

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 2122

By: Sparks and Brown of the
Senate

6 and

Peterson (Ron) of the House

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to insurance; creating the Crimes by
11 or Affecting Persons Engaged in the Business of
12 Insurance Act; providing short title; prohibiting
13 certain persons from engaging or participating in the
14 insurance business; specifying actions that the
15 Insurance Commissioner may take regarding the
16 enforcement of the Crimes by or Affecting Persons
17 Engaged in the Business of Insurance Act; defining
18 the act of doing the business of insurance in this
19 state; providing procedures relating to the emergency
20 cease and desist order; authorizing the Insurance
21 Commissioner to promulgate certain rules; amending 36
22 O.S. 2001, Section 987, as last amended by Section 2,
23 Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007, Section
24 987), which relates to rate filings; specifying when
certain filings shall be open to public inspection;
amending 36 O.S. 2001, Sections 1435.4, 1435.5,
1435.7, as last amended by Section 3, Chapter 338,
O.S.L. 2007, 1435.9, as amended by Section 16,
Chapter 307, O.S.L. 2002, 1435.20, as amended by
Section 4, Chapter 150, O.S.L. 2003, 1435.23, as last
amended by Section 14, Chapter 125, O.S.L. 2007 and
1435.29, as last amended by Section 15, Chapter 125,
O.S.L. 2007 (36 O.S. Supp. 2007, Sections 1435.7,
1435.9, 1435.20, 1435.23 and 1435.29), which relate
to the Oklahoma Producer Licensing Act; allowing
certain penalty to be waived if application for
licensure as a surplus lines broker is received

1 within certain time period; exempting volunteer
2 counselor assisting Medicare beneficiaries with
3 enrollment in Medicare Part D plans from licensure;
4 clarifying licensure requirements; modifying
5 licensing requirement for certain nonresident
6 producers; eliminating and adding categories for a
7 limited lines producer license; modifying license
8 fee; requiring Insurance Commissioner approval of
9 resident provisional producer prelicensing education;
10 allowing the Insurance Commissioner to certify
11 providers and courses offered for license examination
12 study; amending 36 O.S. 2001, Sections 1442 and 1450,
13 as amended by Section 10, Chapter 274, O.S.L. 2004
14 (36 O.S. Supp. 2007, Section 1450), which relate to
15 the Third-party Administrator Act; modifying
16 definition; specifying conditions regarding the
17 eligibility of an administrator for a nonresident
18 administrator license; defining terms; requiring
19 certain administrators to provide certain
20 information; amending 36 O.S. 2001, Section 1922,
21 which relates to the Uniform Insurers Liquidation
22 Act; specifying powers of the receiver; specifying
23 time period for the commencement of certain actions;
24 amending 36 O.S. 2001, Section 4424, which relates to
the Long-Term Care Insurance Act; modifying
definition; amending 36 O.S. 2001, Section 4501,
which relates to group and blanket accident and
health insurance; specifying time period for an
association to be in existence with regard to certain
policies; amending 36 O.S. 2001, Sections 5002 and
5005, which relate to title insurers; clarifying
references; specifying laws and rules which are
applicable to title insurers; amending 36 O.S. 2001,
Section 6060, as amended by Section 1, Chapter 78,
O.S.L. 2002 (36 O.S. Supp. 2007, Section 6060), which
relates to mammography screening; eliminating
references to low-dose mammography; amending 36 O.S.
2001, Sections 6210, as amended by Section 27,
Chapter 125, O.S.L. 2007 and 6217, as amended by
Section 29, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
2007, Sections 6210 and 6217), which relate to the
Insurance Adjusters Licensing Act; specifying time
period to take and pass certain examination;
requiring a new application if applicant fails
examination within the specified time period;
requiring provider of continuing education to submit
an annual fee; exempting certain providers from such

1 fee; amending 36 O.S. 2001, Sections 6602, as last
2 amended by Section 31, Chapter 125, O.S.L. 2007, 6609
3 and 6615, as last amended by Section 32, Chapter 125,
4 O.S.L. 2007 (36 O.S. Supp. 2007, Sections 6602 and
5 6615), which relate to the Service Warranty Insurance
6 Act; modifying definition; modifying dates; amending
7 59 O.S. 2001, Sections 1316, as last amended by
8 Section 4, Chapter 386, O.S.L. 2005 and 1317, as
9 amended by Section 1, Chapter 167, O.S.L. 2004 (59
10 O.S. Supp. 2007, Sections 1316 and 1317), which
11 relate to bail bondsmen; requiring certain agreement
12 to be submitted to the Insurance Commissioner;
13 authorizing the Commissioner to suspend the
14 appointment of the professional bondsman's bail
15 agents if the bondsman's professional qualification
16 is surrendered, suspended or revoked; providing
17 procedures for the reinstatement of the appointment
18 of the bail agents under certain conditions;
19 specifying that the appointment of a surety bondsman
20 or managing general agent is in effect until the
21 expiration of the bail bondsman's license or the
22 cancellation of the appointment by the Commissioner;
23 amending Section 1, Chapter 322, O.S.L. 2006, as
24 amended by Section 14, Chapter 326, O.S.L. 2007 (47
O.S. Supp. 2007, Section 7-600.2), which relates to
online verification systems for motor vehicle
insurance; requiring cooperation of the Oklahoma Tax
Commission in the development of the verification
system; modifying date for which the verification
system shall be installed and operational; exempting
certain information from the provisions of the
Oklahoma Open Records Act; repealing 36 O.S. 2001,
Sections 1435.25, 1435.32, 1435.34, 1435.35, as
amended by Section 11, Chapter 129, O.S.L. 2005,
1435.37 and 1924 (36 O.S. Supp. 2007, Section
1435.35), which relate to the Oklahoma Producer
Licensing Act and the Uniform Insurers Liquidation
Act; providing for codification; providing an
effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 401 of Title 36, unless there is
3 created a duplication in numbering, reads as follows:

4 Sections 1 through 6 of this act shall be known and may be cited
5 as the "Crimes By or Affecting Persons Engaged in the Business of
6 Insurance Act".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 402 of Title 36, unless there is
9 created a duplication in numbering, reads as follows:

10 A. No person who has been convicted of any criminal felony
11 involving dishonesty or a breach of trust, or who has been convicted
12 of an offense under Section 1033 of Title 18 of the United States
13 Code, shall engage or participate in the business of insurance in
14 this state or do any of the acts of an insurance business as set
15 forth in Section 4 of this act.

16 B. A person described in subsection A of this section may
17 engage in the business of insurance or participate in such business
18 if such person has the written consent of the Insurance
19 Commissioner.

20 C. A person who violates subsection A of this section or any
21 rule promulgated pursuant thereto is subject to a civil penalty of
22 not more than Ten Thousand Dollars (\$10,000.00) for each act of
23 violation and for each day of violation.

