



# Client Alert

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## Insurance Business Transfer in Oklahoma

By Robert G. McCampbell

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The [Oklahoma Insurance Business Transfer Act](#) has become effective, placing Oklahoma at the forefront with respect to IBT in the United States. On November 12, 2019, the Oklahoma Insurance Department (“OID”) hosted a conference on IBT in Tulsa, OK. [Robert McCampbell](#) of GableGotwals was a guest speaker at the conference, where he addressed the procedural aspects of IBT in Oklahoma. On November 26, 2019, OID Commissioner Glen Mulready [approved the first IBT Plan](#). That Plan will now proceed to Oklahoma County District Court for review.

### What is Insurance Business Transfer?

IBT allows an insurer (or reinsurer) to transfer a book of business to a different insurer without affirmative consent of the policyholders. This eliminates the transferring insurer’s liability and moves the liability to the assuming insurer. IBT has been successfully used for years in Great Britain under Part VII of the Financial Services and Markets Act of 2000. Although a few states offer solutions through assumption reinsurance or division laws, the Oklahoma IBT Act provides the broadest and most flexible solution in the U.S.

The IBT Act, S.B. 1101 (2018), 36 O.S. § 1681 *et seq.*, allows an out of state insurance company to submit a Plan to the OID to transfer a book of business to an Oklahoma insurer, including a captive insurer or a company re-domesticated in Oklahoma. Policies eligible for transfer include property, casualty, life, health, or any other line of insurance the Commissioner finds suitable. The IBT Act has a list of requirements for a Plan, including financial disclosures as to the transferring and assuming insurers and a plan for communications to policyholders. The OID estimates the IBT process should take 6-9 months.

### What are the benefits of IBT?

- Legal Finality. The key benefit of IBT is that it provides a legal mechanism, similar to a novation, in which the assuming insurer is substituted as the company responsible for the policy, and the potential liability no longer remains with the transferring insurer.
- Consolidation. A company wishing to concentrate on certain lines of business can sell a portfolio that is not consistent with its strategic plan to a company wishing to increase its business in that particular line, thereby benefiting both companies.
- Run-off. In a run-off situation, the insurer must continue to devote capital and management resources to that portfolio. With IBT, that portfolio can be transferred to a

company which can manage the portfolio and claims more efficiently because it specializes in run-offs or desires to add the portfolio for strategic reasons.

- Trapped Capital. In a traditional reinsurance situation, the insurer still needs to maintain reserves and surplus supporting the liability. Under IBT, that capital can be released to be used more productively.

### **How are the policyholders and claimants protected?**

There are four basic elements for the protection of policyholders and claimants.

1. The transaction has to be evaluated by an independent expert to prepare a financial analysis and offer an opinion on the likely effects of the Plan on policyholders and claimants.
2. The Commissioner of the OID must approve the transfer as a discretionary matter.
3. Notification is required to the affected regulators, reinsurers, guaranty associations, and brokers/agents.
4. The entire Plan has to be presented to the District Court of Oklahoma County so the court can independently assess the transaction. That district court proceeding will include notice to the affected policyholders and a meaningful opportunity to object and be heard at the district court. The district court can approve the Plan only upon a finding that implementation of the Plan would not have a material adverse effect on the interests of policyholders or claimants.

### **Conclusion**

The Oklahoma IBT Act provides a valuable tool for insurers wanting to transfer a particular group of policies. For assistance or questions regarding ITB, please contact [Robert McCampbell](#) or a member of our [Insurance Law](#) team.



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