

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 991

BY: ROBINSON

AS INTRODUCED

AN ACT RELATING TO THIRD-PARTY INSURANCE

ADMINISTRATORS; AMENDING 36 O.S. 1991, SECTIONS
1441, 1441.1, 1442, 1443, 1444, 1445, 1446, 1447,
1449, 1450 AND 1452, WHICH RELATE TO THIRD-PARTY
INSURANCE ADMINISTRATORS; CLARIFYING STATUTORY
REFERENCES; CLARIFYING LANGUAGE; MODIFYING AND
ADDING DEFINITIONS; MODIFYING REQUIREMENTS FOR AND
CONTENTS OF CERTAIN AGREEMENTS; PROVIDING FOR
TERMINATION OF CERTAIN AGREEMENTS; REQUIRING
MAINTENANCE OF CERTAIN BOOKS AND RECORDS; REQUIRING
ACCESS TO CERTAIN BOOKS AND RECORDS FOR INSPECTION
WITH EXCEPTIONS; DECLARING OWNERSHIP OF CERTAIN
BOOKS AND RECORDS AND PROVIDING FOR ACCESS BY
ADMINISTRATORS; PROVIDING FOR TRANSFER OF CERTAIN
BOOKS AND RECORDS UPON CANCELLATION OF AGREEMENT;
REQUIRING INSURERS TO DETERMINE BENEFITS, RATES,
UNDERWRITING CRITERIA, AND CLAIMS PROCEDURES;
REQUIRING INSURERS TO OBTAIN CERTAIN REINSURANCE;
DECLARING RESPONSIBILITY OF ADMINISTRATORS;
REQUIRING INSURER TO MAKE CERTAIN REVIEWS OF
OPERATIONS; REQUIRING DEPOSIT OF CERTAIN FUNDS IN
CERTAIN INSTITUTIONS; REQUIRING PERIODIC
ACCOUNTING; REQUIRING CERTAIN WRITTEN APPROVAL OF
ADVERTISING; DELETING REQUIREMENT TO DELIVER

CERTAIN DOCUMENTS WHEN INSTRUCTED; MODIFYING RESTRICTIONS ON METHODS OF DETERMINING COMPENSATION; DELETING REQUIREMENT TO USE ONLY LICENSED INSURANCE AGENTS; MODIFYING CONTENTS AND PROCEDURES FOR CERTAIN DISCLOSURES; REQUIRING CERTIFICATE OF AUTHORITY, PROVIDING PROCEDURES AND PROVIDING FOR CONTENTS OF APPLICATION AND CERTIFICATE; AUTHORIZING SURRENDER, SUSPENSION AND REVOCATION OF CERTIFICATES AND PROVIDING FOR PROCEDURES; PROVIDING EXCEPTION TO REQUIREMENT TO OBTAIN CERTIFICATE; REQUIRING NOTICE OF CHANGE OF CERTAIN CONDITIONS; DELETING PROVISIONS RELATING TO LICENSES; DELETING CRIMES AND PENALTIES; DELETING DISPOSITION OF CERTAIN FEES; MODIFYING CONTENTS OF AND REQUIREMENTS FOR CERTAIN REPORTS; REQUIRING ANNUAL FILING FEE; AUTHORIZING WAIVER OF CERTAIN PROVISIONS UPON REQUEST UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR SUSPENSION AND REVOCATION OF CERTIFICATES OF AUTHORITY UNDER CERTAIN CIRCUMSTANCES; AUTHORIZING SUSPENSION AND REVOCATION WITHOUT NOTICE UNDER CERTAIN CIRCUMSTANCES; AUTHORIZING IMPOSITION OF FINE FOR CERTAIN ACTS; REPEALING 36 O.S. 1991, SECTIONS 1448 AND 1453, WHICH RELATE TO SURETY BOND REQUIREMENTS OF ADMINISTRATORS AND TO APPLICABILITY OF ADMINISTRATIVE PROCEDURES ACT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1441, is amended to read as follows:

Section 1441. Sections ~~± 1441~~ through ~~± 1453~~ of this ~~act~~ title shall be known and may be cited as the "Third-party Administrator Act".