24

1 D. The business of insurance includes title insurers for
2 purposes of the Crimes by or Affecting Persons Engaged in the
3 Business of Insurance Act.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 403 of Title 36, unless there is
6 created a duplication in numbering, reads as follows:

7 A. Whenever the Insurance Commissioner has reason to believe or
8 it appears that any person has violated subsection A of Section 2 of
9 this act, the Insurance Commissioner may:

10 1. Revoke any license or registration issued or approved by the
11 Insurance Commissioner;

12 2. Issue an ex parte cease and desist order under the
13 procedures provided by Section 5 of this act;

14 3. Institute in the district court of Oklahoma County a civil
15 suit for injunctive relief to restrain the person from continuing
16 the violation;

17 4. Institute in the district court of Oklahoma County a civil
18 suit to recover a civil penalty as provided for in Section 2 of this
19 act; or

20 5. Exercise any combination of the acts provided for in this
21 subsection.

22 B. On application for injunctive relief and a finding that a
23 person is violating or threatening to violate any provision of the
24 Crimes By or Affecting Persons Engaged in the Business of Insurance

1 Act or order of the Insurance Commissioner issued pursuant to the
2 Crimes By or Affecting Persons Engaged in the Business of Insurance
3 Act, the district court shall grant the injunctive relief and the
4 injunction shall be issued without bond.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 404 of Title 36, unless there is
7 created a duplication in numbering, reads as follows:

8 Any one of the following acts in this state effected by mail or
9 otherwise is defined to be doing the business of insurance in this
10 state:

11 1. The making of or proposing to make, as an insurer, an
12 insurance contract;

13 2. The making of or proposing to make, as guarantor or surety,
14 any contract of guaranty or suretyship as a vocation and not merely
15 incidental to any other legitimate business or activity of the
16 guarantor or surety;

17 3. The taking or receiving of any application for insurance;

18 4. Maintaining any agency or office where any acts in
19 furtherance of an insurance business are transacted, including but
20 not limited to:

21 a. the execution of contracts of insurance with citizens
22 of this or any other state,

23 b. maintaining files or records of contracts of
24 insurance,

- c. the processing of claims, and
- d. the receiving or collection of any premiums, commissions, membership fees, assessments, dues or other consideration for any insurance or any part thereof;

5. The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;

6. Directly or indirectly acting as an agent for, or otherwise representing or aiding on behalf of another, any person or insurer in:

- a. the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof,
- b. the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts,
- c. inspection of risks,
- d. fixing of rates or investigation or adjustment of claims or losses,
- e. the transaction of matters subsequent to effectuation of the contract and arising out of it, or
- f. in any other manner representing or assisting a person or insurer in the transaction of insurance with

1 respect to subjects of insurance resident, located or
2 to be performed in this state.

3 Provided, the provisions of this paragraph shall not operate to
4 prohibit full-time salaried employees of a corporate insured from
5 acting in the capacity of an insurance manager or buyer in placing
6 insurance on behalf of such employer;

7 7. Contracting to provide indemnification or expense
8 reimbursement in this state to persons domiciled in this state or
9 for risks located in this state, whether as an insurer, agent,
10 administrator, trust, funding mechanism, or by any other method, for
11 any type of medical expenses including, but not limited to,
12 surgical, chiropractic, physical therapy, speech pathology,
13 audiology, professional mental health, dental, hospital, or
14 optometric expenses, whether this coverage is by direct payment,
15 reimbursement, or otherwise;

16 8. The doing of any kind of insurance business specifically
17 recognized as constituting the doing of an insurance business within
18 the meaning of the statutes relating to insurance;

19 9. Ownership in whole or in part, directly or indirectly, of
20 any entity involved in the business of insurance;

21 10. Acquiring or assisting others in the acquisition or
22 attempted acquisition of any entity involved in the business of
23 insurance;

1 11. Possessing a license, registration or permit issued or
2 approved by the Insurance Commissioner;

3 12. Any other transactions of business in this state by an
4 insurance company, producer, title insurance producer, adjuster,
5 third-party administrator, service warranty association, title
6 insurer or any other person that is licensed by or registered with
7 the Insurance Commissioner; or

8 13. The doing of or proposing to do any insurance business in
9 substance equivalent to any of the foregoing in a manner designed to
10 evade the provisions of the statutes.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 405 of Title 36, unless there is
13 created a duplication in numbering, reads as follows:

14 A. On issuance of an emergency cease and desist order under
15 Section 3 of this act, the Insurance Commissioner shall serve on the
16 person affected by the order, by registered or certified mail,
17 return receipt requested, to the person's last-known address, or by
18 other lawful means, an order that contains a statement of the
19 charges and requires the person immediately to cease and desist from
20 the violation of subsection A of Section 2 of this act.

21 B. 1. If a person affected by an emergency cease and desist
22 order seeks to contest that order, the person may request a hearing
23 before the Insurance Commissioner. The person affected must request
24 the hearing not later than the thirtieth day after the date on which

1 the person receives the order. A request to contest an order must
2 be in writing and directed to the Insurance Commissioner and must
3 state the grounds for the request to set aside or modify the order.

4 2. On receiving the request for a hearing, the Insurance
5 Commissioner shall serve notice of the time and place of the hearing
6 at which the person requesting the hearing shall have the
7 opportunity to show cause why the order should not be affirmed. The
8 hearing is to be held not later than the tenth day after the date
9 the Insurance Commissioner receives the request for a hearing unless
10 the parties mutually agree to a later hearing date.

11 3. Pending the hearing, an emergency cease and desist order
12 continues in full force and effect unless the order is stayed by the
13 Insurance Commissioner.

14 4. The hearing on the order shall be conducted according to the
15 procedures for contested cases under the Administrative Procedures
16 Act.

17 5. At the hearing, the Insurance Commissioner shall affirm,
18 modify or set aside in whole or in part the emergency cease and
19 desist order.

20 C. A person aggrieved by a final order of the Insurance
21 Commissioner pursuant to the Crimes By or Affecting Persons Engaged
22 in the Business of Insurance Act may seek judicial review pursuant
23 to Section 318 of Title 75 of the Oklahoma Statutes.

24

1 D. The Insurance Commissioner may recover reasonable attorney
2 fees if judicial action is necessary for enforcement of the order.

3 E. A cease and desist order is final thirty-one (31) days after
4 the date it is received if the person affected by the order does not
5 request a hearing as provided by subsection B of this section.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 406 of Title 36, unless there is
8 created a duplication in numbering, reads as follows:

9 The Insurance Commissioner may promulgate rules necessary to
10 carry out the provisions of the Crimes By or Affecting Persons
11 Engaged in the Business of Insurance Act.

12 SECTION 7. AMENDATORY 36 O.S. 2001, Section 987, as last
13 amended by Section 2, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,
14 Section 987), is amended to read as follows:

15 Section 987. Rate Filings.

16 A. In a competitive market, every insurer shall file with the
17 Commissioner all rates and supplementary rate information to be used
18 in this state no later than thirty (30) days after the effective
19 date; provided, that the rates and supplementary rate information
20 need not be filed for commercial risks, which by general custom are
21 not written according to manual rules or rating plans.

