appropriate in the public interest and for the protection of policyholders and shareholders in this state.

[Source: Amended at 11 Ok Reg 1861, eff 5-15-94; Amended at 19 Ok Reg 1310, eff 7-14-02]

365:25-7-21. Severability provision

If any provision of this Part, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provision or application, and to that end the provisions of this Part are severable.

[Source: Amended at 11 Ok Reg 1861, eff 5-15-94]

365:25-7-22. Definitions

Unless the context otherwise requires, terms found in this section and in Section 1651 of the Act are used as defined in the said Section 1651. Other nomenclature or terminology is according to the Insurance Code, or industry usage if not defined by the Code. In addition, the following words or terms, when used in this part, shall have the following meaning, unless the context clearly indicates otherwise:

"**Act**" means the Insurance Holding Company System Regulatory Act, 36 O.S. § 1651, et seq.

"**Executive officer**" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

"**Foreign insurer**" means an alien insurer except where clearly noted otherwise.

"**Ultimate controlling person**" means that person which is not controlled by any other person.

[Source: Amended at 9 Ok Reg 2885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 19 Ok Reg 1310, eff 7-14-02]

365:25-7-23. Forms: general requirements

(a) **Forms A, B, C, D, E, and F.** Forms A, B, C, D, E, and F as set forth in Appendices A, B, N, O, Q, and AA of this Chapter, are intended to be guides in the preparation of the statements required by Sections 1653, 1654 and 1655 of the Act. They are not intended to be blank forms which are to be

filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable, or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) **Filing statements.** Two (2) complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery to the Office of the Insurance Commissioner in Oklahoma City, Oklahoma, or by mail addressed to the Insurance Commissioner of the State of Oklahoma, 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112. A copy of a Form C shall be filed in each state in which an insurer is authorized to do business, if the Commissioner of that state has notified the insurer of its request in writing, in which case the insurer has thirty (30) days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c) **Format of statements.** Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language, and monetary values shall be stated in United States Currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States Currency.

[**Source:** Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94; Amended at 12 Ok Reg 3155, eff 7-31-95; Amended at 14 Ok Reg 2964, eff 7-14-97; Amended at 19 Ok Reg 1310, eff 7-14-02; Amended at 30 Ok Reg 1797, eff 7-14-13; Amended at 33 Ok Reg 1720, eff 9-15-16]

365:25-7-24. Forms: incorporation by reference, summaries and omissions

(a) **Incorporated by reference.** Information required by an item of Form A or Form B or Form D or Form E or Form F, as set forth in Appendices A, B, O, Q, and AA of this Chapter may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A or Form B or Form D or Form E or Form F provided such document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in

documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(b) **Summary or outline of document.** Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commissioner which was filed within three years and may be qualified in its entirety by such reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of such documents need to be filed with a schedule identifying the omitted documents and setting forth the material details in which the omitted documents differ from the documents filed.

[Source: Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94; Amended at 33 Ok Reg 1721, eff 9-15-16]

365:25-7-25. Forms: information unknown or unavailable and extension of time to furnish

(a) **Information unknown or unavailable.** Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

- (1) The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and
- (2) The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(b) **Extension of time to furnish.** If it is impractical to furnish any required information, document or report at the time it is required to be filed, there may be filed with the Commissioner as a separate document:

- (1) identifying the information, document or report in question;
- (2) stating why the filing thereof at the time required is impractical; and
- (3) requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commissioner within 60 days after receipt thereof enters an order denying the request.

[Source: Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94]

365:25-7-26. Forms: additional information and exhibits

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E, and Form F as set forth in Appendices A, B, N, O, Q, and AA of this Chapter, the Commissioner may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as he/she may desire in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, D, E, or F, as set forth in Appendices A, B, N, O, Q, and AA of this Chapter, shall include on the top of the cover page the phrase: "Change No. [insert number] to" and shall indicate the date of the change and not the date of the original filing.

[Source: Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94; Amended at 33 Ok Reg 1721, eff 9-15-16]

365:25-7-27. Forms: amendments [REVOKED]

[Source: Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Revoked at 11 Ok Reg 1861, eff 5-15-94]

365:25-7-27.1. Subsidiaries of domestic insurers

The authority to invest in subsidiaries under Section 1652 of the Act is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Insurance Code.

[Source: Added at 9 Ok Reg 2885, eff 8-24-92 (emergency); Added at 10 Ok Reg 1487, eff 5-1-93; Amended at 25 Ok Reg 1660, eff 7-14-2008]

365:25-7-28. Acquisition of control; statement filing (Form A)

(a) **Form A.** A person required to file a statement pursuant to Section 1653 of the Act shall furnish the required information on Form A, hereby made a part of this section, as set forth in Appendix A of this Chapter. Such person shall also furnish the required information on Form E, as set forth in Appendix Q of this Chapter.

(b) **Amendments to applications.** The applicant shall promptly advise the Commissioner of any changes in the information so furnished on Form A arising subsequent to the date upon which such information was furnished, but prior to the Commissioner's disposition of the application.

(c) Identification of section 1653(a) insurers.