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1441.1, is amended to read as follows:

Section 1441.1 The provisions of the Third-party Administrator Act, Section 1441 et seq. of ~~Title 36 of the Oklahoma Statutes~~ this title, shall not apply to administrators of group self-insurance associations created pursuant to Section 149.2 of Title 85 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 1442, is amended to read as follows:

Section 1442. As used in the Third-party Administrator Act, Section 1441 et seq. of this title:

1. "Administrator" means any person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums for an insurer or trust or who adjusts or settles claims for an insurer or trust from, or adjusts or settles claims on residents of this state, or residents of another state from offices in this state, in connection with life or health insurance coverage or annuities ~~in this state, but shall not include any person who collects premiums under the following circumstances~~ except any of the following:

- a. Any employer on behalf of the employees of that employer or the employees of one or more subsidiary or affiliated corporations of that employer;
- b. A union on behalf of its members;
- c. An ~~insurance company~~ insurer which is ~~licensed~~ authorized to transact insurance business in this state with respect to a policy lawfully issued and delivered in and pursuant to the laws of this state or another state;

- d. ~~A wholly owned subsidiary of an entity which is subject to the jurisdiction of the Insurance Commissioner;~~
- e. ~~An insurance company acting as an insurer with respect to a policy lawfully issued and delivered by said company in and pursuant to the laws of this state;~~
- f. ~~A hospital, medical, dental, or optometric service corporation or a health care service organization, including their agents, authorized by the Commissioner to issue contracts in this state pursuant to the provisions of the Oklahoma Insurance Code when engaged in the performance of their duties;~~
- g. ~~A life or disability~~ An agent or broker who is licensed to sell life or health insurance in this state and whose activities are limited exclusively to the sale of insurance;
- h. ~~e.~~ An adjuster licensed in this state for the kinds of business for which he is acting as an adjuster whose activities are limited to adjustment of claims;
- i. ~~f.~~ A creditor insuring a debt between the creditor and on behalf of its debtors on behalf of said creditor's debtors with respect to insurance covering a debt between the creditor and its debtors;
- g. A trust and its trustees, agents and employees acting pursuant to a trust established in conformity with Section 186 of Title 29 of the United States Code;
- h. A trust exempt from taxation under Section 501(a) of the Internal Revenue Code, its trustees and employees acting pursuant to such trust, or a custodian and the custodian's agents and employees acting pursuant to a

custodian account which meets the requirements of
Section 401(f) of the Internal Revenue Code;

- ~~j.~~ i. A credit union or a financial institution which is subject to supervision or examination by federal or state banking authorities or a mortgage lender, to the extent they collect and remit premiums to licensed insurance agents or authorized insurers in connection with loan payments;
- ~~k.~~ j. A company which issues credit cards and advances credit for and collects premiums or charges from its credit card holders who have authorized ~~said~~ collection, if the company does not adjust or settle claims;
- ~~l.~~ k. A person who adjusts or settles claims in the normal course of practice or employment as an attorney-at-law and who does not collect charges or premiums in connection with life or health insurance coverage or annuities;
- ~~m.~~ ~~The State Insurance Fund;~~
- ~~n.~~ ~~Any workers' compensation trust; or~~
- ~~o.~~ ~~A trust providing benefits to the employees of any political subdivision of a city, county or the state.~~
- l. A person who acts solely as an administrator of one or more bona fide employee benefit plans established by an employer or an employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Income Security Act of 1974. Such person shall comply with the requirements of subsection G of Section 12 of this act; and

m. A person licensed as a managing general agent in this state, whose activities are limited exclusively to the scope of activities conveyed under such license.

2. "Trust" means any trust other than those exempted in paragraph 1 of this section which engages in the business of making contracts of insurance. "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person;

3. "Commissioner" means the Commissioner of Insurance;

4. "Insurance" or "insurance coverage" means any coverage offered or provided by an insurer;

5. "Insurer" means any person undertaking to provide life or health insurance coverage in this state. For the purposes of this act, insurer includes a licensed insurance company, a prepaid hospital or medical care plan, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of insurance subject to state insurance regulation. Insurer does not include a bona fide employee benefit plan established by an employer or an employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974; and

6. "Underwrites" or "underwriting" means, but is not limited to, the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer; the overall planning and coordinating of an insurance program; and the ability to procure bonds and excess insurance.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 1443, is amended to read as follows:

Section 1443. A. No person shall act as an administrator without a written agreement between ~~that person~~ the administrator and an insurer. The written agreement shall be retained as part of

the official records of both the insurer and the administrator for the duration of the agreement and for five (5) years thereafter.