22 B. In a noncompetitive market, every insurer shall file with
23 the Commissioner all rates, supplementary rate information and
24 supporting information at least thirty (30) days before the proposed

1 effective date. The Commissioner may give written notice, within
2 thirty (30) days of receipt of the filing, that the Commissioner
3 needs additional time, not to exceed thirty (30) days from the date
4 of the notice to consider the filing. Upon written application of
5 the insurer, the Commissioner may authorize rates to be effective
6 before the expiration of the waiting period or an extension thereof.
7 A filing shall be deemed to meet the requirements of the Property
8 and Casualty Competitive Loss Cost Rating Act and to become
9 effective unless disapproved pursuant to this title by the
10 Commissioner before the expiration of the waiting period or an
11 extension thereof.

12 In a noncompetitive market, the filing shall be deemed in
13 compliance with the filing provision of this section unless the
14 Commissioner informs the insurer within ten (10) days after receipt
15 of the filings as to what supplementary rate information or
16 supporting information is required to complete the filing.

17 C. Every authorized insurer shall file with the Commissioner,
18 except as to rates for those lines of insurance exempted from the
19 provisions of the Property and Casualty Competitive Loss Cost Rating
20 Act by the Commissioner under subsections E and F of this section
21 and except for those risks designated as special risks under Section
22 997 of this title, all rates, supplementary rate information and any
23 changes and amendments which it proposes to use. An insurer may
24 file its rates by either filing its final rates or by filing a

1 multiplier and, if applicable, an expense constant adjustment to be
2 applied to prospective loss costs that have been filed by an
3 advisory organization as permitted by this title. Such loss cost
4 multiplier filing and expense constant filings made by insurers
5 shall remain in effect until amended or withdrawn by the insurer.
6 Every filing shall state the effective date.

7 D. Under rules as may be adopted, the Commissioner may, by
8 written order, suspend or modify the requirement of filing as to any
9 kind of insurance, subdivision or combination thereof, or as to
10 classes of risks.

11 E. Notwithstanding any other provision of the Property and
12 Casualty Competitive Loss Cost Rating Act, upon the written consent
13 of the insured in a separate written document, a rate in excess of
14 that determined in accordance with the other provisions of the
15 Property and Casualty Competitive Loss Cost Rating Act may be used
16 on a specific risk.

17 F. A filing and any supporting information required to be filed
18 shall be open to public inspection once the filing becomes effective
19 except information marked confidential, trade secret, or proprietary
20 by the insurer or filer and except the filings of an advisory
21 organization which shall be open to public inspection upon the
22 received date of the rate, loss cost, or manual rule change. The
23 insurer or filer shall have the burden of asserting to the
24 Commissioner that a filing and supporting information are

1 confidential, upon the request of the Commissioner. The
2 Commissioner may disapprove of the insurer's request for
3 confidential filing status.

4 SECTION 8. AMENDATORY 36 O.S. 2001, Section 1435.4, is
5 amended to read as follows:

6 Section 1435.4 A. A person shall not sell, solicit, or
7 negotiate insurance in this state for any class or classes of
8 insurance unless the person is licensed for that line of authority
9 in accordance with the Oklahoma Producer Licensing Act.

10 B. A penalty for selling, soliciting, negotiating, or procuring
11 surplus lines insurance in this state without a surplus lines broker
12 license shall be waived if the Insurance Commissioner receives an
13 application for licensure as a surplus lines broker within thirty
14 (30) days from the effective date of the policy at issue.

15 SECTION 9. AMENDATORY 36 O.S. 2001, Section 1435.5, is
16 amended to read as follows:

17 Section 1435.5 A. Nothing in the Oklahoma Producer Licensing
18 Act shall be construed to require an insurer to obtain an insurance
19 producer license. In this section, the term "insurer" does not
20 include an insurer's officers, directors, employees, subsidiaries or
21 affiliates.

22 B. A license as an insurance producer shall not be required of
23 the following:
24

1 1. An officer, director or employee of an insurer or of an
2 insurance producer, provided that the officer, director or employee
3 does not receive any commission on policies written or sold to
4 insure risks residing, located or to be performed in this state,
5 and:

6 a. the officer, director or employee's activities are
7 executive, administrative, managerial, clerical or a
8 combination of these, and are only indirectly related
9 to the sale, solicitation or negotiation of insurance,
10 or

11 b. the officer, director or employee's function relates
12 to underwriting, loss control, inspection or the
13 processing, adjusting, investigating or settling of a
14 claim on a contract of insurance, or

15 c. the officer, director or employee is acting in the
16 capacity of a special agent or agency supervisor
17 assisting insurance producers where the person's
18 activities are limited to providing technical advice
19 and assistance to licensed insurance producers and do
20 not include the sale, solicitation or negotiation of
21 insurance;

22 2. A person who secures and furnishes information for the
23 purpose of group life insurance, group property and casualty
24 insurance, group annuities, group or blanket accident and health

1 insurance; or for the purpose of enrolling individuals under plans,
2 issuing certificates under plans or otherwise assisting in
3 administering plans; or performs administrative services related to
4 mass-marketed property and casualty insurance, where no commission
5 is paid to the person for the service;

6 3. An employer or association or its officers, directors,
7 employees, or the trustees of an employee trust plan, to the extent
8 that the employers, officers, employees, director or trustees are
9 engaged in the administration or operation of a program of employee
10 benefits for the employer's or association's own employees or the
11 employees of its subsidiaries or affiliates, which program involves
12 the use of insurance issued by an insurer, as long as the employers,
13 associations, officers, directors, employees or trustees are not in
14 any manner compensated, directly or indirectly, by the company
15 issuing the contracts;

16 4. Employees of insurers or organizations employed by insurers
17 who are engaging in the inspection, rating or classification of
18 risks, or in the supervision of the training of insurance producers
19 and who are not individually engaged in the sale, solicitation or
20 negotiation of insurance;

21 5. A person whose activities in this state are limited to
22 advertising without the intent to solicit insurance in this state
23 through communications in printed publications or other forms of
24 electronic mass media whose distribution is not limited to residents

1 of the state, provided that the person does not sell, solicit or
2 negotiate insurance that would insure risks residing, located or to
3 be performed in this state;

4 6. A person who is not a resident of this state who sells,
5 solicits or negotiates a contract of insurance for commercial
6 property and casualty risks to an insured with risks located in more
7 than one state insured under that contract, provided that that
8 person is otherwise licensed as an insurance producer to sell,
9 solicit or negotiate that insurance in the state where the insured
10 maintains its principal place of business and the contract of
11 insurance insures risks located in that state; ~~or~~

12 7. A salaried full-time employee who counsels or advises his or
13 her employer relative to the insurance interests of the employer or
14 of the subsidiaries or business affiliates of the employer, provided
15 that the employee does not sell or solicit insurance or receive a
16 commission; or

17 8. A volunteer counselor assisting Medicare beneficiaries with
18 enrollment in Medicare Part D plans pursuant to the Federal Medicare
19 Prescription Drug, Improvement and Modernization Act of 2003, Pub.
20 Law No. 108-173, provided that the volunteer counselor does not
21 receive commissions or other valuable consideration from any person
22 or plan for the enrollment, that the volunteer counselor has
23 received education that is acceptable to the Insurance Commissioner
24 on enrollment of Medicare beneficiaries in Medicare Part D, that the

1 volunteer counselor is providing volunteer services as part of a
2 sponsoring agency or organization acceptable to the Commissioner,
3 and that supporting documentation and/or verification is provided to
4 the Commissioner as set out by rule.

