

SB 885 – Insurance Business Transfer Act Update

Sen. Paxton & Rep. Sims



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Background:

In 2018 the Oklahoma Legislature passed and Governor Fallin signed into law the Insurance Business Transfer (IBT) Act. As with any new law, those tasked with implementing it find nuances and unforeseen issues along the way. [This legislation](#) is the **Insurance Department's requested follow up to last year's legislation**. It addresses several issues that have been encountered as the Department implements the IBT Act of 2018.

Key Points:

1. **Purpose** – The Purpose section is expanded to fully articulate the important governmental objectives which are furthered by the passage of the IBT Act,
2. **IE Compensation** – The bill removes the option for the transferring and assuming companies to compensate the Independent Expert (IE) on a fixed basis. It is the Department's belief that the IE should be compensated on an hourly basis only,
3. **"Policy" Definition** – The bill clarifies that an annuity contract is considered a "policy" for purposes of the Act,
4. **IE Report** – The requirement that the IE submit every document he or she considers in preparing the IE report is removed. Instead, the IE would submit a listing and summaries of each document considered. The Department could then request any listed document if needed,
5. **Assuming Insurer Treatment** – The legal treatment of the assuming insurer is clarified: "the assuming insurer shall have all such rights, obligations, and liabilities as if it, ~~instead of the transferring insurer,~~ were the original insurer of such policies;" This change is made because it is possible that the transferring insurer was not the original insurer of the policies,
6. **Guaranty Fund Coverage** – The bill makes clear that no action taken pursuant to the IBT Act shall affect the guaranty fund coverage which existed on the transferred business prior to implementation of the IBT Plan. This is a significant issue that the NAIC will be addressing in the Restructuring Mechanisms Working Group,
7. **Confidentiality** – The bill provides that all documents are confidential while under review by the Commissioner. After that review, all documents are considered open records except those which are otherwise confidential by law or for which the applicant has requested confidential treatment,
8. **IE Compensation** – The transferring and assuming insurers are made jointly liable for the costs of the IE and any consultants retained by the IE,
9. **Duty of the IE** – The bill states that nothing in the Act shall create any duty for the IE to any party other than the Department or the Court. Although compensated by the transferring and assuming insurers, the IE assists and answers only to the Department and the Court.