The agreement shall contain all provisions required by this statute, except insofar as those requirements do not apply to the functions performed by the administrator.

B. ~~The written agreement required by the provisions of subsection A of this section shall contain provisions stating any of the requirements of Sections 4 through 8 of the Third-party Administrator Act which apply to the functions performed by the administrator~~ shall include a statement of duties which the administrator is expected to perform on behalf of the insurer and the lines, classes or types of insurance for which the administrator is to be authorized to administer. The agreement shall make provision with respect to underwriting or other standards pertaining to the business underwritten by such insurer.

C. ~~If a policy is issued to a trustee, a copy of the trust agreement and any amendments to the agreement shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both the insurer and the administrator for the duration of the policy and for five (5) years thereafter~~ The insurer or administrator may, with written notice, terminate the written agreement for cause as provided in the agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of any dispute regarding the cause for termination of the written agreement. The insurer must fulfill any lawful obligations with respect to policies affected by the written agreement, regardless of any dispute between the insurer and the administrator.

D. ~~Every administrator shall maintain at the principal administrative office of the administrator for the duration of the agreement and for five (5) years thereafter the written agreement required by the provisions of this section and records of all~~

~~transactions among the administrator, insurers or trusts, and insured persons.~~

~~E. For the purposes of examination, audit, and inspection, the Commissioner shall have access to books and records maintained by the administrator. Any trade secrets contained in these books and records, including the identity and addresses of policyholders and certificate holders, shall be confidential. The Commissioner may use this information in any proceedings instituted against the administrator.~~

~~F. The insurer or trust shall have the right of continuing access to books and records maintained by the administrator sufficient to permit the insurer or trust to fulfill all of its contractual obligations to insured persons, subject to any restriction in the written agreement between the insurer or trust and the administrator concerning the proprietary rights of the parties to said books and records.~~

~~G. The agreement required by the provisions of this section shall include provisions stating the underwriting standards or other standards pertaining to the business underwritten by the insurer or trust.~~

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1443.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Every administrator shall maintain and make available to the insurer complete books and records of all transactions performed on behalf of the insurer. The books and records shall be maintained in accordance with prudent standards of insurance recordkeeping and must be maintained for a period of not less than five (5) years from the date of their creation.

B. The Commissioner shall have access to books and records maintained by an administrator for the purposes of examination, audit and inspection. Any trade secrets contained in such books and

records, including the identity and addresses of policyholders and certificateholders, shall be kept confidential, except that the Commissioner may use such information in any proceeding instituted against the administrator.

C. The insurer shall own the records generated by the administrator pertaining to the insurer; however, the administrator shall retain the right to continuing access to books and records to permit the administrator to fulfill all of its contractual obligations to insureds, claimants, and the insurer.

D. In the event the insurer and the administrator cancel their agreement, notwithstanding the provisions of subsection A of this section, the administrator may, by written agreement with the insurer, transfer all records to a new administrator rather than retain them for five (5) years. In such cases, the new administrator shall acknowledge, in writing, that it is responsible for retaining the records of the prior administrator as required in subsection A of this section.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1443.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. If an insurer utilizes the services of an administrator, the insurer shall be responsible for determining the benefits, premium rates, underwriting criteria and claims payment procedures applicable to such coverage and for securing reinsurance, if any. The rules pertaining to these matters must be provided, in writing, by the insurer to the administrator. The responsibilities of the administrator as to any of these matters shall be set forth in the written agreement between the administrator and the insurer.

B. It is the sole responsibility of the insurer to provide for competent administration of its programs.

C. In cases where an administrator administers benefits for more than one hundred (100) certificateholders on behalf of an

insurer, the insurer shall, at least semiannually, conduct a review of the operations of the administrator. At least one such review shall be an on-site audit of the operations of the administrator.

SECTION 7. AMENDATORY 36 O.S. 1991, Section 1444, is amended to read as follows:

Section 1444. If an insurer ~~or trust~~ utilizes the services of an administrator ~~pursuant to the terms of a written agreement~~, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer ~~or trust~~. ~~The~~ and the payment of return premiums or claims payments forwarded by the insurer ~~or trust~~ to the administrator shall not be deemed ~~payment~~ to have been paid to the insured or claimant until the payments are received by the insured or claimant. Nothing in ~~the Third-party Administrator Act~~ this section shall limit any right of the insurer or trust against the administrator resulting from failure of the administrator to make payments to the insurer ~~or trust~~, insureds, or claimants.