5 SECTION 10. AMENDATORY 36 O.S. 2001, Section 1435.7, as
6 last amended by Section 3, Chapter 338, O.S.L. 2007 (36 O.S. Supp.
7 2007, Section 1435.7), is amended to read as follows:

8 Section 1435.7 A. A person applying for a resident insurance
9 producer license shall make application to the Insurance
10 Commissioner on the Uniform Application or an application approved
11 by the Commissioner and declare under penalty of refusal, suspension
12 or revocation of the license that the statements made in the
13 application are true, correct and complete to the best of the
14 individual's knowledge and belief. Before approving the
15 application, the Insurance Commissioner shall find that the
16 individual:

- 17 1. Is at least eighteen (18) years of age;
- 18 2. Has not committed any act that is a ground for denial,
19 suspension or revocation set forth in Section 1435.13 of this title;
- 20 3. ~~Where required by the Insurance Commissioner, has~~ Has held a
21 provisional insurance producer license ~~under Section 11 of Enrolled~~
22 ~~House Bill No. 1960 of the 1st Session of the 51st Oklahoma~~
23 ~~Legislature~~ or has been a participant in an approved training
24 program offered by an insurance company licensed in this state ~~or~~

1 ~~has completed a prelicensing course of study for the lines of~~
2 ~~authority for which the person has applied~~ except for title,
3 aircraft title, or any other producer applicant exempt by rule;

4 4. Has paid the fees set forth in Section 1435.23 of this
5 title; and

6 5. Has successfully passed the examinations for the lines of
7 authority for which the person has applied.

8 B. A business entity acting as an insurance producer is
9 required to obtain an insurance producer license. Application shall
10 be made using the Uniform Business Entity Application or an
11 application approved by the Commissioner. Before approving the
12 application, the Insurance Commissioner shall find that:

13 1. The business entity has paid the fees set forth in Section
14 1435.23 of this title;

15 2. The business entity has designated a licensed producer
16 responsible for the business entity's compliance with the insurance
17 laws, rules and regulations of this state;

18 3. A domestic business entity is organized pursuant to the
19 provisions of the laws of this state and maintains its principal
20 place of business in this state; and

21 4. No person whose license as an insurance producer has been
22 revoked by order of the Commissioner, nor any business entity in
23 which such person has a majority ownership interest, whether direct
24

1 or indirect, owns any interest in the business entity licensed as an
2 insurance producer, and

3 ~~5. The business entity has provided proof satisfactory to the~~
4 ~~Commissioner that a trade name has been lawfully registered for an~~
5 ~~insurance producer license to be issued in a trade name.~~

6 C. A business entity acting as an insurance producer shall
7 notify the Commissioner of all changes among its members, directors
8 and officers and all other individuals designated in the license
9 within fifteen (15) days after the change.

10 D. An applicant for any license required by the provisions of
11 the Oklahoma Producer Licensing Act shall demonstrate to the
12 Insurance Commissioner that the applicant is competent, trustworthy,
13 financially responsible, and of good personal and business
14 reputation.

15 E. The Insurance Commissioner may require any documents
16 reasonably necessary to verify the information contained in an
17 application.

18 SECTION 11. AMENDATORY 36 O.S. 2001, Section 1435.9, as
19 amended by Section 16, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2007,
20 Section 1435.9), is amended to read as follows:

21 Section 1435.9 A. Unless denied licensure pursuant to Section
22 1435.13 of this title, a nonresident person shall receive a
23 nonresident producer license if:
24

1 1. The person is currently licensed as a resident and in good
2 standing in that person's home state;

3 2. The person has submitted the proper request for licensure
4 and has paid the fees required by Section 1435.23 of this title;

5 3. The person has submitted or transmitted to the Insurance
6 Commissioner the application for licensure that the person submitted
7 to the person's home state, or in lieu of the same, a completed
8 Uniform Application; and

9 4. The person's home state awards nonresident producer licenses
10 to residents of this state on the same basis.

11 B. Any nonresident application submitted pursuant to this
12 section shall constitute the applicant's designation of the
13 Insurance Commissioner as the person upon whom may be served all
14 lawful process in any action, suit, or proceeding instituted by or
15 on behalf of any interested person arising out of the insurance
16 business of the applicant in this state. This designation
17 constitutes an agreement that said service of process is of the same
18 legal force and validity as personal service of process in this
19 state upon the nonresident licensee.

20 C. The Insurance Commissioner may verify the producer's
21 licensing status through the Producer Database maintained by the
22 National Association of Insurance Commissioners, its affiliates or
23 subsidiaries.

24

1 D. A nonresident producer who moves from one state to another
2 state or a resident producer who moves from this state to another
3 state shall file a change of address and provide certification from
4 the new resident state within thirty (30) days of the change of
5 legal residence. ~~No fee or license application is required.~~

6 E. Notwithstanding any other provision of the Oklahoma Producer
7 Licensing Act or of the Oklahoma Insurance Code, a person licensed
8 as a surplus lines producer in that person's home state shall
9 receive a nonresident surplus lines producer license pursuant to
10 subsections A and B of this section.

11 F. Notwithstanding any other provision of the Oklahoma Producer
12 Licensing Act, a person licensed as a limited line credit insurance
13 or other type of limited lines producer in that person's home state
14 shall receive a nonresident limited lines producer license, pursuant
15 to subsections A and B of this section, granting the same scope of
16 authority as granted under the license issued by the producer's home
17 state. For the purpose of this subsection, limited line insurance
18 is any authority granted by the home state which restricts the
19 authority of the license to less than the total authority prescribed
20 in the associated major lines pursuant to subsection A of Section
21 1435.8 of this title.