(1) **Domestic insurer name.** If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of Section 1653(a) of the Act, the name of the domestic insurer on the cover page should be indicated as follows: "ABC Insurance Company, a subsidiary of XYZ Holding Company."

(2) **Section 1653(a).** Where a Section 1653(a) insurer is being acquired, references to "the insurer" contained in Form A (Appendix A of this Chapter) shall refer to both the domestic subsidiary insurer and the person being acquired.

[Source: Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94]

365:25-7-28.1. Pre-acquisition notification

If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to Section 1653(a) of the Act, that person shall file a preacquisition notification form, Form E, as set forth in Appendix Q of this Chapter. In addition to the information required by Form E, the Commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

[Source: Added at 11 Ok Reg 1861, eff 5-15-94; Amended at 12 Ok Reg 3155, eff 7-31-95; Amended at 17 Ok Reg 1690, eff 7-14-00]

365:25-7-29. Annual registration of insurers; statement filing (Form B)

(a) **Form B.** An insurer required to file an annual registration statement pursuant to Section 1654 of the Act shall furnish the required information on Form B, hereby made a part of this section, as set forth in Appendix B of this Chapter.

(b) **Summary registration.** An insurer required to file an annual registration statement pursuant to Section 1654 of the Act is also required to furnish information required on Form C, as set forth in Appendix N of this Chapter. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the Commissioner of that state.

(c) **Amendments to Form B.**

(1) **15 day amendments.** An amendment to Form B (Appendix B of this Chapter) shall be filed within 15 days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(2) **Filing date amendments.** Amendments shall be filed in the Form B format, as set forth in Appendix B of this Chapter, with only those items which are being amended reported. Each amendment shall include at the top of the coverpage "Amendment No. [insert number] to Form B for [insert year]" and shall indicate the date of the change and not the date of the original filing.

(d) **Alternative and consolidated registrations**

(1) **Registration statement for affiliates.** Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under Section 1654 of the Act. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this State. In lieu of filing a registration statement on Form B (Appendix B of this Chapter), the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its State of domicile, provided:

(A) the statement or report contains substantially similar information required to be furnished on Form B; and

(B) the filing insurer is the principal insurance company in the insurance holding company system.

(2) **Principal insurance company in holding company.** The question of whether the filing

insurer is the principal insurance company in the insurance holding system is a question of fact and an insurer filing a registration statement or reporting in lieu of Form B (Appendix B of this Chapter) on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(3) **Unauthorized insurers.** With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under (1) of this subsection.

(4) **Section 1654(f) or (g).** Any insurer may take advantage of the provisions of Section 1654 (f) or (g) of the Act without obtaining the prior approval of the Commissioner. The Commissioner, however, reserves the right to require individual filings if he/she deems such filings necessary in the interest of clarity, ease of administration or the public good.

(e) Disclaimers and termination of registration

(1) **Disclaimer of affiliation.** A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:

(A) the number of authorized, issued and outstanding voting securities of the subject.

(B) with respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly.

(C) all material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person.

(D) a statement explaining why such person should not be considered to control the subject.

(2) **Termination of registration.** A request for termination of registration shall be deemed to have been granted unless the Commissioner, within 30 days after receipt of the request, notifies the registrant otherwise.

[Source: Amended at 9 Ok Reg 2097, eff 6-15-92; Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94; Amended at 12 Ok Reg 3155, eff 7-31-95]

365:25-7-29.1. Transactions subject to prior notice - notice filing (Form D)

An insurer required to give notice of a proposed transaction pursuant to Section 1655 of the Act shall furnish the required information on Form D, hereby made a part of this section, as set forth in Appendix O of this Chapter.

[Source: Added at 9 Ok Reg 3885, eff 8-24-92 (emergency); Added at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94]

365:25-7-29.2. Enterprise risk report

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to Section 1654(L) of Title 36 of the Oklahoma Statutes shall furnish the required information on Form F, as set forth in Appendix AA, hereby made a part of these regulations.

[Source: Added at 33 Ok Reg 1721, eff 9-15-16]

365:25-7-30. Extraordinary dividends and other distributions

(a) **Request for approval of extraordinary dividends.** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- (1) the amount of the proposed dividend;
- (2) the date established for payment of the dividend;
- (3) a statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
- (4) A copy of the calculations determining that the proposed dividend is extraordinary.

The work paper shall include the following information:

- (A) the amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;
 - (B) surplus as regards policyholders (total capital and surplus) as of the 31st day of the December next preceding;
 - (C) if the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;
 - (D) if the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-months periods; and
 - (E) if the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years.
- (5) a balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and
 - (6) a brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(b) **Report of dividends and distributions.** Subject to subsection (e) of Section 1655 of the Act, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Section 1655(a) and (b).

[Source: Amended at 9 Ok Reg 3885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 11 Ok Reg 1861, eff 5-15-94; Amended at 25 Ok Reg 1660, eff 7-14-2008]

365:25-7-31. Adequacy of surplus

The factors set forth in Section 1655(d) of the Act are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The Commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

[Source: Amended at 9 Ok Reg 2885, eff 8-24-92 (emergency); Amended at 10 Ok Reg 1487, eff 5-1-93; Amended at 21 Ok Reg 1668, eff 7-14-04]