SECTION 8. AMENDATORY 36 O.S. 1991, Section 1445, is amended to read as follows:

Section 1445. A. All insurance charges or premiums collected by an administrator for an insurer or ~~trust~~ insurers, and ~~all the~~ return of premiums received from the insurer or ~~trust~~ insurers shall be held by the administrator in a fiduciary capacity. These funds shall be immediately remitted to the person entitled to the funds or shall be deposited promptly in a fiduciary ~~bank~~ account established and maintained by the administrator in a federally insured financial institution. The written agreement between the administrator and the insurer shall provide for the administrator to periodically render an accounting to the insurer detailing all transactions performed by the administrator pertaining to the business underwritten by the insurer.

B. If charges or premiums deposited in a fiduciary account have been collected for more than one insurer or trust, the administrator shall keep records showing the deposits to and withdrawals from the account for each insurer ~~or trust~~. The administrator, upon request of an insurer or trust, shall furnish copies of the records pertaining to deposits to and withdrawals from the account for that insurer ~~or trust~~.

C. The administrator shall not pay any claim by withdrawals from a fiduciary account ~~unless provisions for said withdrawals are included in the written agreement between the insurer or trust and the administrator~~ in which premiums or charges are deposited. The written agreement shall authorize withdrawals by the administrator from the fiduciary account only for:

1. ~~remittance~~ Remittance to an insurer ~~or trust~~ entitled to a remittance; ~~or~~

2. ~~deposit~~ Deposit in an account maintained in the name of ~~an~~ the insurer ~~or trust~~; ~~or~~

3. ~~transfer~~ Transfer to and deposit in an account established for payment of claims, as provided for by subsection D of this section; ~~or~~

4. ~~payment~~ Payment to a group policyholder for remittance to the insurer ~~or trust~~ entitled to such remittance; ~~or~~

5. ~~payment~~ Payment of commission, fees, or charges to the administrator; or

6. ~~remittance~~ Remittance of return premiums to the person entitled to such return premiums.

D. All claims paid by the administrator from funds collected on behalf of the insurer ~~or trust~~ shall be paid on drafts or checks authorized by the insurer ~~or trust~~.

SECTION 9. AMENDATORY 36 O.S. 1991, Section 1446, is amended to read as follows:

Section 1446. An administrator shall obtain written approval from an insurer ~~or trust~~ before ~~publishing~~ using any advertising pertaining to the business underwritten by the insurer ~~or trust~~. ~~For purposes of this section, "publication" includes mailing of advertising material.~~

SECTION 10. AMENDATORY 36 O.S. 1991, Section 1447, is amended to read as follows:

Section 1447. A. ~~Any policies, certificates, booklets, termination notices, or other written communications delivered by the insurer or trust to the administrator for delivery to policyholders shall be delivered by the administrator promptly after receipt of instructions to do so from the insurer or trust.~~

~~B. Compensation to an administrator for any policies for which the administrator adjusts or settles claims shall not be contingent upon claims experience. The provisions of this subsection shall not prevent basing the compensation of an administrator on the amount of premiums or charges collected or number of claims paid or processed or the number of covered insureds.~~

~~C. An administrator shall only use licensed insurance agents to do the business of insurance for trusts or insurers administered by the third-party administrator~~ An administrator shall not enter into any agreement or understanding with an insurer in which the effect is to make the amount of the administrator's commissions, fees, or charges contingent upon savings effected in the adjustment, settlement and payment of losses covered by the insurer's obligations. This provision shall not prohibit an administrator from receiving performance-based compensation for providing hospital or other auditing services.

B. This section shall not prevent the compensation of an administrator from being based on premiums or charges collected or the number of claims paid or processed.

SECTION 11. AMENDATORY 36 O.S. 1991, Section 1449, is amended to read as follows:

Section 1449. A. ~~If~~ When the services of an administrator are utilized, the administrator shall provide a written notice approved by the insurer to ~~insured~~ covered individuals advising them of the identities of the administrator, the policyholder, and the insurer ~~or trust~~.