22 SECTION 12. AMENDATORY 36 O.S. 2001, Section 1435.20, as
23 amended by Section 4, Chapter 150, O.S.L. 2003 (36 O.S. Supp. 2007,
24 Section 1435.20), is amended to read as follows:

1 Section 1435.20 A. A limited lines producer may receive
2 qualification for a license in one or more of the following
3 categories:

4 ~~1. As a ticket selling agent of a common carrier who acts only
5 with reference to the issuance of insurance on personal effects
6 carried as baggage, in connection with the transportation provided
7 by such common carrier;~~

8 ~~2. To engage in the sale of only limited travel accident
9 insurance;~~

10 ~~3. To engage in the sale of motor vehicle insurance at a
11 vehicle rental counter or at any other point of sale at which motor
12 vehicle insurance is offered or sold in connection with the short-
13 term renting or leasing of motor vehicles; provided, the branch
14 manager of the rental or leasing company shall hold the license
15 under which the employees working for the rental or leasing company
16 operate;~~

17 ~~4. To engage in the sale of limited line credit insurance;~~

18 ~~5. To engage in the sale of nonfiling insurance relating to
19 mortgages and security interests arising under the Uniform
20 Commercial Code, Section 1-101 et seq. of Title 12A of the Oklahoma
21 Statutes;~~

22 ~~6. Prepaid legal liability insurance, which means the
23 assumption of an enforceable contractual obligation to provide
24 specified legal services or to reimburse policyholders for specified~~

1 legal expenses, pursuant to the provisions of a group or individual
2 policy;

3 ~~7. 2. Crop hail and multiperil crop hail - insurance providing~~
4 protection against damage to crops from unfavorable weather
5 conditions, fire or lightning, flood, hail, insect infestation,
6 disease or other yield-reducing conditions or perils provided by the
7 private insurance market, or that is subsidized by the Federal Crop
8 Insurance Corporation, including Multi-Peril Crop Insurance; and

9 ~~8. Prepaid dental insurance, provided the individual selling~~
10 ~~the prepaid dental insurance has been appointed by the prepaid~~
11 ~~dental plan organization to sell such insurance~~

12 3. Car rental - insurance offered, sold or solicited in
13 connection with and incidental to the rental of rental cars for a
14 period of two (2) years, whether at the rental office or by
15 preselection of coverage in master, corporate, group or individual
16 agreements that:

17 a. is nontransferable,

18 b. applies only to the rental car that is the subject of
19 the rental agreement, and

20 c. is limited to the following kinds of insurance:

21 (1) personal accident insurance for renters and other
22 rental car occupants, for accidental death or
23 dismemberment, and for medical expenses resulting

24

1 from an accident that occurs with the rental car
2 during the rental period,

3 (2) liability insurance that provides protection to
4 the renters and other authorized drivers of a
5 rental car for liability arising from the
6 operation or use of the rental car during the
7 rental period,

8 (3) personal effects insurance that provides coverage
9 to renters and other vehicle occupants for loss
10 of, or damage to, personal effects in the rental
11 car during the rental period,

12 (4) roadside assistance and emergency sickness
13 protection insurance, or

14 (5) any other coverage designated by the Insurance
15 Commissioner;

16 4. Credit - credit life, credit disability, credit property,
17 credit unemployment, involuntary unemployment, mortgage life,
18 mortgage guaranty, mortgage disability, guaranteed automobile
19 protection insurance, or any other form of insurance offered in
20 connection with an extension of credit that is limited to partially
21 or wholly extinguishing that credit obligation and that is
22 designated by the Insurance Commissioner as limited line credit
23 insurance;
24

1 5. Surety - insurance or bond that covers obligations to pay
2 the debts of, or answer for the default of another, including
3 faithlessness in a position of public or private trust. For purpose
4 of limited line licensing, surety does not include surety bail
5 bonds; and

6 6. Travel - insurance coverage for trip cancellation, trip
7 interruption, baggage, life, sickness and accident, disability, and
8 personal effects when limited to a specific trip and sold in
9 connection with transportation provided by a common carrier.

10 B. 1. An insurance producer or limited lines producer may
11 solicit applications for and issue travel accident policies or
12 baggage insurance by means of mechanical vending machines supervised
13 by the insurance producer or limited lines producer only if the
14 Insurance Commissioner shall determine that the form of policy to be
15 sold is reasonably suited for sale and issuance through vending
16 machines, that use of vending machines for the sale of said policies
17 would be of convenience to the public, and that the type of vending
18 machine to be used is reasonably suitable and practical for the sale
19 and issuance of said policies. Policies so sold do not have to be
20 countersigned.

21 2. The Commissioner shall issue to the insurance agent or
22 limited insurance representative a special vending machine license
23 for each such machine to be used. The license shall specify the
24 name and address of the insurer and licensee, the kind of insurance

1 and type of policy to be sold, and the place where the machine is to
2 be in operation. The license shall expire, be renewable, and be
3 suspended or revoked coincidentally with the insurance agent license
4 or limited representative license of the licensee. The license fee
5 for each vending machine shall be that stated in the provisions of
6 Section ~~23~~ 1435.23 of this ~~act~~ title. Proof of existence of the
7 license shall be displayed on or about each machine in such manner
8 as the Commissioner may reasonably require.

9 SECTION 13. AMENDATORY 36 O.S. 2001, Section 1435.23, as
10 last amended by Section 14, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
11 2007, Section 1435.23), is amended to read as follows:

12 Section 1435.23 A. All applications shall be accompanied by
13 the applicable fees. An appointment may be deemed by the
14 Commissioner to have terminated upon failure by the insurer to pay
15 the prescribed renewal fee. The Commissioner may also by order
16 impose a civil penalty equal to double the amount of the unpaid
17 renewal fee.

18 The Insurance Commissioner shall collect in advance the
19 following fees and licenses:

- 20 1. For filing appointment of Insurance
21 Commissioner as agent for service of process..... \$ 20.00
- 22 2. Miscellaneous:
 - 23 a. Certificate and Clearance of
24 Commissioner..... \$ 3.00

- 1 f. Surplus lines broker's biennial license..... \$100.00
- 2 g. Insurance vending machine, each machine,
- 3 biennial fee..... \$100.00
- 4 h. Insurance consultant's biennial license,
- 5 resident or nonresident..... \$100.00
- 6 i. Customer service representative biennial
- 7 license..... \$ 40.00
- 8 j. Insurance producer's provisional license.... ~~\$ 40.00~~
- 9 \$ 20.00

10 5. Biennial fee for each appointed insurance
 11 producer, managing general agent, or limited
 12 lines producer by insurer, each license of
 13 each insurance producer or representative..... \$ 40.00

14 6. Renewal fee for all licenses shall be the same as the
 15 current initial license fee.

16 7. The fee for a duplicate license shall be one-half (1/2) the
 17 fee of an original license.

18 8. The renewal of a license shall require a fee of double the
 19 current original license fee if the application for renewal is late,
 20 or incomplete on the renewal deadline.

21 B. 1. The fees and monies received by the Insurance
 22 Commissioner pursuant to the provisions of paragraphs 1, 2, 7 and 8
 23 of subsection A of this section shall be deposited with the State
 24 Treasurer, who shall place the same to the credit of the State

1 Insurance Commissioner Revolving Fund for the purpose of fulfilling
2 and accomplishing the conditions and purposes of the Oklahoma
3 Producer Licensing Act, including the use of postal mail facilities
4 for the Department.

5 2. The fees and monies received by the Insurance Commissioner
6 pursuant to the provisions of paragraphs 3 through 6 of subsection A
7 of this section shall be paid into the State Treasury to the credit
8 of the General Revenue Fund of the state.

9 C. There is hereby created in the State Treasury the State
10 Insurance Commissioner Revolving Fund which shall be a continuing
11 fund not subject to fiscal year limitations. The revolving fund
12 shall consist of fees and monies received by the Insurance
13 Commissioner as required by law to be deposited in said fund and any
14 other funds not dedicated in the Oklahoma Insurance Code. The
15 revolving fund shall be used to fund the general operations of the
16 Insurance Commissioner's Office for the purpose of fulfilling and
17 accomplishing the conditions and purposes of the Oklahoma Producer
18 Licensing Act. All expenditures from said revolving fund shall be
19 on claims approved by the Insurance Commissioner and filed with the
20 Director of State Finance for payment.

21 D. All fees, fines, monies, and license fees authorized by the
22 provisions of this section and not dedicated by the provisions of
23 subsection B of this section to the State Insurance Commissioner
24

1 Revolving Fund shall be paid into the State Treasury to the credit
2 of the General Revenue Fund of this state.

3 E. If for any reason an insurance producer license or
4 appointment is not issued or renewed by the Commissioner, all fees
5 accompanying the appointment or application for the license shall be
6 deemed earned and shall not be refundable except as provided in
7 Section 352 of this title.

8 F. The Insurance Commissioner, by order, may waive licensing
9 fees in extraordinary circumstances for a class of producers where
10 the Commissioner deems that the public interest will be best served.

11 SECTION 14. AMENDATORY 36 O.S. 2001, Section 1435.29, as
12 last amended by Section 15, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
13 2007, Section 1435.29), is amended to read as follows:

14 Section 1435.29 A. 1. Each insurance producer shall,
15 biennially, complete not less than fourteen (14) clock hours of
16 continuing insurance education which shall cover subjects in the
17 lines for which the insurance producer is licensed. Such education
18 may include a written or oral examination.

19 2. Each customer service representative shall, biennially,
20 complete not less than ten (10) clock hours of continuing insurance
21 education which shall cover subjects in the lines for which the
22 licensee is authorized to conduct insurance-related business on
23 behalf of the appointing agent, broker, or agency.

24

1 3. Licensees shall complete, in addition to the foregoing, two
2 (2) clock hours of ethics course work in this same period.

3 B. 1. The Insurance Commissioner shall approve courses and
4 providers of resident provisional producer prelicensing education
5 and continuing education. The Insurance Department may use one or
6 more of the following to review and provide a nonbinding
7 recommendation to the Insurance Commissioner on approval or
8 disapproval of courses and providers of resident provisional
9 producer prelicensing education and continuing education:

- 10 a. employees of the Insurance Commissioner,
- 11 b. a continuing education advisory committee, or
- 12 c. an independent service whose normal business
13 activities include the review and approval of
14 continuing education courses and providers. The
15 Commissioner may negotiate agreements with such
16 independent service to review documents and other
17 materials submitted for approval of courses and
18 providers and provide the Commissioner with its
19 nonbinding recommendation. The Commissioner may
20 require such independent service to collect the fee
21 charged by the independent service for reviewing
22 materials provided for review directly from the course
23 providers.

1 The Insurance Commissioner has sole authority to approve courses
2 and providers of resident provisional producer prelicensing
3 education and continuing education. If the Insurance Commissioner
4 uses one of the entities listed above to provide a nonbinding
5 recommendation, the Commissioner shall adopt or decline to adopt the
6 recommendation within thirty (30) days of receipt of the
7 recommendation. In the event the Insurance Commissioner takes no
8 action within said thirty-day period, the recommendation made to the
9 Commissioner will be deemed to have been adopted by the
10 Commissioner.

11 The Insurance Commissioner may certify providers and courses
12 offered for license examination study. The Insurance Department
13 shall use employees of the Insurance Commissioner to review and
14 certify license examination study program providers and courses.

15 2. Each insurance company shall be allowed to provide
16 continuing education to insurance producers and customer service
17 representatives as required by this section; provided that such
18 continuing education meets the general standards for education
19 otherwise established by the Insurance Commissioner.

20 3. An insurance producer who, during the time period prior to
21 renewal, participates in an approved professional designation
22 program shall be deemed to have met the biennial requirement for
23 continuing education.

24

1 ~~Course~~ Each course in the curriculum for the program shall total
2 a minimum of twenty (20) hours. Each approved professional
3 designation program included in this section shall be reviewed for
4 quality and compliance every three (3) years in accordance with
5 standardized criteria promulgated by rule. Continuation of approved
6 status is contingent upon the findings of the review. The list of
7 professional designation programs approved under this paragraph
8 shall be made available to producers and providers annually.

9 4. The Insurance Department may promulgate rules providing that
10 courses or programs offered by ~~specified~~ professional associations
11 shall qualify for presumptive continuing education credit approval.
12 The rules shall include standardized criteria for reviewing the
13 professional associations' mission, membership, and other relevant
14 information, and shall provide a procedure for the Department to
15 disallow all or part of a presumptively approved course.
16 Professional association courses approved in accordance with this
17 paragraph shall be reviewed every three (3) years to determine
18 whether they continue to qualify for continuing education credit.

19 5. Subject to approval by the Commissioner, the active
20 membership of the licensed producer or broker in local, regional,
21 state, or national professional insurance organizations or
22 associations may be approved for up to one (1) annual hour of
23 instruction. The hour shall be credited upon timely filing with the
24 Commissioner, or designee of the Commissioner, and appropriate

1 written evidence acceptable to the Commissioner of such active
2 membership in the organization or association.

3 6. The active service of a licensed producer as a member of a
4 continuing education advisory committee, as described in paragraph 1
5 of this subsection, shall be deemed to qualify for continuing
6 education credit on an hour-for-hour basis.

7 C. Each provider of resident provisional producer prelicensing
8 education and continuing education shall, after approval by the
9 Commissioner, submit an annual fee. A fee ~~shall~~ may be assessed for
10 each course submission at the time it is first submitted for review
11 and upon submission for renewal at expiration. Annual fees and
12 course submission fees shall be set forth as a rule by the
13 Commissioner. The fees are payable to the Insurance Commissioner
14 which shall be deposited in the State Insurance Commissioner
15 Revolving Fund, created in subsection C of Section 1435.23 of this
16 title, for the purposes of fulfilling and accomplishing the
17 conditions and purposes of the Oklahoma Producer Licensing Act and
18 the Insurance Adjusters Licensing Act. Provided, public-funded
19 educational institutions, federal agencies, and Oklahoma state
20 agencies shall be exempt from this subsection.

21 D. Failure of an insurance producer or customer service
22 representative to comply with the requirements of ~~this act~~ the
23 Oklahoma Producer Licensing Act may, after notice and opportunity
24 for hearing, result in censure, suspension, nonrenewal of license or

1 a civil penalty of up to Five Hundred Dollars (\$500.00) or by both
2 such penalty and civil penalty. Said civil penalty may be enforced
3 in the same manner in which civil judgments may be enforced. Any
4 civil penalties collected under this act shall be deposited in the
5 State Insurance Commissioner Revolving Fund.

6 E. Limited lines producers and nonresident agents who have
7 successfully completed an equivalent or greater requirement shall be
8 exempt from the provisions of this section.