B. ~~If~~ When an administrator collects funds ~~from insured individuals, the administrator, upon request from an insured individual, shall furnish written information as to the amount of any charge or premium specified by the insurer or trust for insurance coverage for the insured individual. This information shall be furnished within ten (10) days after the administrator receives the request for information~~ the reason for collection of each item must be identified to the insured party and each item must be shown separately from any premium. Additional charges may not be made for services to the extent the services have been paid for by the insurer.

C. The administrator shall disclose to the insurer all charges, fees, and commissions received from all services in connection with the provision of administrative services for such insurer, including any fees or commissions paid by insurers providing reinsurance.

SECTION 12. AMENDATORY 36 O.S. 1991, Section 1450, is amended to read as follows:

Section 1450. A. No person shall act as, or offer to act as, or ~~present~~ hold himself out to be an administrator, ~~as defined by the provisions of the Third-party Administrator Act,~~ in this state, ~~unless said person holds~~ without a valid license certificate of authority as an administrator which is issued by the Commissioner.

B. ~~An application for an administrator's license shall be in a form prescribed by the Commissioner and shall be accompanied by a fee of One Hundred Dollars (\$100.00). This fee shall not be~~

~~refundable if the application is denied or refused for any reason by either the applicant or the Commissioner.~~

~~C. The administrator's license shall continue in force no longer than twelve (12) months from the original month of issuance. Upon filing a renewal form prescribed by the Commissioner, accompanied by a fee of One Hundred Dollars (\$100.00), said license may be renewed annually for a one-year term. Late application for renewal of a license shall require a fee of double the amount of the original license fee.~~

~~D. The administrator's license shall be issued or renewed by the Commissioner unless, after notice and hearing, the Commissioner determines that the administrator is not competent, trustworthy, or financially responsible, or has had any insurance license denied for cause by any state, has been convicted or has pleaded guilty or nolo contendere to any felony or a misdemeanor involving moral turpitude.~~

~~E. After notice and hearing, and upon determining that the administrator has violated any of the provisions of the Oklahoma Insurance Code or upon finding reasons for which the issuance or nonrenewal of such license could have been denied, the Commissioner may either suspend or revoke an administrator's license or assess a fine of not more than Five Thousand Dollars (\$5,000.00) for each occurrence. The payment of the fine may be enforced in the same manner as civil judgments may be enforced.~~

~~F. Any person who is acting as or presenting himself to be an administrator without a valid license shall be subject, upon conviction, to a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each occurrence. This fine shall be in addition to any other penalties which may be imposed for violations of the Oklahoma Insurance Code or other laws of this state.~~

~~G. Except as provided for in subsections E and F of this section, any person convicted of violating any provisions of the~~

~~Third-party Administrator Act shall be guilty of a misdemeanor and shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00).~~

~~H. Any fees imposed pursuant to the provisions of this section and any fines imposed pursuant to an administrative hearing for violation of the provisions of the Third-party Administrator Act shall be deposited in the State Insurance Commissioner Revolving Fund~~ Applicants to be an administrator shall make an application to the Commissioner upon a form to be furnished by the Commissioner. The application shall include or be accompanied by the following information and documents:

1. All basic organizational documents of the administrator, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement and other applicable documents, and all amendments to such documents;

2. The bylaws, rules, regulations or similar documents regulating the internal affairs of the administrator;

3. The names, addresses, official positions and professional qualifications of the individuals who are responsible for the conduct of affairs of the administrator; including all members of the board of directors, board of trustees, executive committee or other governing board or committee; the principal officers in the case of a corporation or the partners or members in the case of a partnership or association; shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the administrator; and any other person who exercises control or influence over the affairs of the administrator;

4. Annual financial statements or reports for the two (2) most recent years which prove that the applicant is solvent and such information as the Commissioner may require in order to review the current financial condition of the applicant;

5. A statement describing the business plan including information on staffing levels and activities proposed in this state and nationwide. The plan must provide details setting forth the administrator's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, recordkeeping and underwriting;

6. If the applicant will be managing the solicitation of new or renewal business, proof that it employs or has contracted with an agent licensed by this state for solicitation and taking of applications. Any applicant which intends to directly solicit insurance contracts or to otherwise act as an insurance agent must provide proof that it has a license as an insurance agent in this state; and

7. Such other pertinent information as may be required by the Commissioner.

C. The applicant shall make available for inspection by the Commissioner copies of all contracts with insurers or other persons utilizing the services of the administrator.