9 F. Insurance producers and limited lines producers who are
10 sixty-five (65) years of age or older and who have at least thirty
11 (30) years of experience as insurance producers or limited lines
12 producers, and who do not write new business, shall be exempt from
13 the provisions of this section.

14 G. Members of the Legislature shall be exempt from this
15 section.

16 H. The Commissioner shall adopt and promulgate such rules as
17 are necessary for effective administration of this section.

18 SECTION 15. AMENDATORY 36 O.S. 2001, Section 1442, is
19 amended to read as follows:

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

22 1. "Administrator" means any person who collects premiums for
23 an insurer or trust or who adjusts or settles claims for an insurer
24 or trust, in connection with life or health insurance coverage ~~or~~,

1 annuities or employee benefit stop loss in this state, but shall not
2 include any person who collects premiums or who adjusts or settles
3 claims under the following circumstances:

4 a. ~~Any~~ any employer on behalf of the employees of that
5 employer or the employees of one or more subsidiary or
6 affiliated corporations of that employer~~†~~†

7 b. ~~A~~ a union on behalf of its members~~†~~†

8 c. ~~An~~ an insurance company which is licensed to transact
9 insurance business in this state~~†~~†

10 d. ~~A~~ a wholly owned subsidiary of an entity which is
11 subject to the jurisdiction of the Insurance
12 Commissioner~~†~~†

13 e. ~~An~~ an insurance company acting as an insurer with
14 respect to a policy lawfully issued and delivered by
15 said company in and pursuant to the laws of this
16 state~~†~~†

17 f. ~~A~~ a hospital, medical, dental, or optometric service
18 corporation or a health care service organization,
19 including their agents, authorized by the Commissioner
20 to issue contracts in this state pursuant to the
21 provisions of the Oklahoma Insurance Code when engaged
22 in the performance of their duties~~†~~†

23

24

- 1 g. ~~A~~ a life or disability agent or broker who is licensed
2 in this state and whose activities are limited
3 exclusively to the sale of insurance~~+~~+
- 4 h. ~~An~~ an adjuster licensed in this state for the kinds of
5 business for which he is acting as an adjuster~~+~~+
- 6 i. ~~A~~ a creditor insuring a debt between the creditor and
7 its debtors on behalf of said creditor's debtors~~+~~+
- 8 j. ~~A~~ a financial institution which is subject to
9 supervision or examination by federal or state banking
10 authorities~~+~~+
- 11 k. ~~A~~ a company which issues credit cards and advances
12 credit for and collects premiums or charges from its
13 credit card holders who have authorized said
14 collection, if the company does not adjust or settle
15 claims~~+~~+
- 16 l. ~~A~~ a person who adjusts or settles claims in the normal
17 course of practice or employment as an attorney-at-law
18 and who does not collect charges or premiums in
19 connection with life or health insurance coverage or
20 annuities~~+~~+
- 21 m. ~~The~~ the State Insurance Fund~~+~~+
- 22 n. ~~Any~~ any workers' compensation trust~~+~~+ or
- 23
- 24

1 o. A a trust providing benefits to the employees of any
2 political subdivision of a city, county or the state;
3 and

4 2. "Trust" means any trust other than those exempted in
5 paragraph 1 of this section which engages in the business of making
6 contracts of insurance.

7 SECTION 16. AMENDATORY 36 O.S. 2001, Section 1450, as
8 amended by Section 10, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2007,
9 Section 1450), is amended to read as follows:

10 Section 1450. A. No person shall act as or present himself or
11 herself to be an administrator, as defined by the provisions of the
12 Third-party Administrator Act, in this state, unless the person
13 holds a valid license as an administrator which is issued by the
14 Insurance Commissioner.

15 B. An administrator shall not be eligible for a nonresident
16 administrator license under this section if the administrator does
17 not hold a home state certificate of authority or license in a state
18 that has adopted the Third-party Administrator Act or that applies
19 substantially similar provisions as are contained in the Third-party
20 Administrator Act to that administrator. If the Third-party
21 Administrator Act in the administrator's home state does not extend
22 to stop-loss insurance, but if the home state otherwise applies
23 substantially similar provisions as are contained in the Third-party
24 Administrator Act to that administrator, then that omission shall

1 not operate to disqualify the administrator from receiving a
2 nonresident administrator license in this state.

3 1. "Home state" means the United States jurisdiction that has
4 adopted the Third-party Administrator Act or a substantially similar
5 law governing third-party administrators and which has been
6 designated by the administrator as its principal regulator. The
7 administrator may designate either its state of incorporation or its
8 principal place of business within the United States if that
9 jurisdiction has adopted the Third-party Administrator Act or a
10 substantially similar law governing third-party administrators. If
11 neither the administrator's state of incorporation nor its principal
12 place of business within the United States has adopted the Third-
13 party Administrator Act or a substantially similar law governing
14 third-party administrators, then the third-party administrator shall
15 designate a United States jurisdiction in which it does business and
16 which has adopted the Third-party Administrator Act or a
17 substantially similar law governing third-party administrators. For
18 purposes of this definition, "United States jurisdiction" means the
19 District of Columbia or a state or territory of the United States.

20 2. "Nonresident administrator" means a person who is applying
21 for licensure or is licensed in any state other than the
22 administrator's home state.

23 C. In the case of a partnership which has been licensed, each
24 general partner and each other individual acting for the

1 ~~partnership, and in the case of any entity which has been licensed,~~
2 ~~each individual acting for the entity as a third party administrator~~
3 shall be named in the license and shall qualify therefore as though
4 an individual licensee. The Commissioner shall charge a full
5 additional license fee and a separate license shall be issued for
6 each individual so named in such a license. The entity partnership
7 shall notify the Commissioner within fifteen (15) days if any
8 individual licensed on its behalf has been terminated, or is no
9 longer associated with or employed by the entity partnership. Any
10 entity or partnership licensed as administrators under the Third-
11 party Administrators Act shall provide National Association of
12 Insurance Commissioner Biographical Affidavits as required for
13 domestic insurers pursuant to the insurance laws of this state.

14 ~~C.~~ D. An application for an administrator's license shall be in
15 a form prescribed by the Commissioner and shall be accompanied by a
16 fee of One Hundred Dollars (\$100.00). This fee shall not be
17 refundable if the application is denied or refused for any reason by
18 either the applicant or the Commissioner.

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

1 original license fee. The administrator shall submit, together with
2 the application for renewal, a list of the names and addresses of
3 the persons with whom the administrator has contracted in accordance
4 with Section 1443 of this title. The Commissioner shall hold this
5 information confidential except as provided in Section 1443 of this
6 title.

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

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

23 ~~G.~~ H. Any person who is acting as or presenting himself or
24 herself to be an administrator without a valid license shall be

1 subject, upon conviction, to a fine of not less than One Thousand
2 Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00)
3 for each occurrence. This fine shall be in addition to any other
4 penalties which may be imposed for violations of the Oklahoma
5 Insurance Code or other laws of this state.