D. The Commissioner may refuse to issue a certificate of authority if the Commissioner determines that the administrator, or any individual responsible for the conduct of affairs of the administrator as defined in paragraph 3 of subsection B of this section, is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had an insurance or an administrator license denied or revoked for cause by any state.

E. A certificate of authority issued under this section shall remain valid, unless surrendered, suspended or revoked by the Commissioner, for so long as the administrator continues in business in this state and remains in compliance with this part.

F. An administrator is not required to hold a certificate of authority as an administrator in this state if all of the following conditions are met:

1. The administrator has its principal place of business in another state;

2. The administrator is not soliciting business as an administrator in this state; and

3. In the case of any group policy or plan of insurance serviced by the administrator, the lesser of five percent (5%) or one hundred (100) certificateholders reside in this state.

G. A person is not required to hold a certificate of authority as an administrator in this state if the person exclusively provides services to one or more bona fide employee benefit plans, each of which is established by an employer or an employee organization, or both, and for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974. Such persons shall register with the Commissioner annually, verifying their status as herein described.

H. An administrator shall immediately notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a certificate of authority in this state.

I. No bonding shall be required by the Commissioner of any administrator whose business is restricted solely to benefit plans which are either fully insured by an authorized insurer or which are bona fide employee benefit plans established by an employer or any employee organization, or both, for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974.

SECTION 13. AMENDATORY 36 O.S. 1991, Section 1452, is amended to read as follows:

Section 1452. ~~On or before June 1 of each year, all licensed administrators shall file an annual report prepared by a certified public accountant concerning each of the plans they administer which are governed pursuant to the provisions of the Third-party~~

~~Administrator Act. The report shall include the name and address of each fund and a statement of fund equity, paid claims by the covered unit, the accumulated year-to-date paid claims, and the year-to-date reserve status~~ A. Each administrator shall file an annual report for the preceding calendar year with the Commissioner on or before March 1 of each year, or within such extension of time therefor as the Commissioner for good cause may grant. The report shall be in the form and contain such matters as the Commissioner prescribes and shall be verified by at least two (2) officers of the administrator.

B. The annual report shall include the complete names and addresses of all insurers with which the administrator had an agreement during the preceding fiscal year.

C. At the time of filing its annual report, the administrator shall pay a filing fee as required by the Commissioner.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1454 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Upon request from an administrator, the Commissioner may waive the application requirements of subsection B of Section 1450 of this title, if the administrator has a valid certificate of authority as an administrator issued in a state which has standards for administrators that are at least as stringent as those contained in the model statute for third-party administrators of the National Association of Insurance Commissioners.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1455 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The certificate of authority of an administrator shall be suspended or revoked if the Commissioner finds that the administrator:

1. Is in an unsound financial condition;

2. Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this state hazardous or injurious to insured persons or the public; or

3. Has failed to pay any judgment rendered against it in this state within sixty (60) days after the judgment has become final.

B. The Commissioner may, in his or her discretion, suspend or revoke the certificate of authority of an administrator if the Commissioner finds that the administrator:

1. Has violated any lawful rule or order of the Commissioner or any provision of the insurance laws of this state;

2. Has refused to be examined or to produce its accounts, records and files for examination, or if any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to such examination, when required by the Commissioner;

3. Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the administrator to secure full payment or settlement of such claims;

4. Is affiliated with or under the same general management or interlocking directorate or ownership as another administrator or insurer which unlawfully transacts business in this state without having a certificate of authority;

5. At any time fails to meet any qualification for which issuance of the certificate could have been refused had such failure then existed and been known to the department;

6. Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld; or

7. Is under suspension or revocation in another state.

C. The Commissioner may, in his or her discretion and without advance notice or hearing thereon, immediately suspend the certificate of any administrator if the Commissioner finds that one or more of the following circumstances exist:

1. The administrator is insolvent or impaired;

2. A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state; or

3. The financial condition or business practices of the administrator otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

D. If the Commissioner finds that one or more grounds exist for the suspension or revocation of a certificate of authority issued under this act, the Commissioner may, in lieu of such suspension or revocation, impose a fine upon the administrator.

SECTION 16. REPEALER 36 O.S. 1991, Sections 1448 and 1453, are hereby repealed.

SECTION 17. This act shall become effective September 1, 1992.

43-2-1856 MHR