6 ~~H.~~ I. Except as provided for in subsections ~~E~~ F and ~~F~~ G of this
7 section, any person convicted of violating any provisions of the
8 Third-party Administrator Act shall be guilty of a misdemeanor and
9 shall be subject to a fine of not more than One Thousand Dollars
10 (\$1,000.00).

11 ~~I.~~ J. Any fees imposed pursuant to the provisions of this
12 section and any civil penalties imposed pursuant to an
13 administrative hearing order for violation of the provisions of the
14 Third-party Administrator Act shall be deposited in the State
15 Insurance Commissioner Revolving Fund.

16 SECTION 17. AMENDATORY 36 O.S. 2001, Section 1922, is
17 amended to read as follows:

18 Section 1922. ~~The monies collected by the Insurance~~
19 ~~Commissioner in a proceeding under this article shall be from time~~
20 ~~to time deposited in one or more state or national banks, savings~~
21 ~~banks, or trust companies, and in the case of the insolvency or~~
22 ~~voluntary or involuntary liquidation of any such depository which is~~
23 ~~an institution organized and supervised under the laws of this~~
24 ~~state, such deposits shall be entitled to priority of payment on an~~

1 ~~equality with any other priority given by the banking laws of this~~
2 ~~state. The Insurance Commissioner may in his discretion deposit~~
3 ~~such monies or any part thereof in a national bank or trust company~~
4 ~~as a trust fund~~

5 A. The receiver shall have the power:

6 1. To hold hearings, to subpoena witnesses for the purpose of
7 compelling their attendance, to administer oaths, to examine any
8 person under oath, and to compel any persons to subscribe to their
9 testimony after it has been correctly reduced to writing; and in
10 connection therewith to require the production of any books, papers,
11 records, data or other documents, electronic or paper, that the
12 receiver deems relevant to the inquiry;

13 2. To audit the books and records of all agents of the insurer,
14 including, but not limited to, third-party administrators, and
15 affiliated and nonaffiliated management companies insofar as those
16 records relate to the business activities of the insurer;

17 3. To conduct litigation, including:

18 a. to continue to prosecute or defend, and to institute
19 in the name of the insurer or in the receiver's own
20 name, suits or other legal proceedings, in this state
21 or elsewhere,

22 b. to abandon the prosecution of claims the receiver
23 deems unprofitable to pursue further,

24

1 c. to collect all debts and monies due and claims
2 belonging to the insurer, wherever located, and in
3 furtherance of this purpose to institute action in
4 this or other jurisdictions in order to forestall
5 garnishment and attachment proceedings against those
6 debts, including the power to sell, compound,
7 compromise or assign debts for purposes of collection
8 upon such terms and conditions as the receiver deems
9 consistent with the purpose of the Uniform Insurers
10 Liquidation Act, and pursue any creditor's remedies
11 available to enforce the insurer's claims,

12 d. to assert all defenses available to the insurer as
13 against third persons, including statutes of
14 limitation, statutes of frauds and the defense of
15 usury. A waiver of any defense by the insurer after a
16 petition for supervision, conservation, receivership,
17 rehabilitation or liquidation has been filed shall not
18 bind the receiver. Whenever a guaranty association
19 has an obligation to defend any suit, the receiver
20 shall defer to that obligation and may defend only in
21 cooperation with the guaranty association or in the
22 absence of the guaranty association's defense,

23 e. to exercise and enforce all the rights, remedies and
24 powers of any creditor, shareholder, policyholder or

1 member, including any power to avoid any transfer,
2 transaction or lien that may be voidable under the
3 Uniform Insurers Liquidation Act or otherwise, and
4 f. to intervene in any proceeding wherever instituted
5 that might lead to the appointment of a receiver or
6 trustee for the insurer or any of its property, and to
7 act as the receiver or trustee whenever the
8 appointment is offered.

9 The receiver shall have exclusive standing in any action that
10 may exist to assert claims or defenses on behalf of the creditors,
11 members, policyholders or shareholders of the insurer or the public
12 against any person, except to the extent that a claim is personal to
13 a specific creditor, member, policyholder or shareholder and
14 recovery on the claim would not inure to the benefit of the estate.
15 If the receiver sells or dissolves the corporate entity or charter
16 of the insurer, the receiver shall have the power to apply to any
17 court in this state or elsewhere for leave to substitute the
18 receiver for the insurer as a party. This paragraph does not
19 infringe or impair any of the rights provided to a guaranty
20 association pursuant to its enabling statute or otherwise;

21 4. a. To conduct public or private sales of the insurer's
22 property, and thereby to acquire, hypothecate,
23 encumber, lease, sell, improve, transfer, abandon or
24 otherwise dispose of or deal with any property of the

1 insurer at its market value or upon such terms and
2 conditions as are fair and reasonable, and to settle
3 or resolve any claim or lawsuit brought by the
4 receiver on behalf of the insurer or pending when a
5 petition for supervision, conservation, receivership,
6 rehabilitation or liquidation is filed, or commute or
7 settle any claim of reinsurance under any contract of
8 reinsurance,

9 b. to transfer rights to payment under ceding reinsurance
10 agreements covering policies to a third-party
11 transferee. The transferee shall have the rights to
12 collect and enforce collection of the reinsurance for
13 the amount payable to the ceding insurer or to its
14 receiver, without diminution because of the insolvency
15 or because the receiver has failed to pay all or a
16 portion of the claim. The transfer of these rights
17 shall not give rise to any defense regarding the
18 reinsurer's obligations under the reinsurance
19 agreement regardless of whether the agreement or other
20 applicable law prohibits the transfer of rights under
21 the reinsurance agreement. Except as provided in this
22 subparagraph, any transfer of rights pursuant to this
23 provision shall not impair any rights or defenses of
24 the reinsurer that existed prior to the transfer or

1 would have existed in the absence of the transfer.

2 Except as otherwise provided in this subparagraph, any
3 transfer of rights pursuant to this provision shall
4 not relieve the transferee or the receiver from
5 obligations owed to the reinsurer pursuant to the
6 reinsurance or other agreement, and

7 c. to execute, acknowledge and deliver any deeds,
8 assignments, releases and other instruments necessary
9 or proper to effectuate any sale of property or other
10 transaction in connection with the liquidation or
11 rehabilitation and to file any necessary documents for
12 record in the office of any recorder of deeds or
13 record office in this state or elsewhere where
14 property of the insurer is located;

15 5. a. To use property of the estate to transfer policy
16 obligations to a solvent assuming insurer, if the
17 transfer can be arranged without prejudice to
18 applicable priorities under Section 1927.1 of this
19 title,

20 b. to use property of the estate to transfer the
21 insurer's obligations under surety bonds and surety
22 undertakings, and collateral held by the insurer with
23 respect to the reimbursement obligations of the
24 principals under those surety bonds and surety

1 undertakings, to a solvent assuming insurer, if the
2 transfer can be arranged without prejudice to
3 applicable priorities under Section 1927.1 of this
4 title; and if the receivership court so orders, the
5 estate shall have no further liability under the
6 transferred policies, surety bonds, or surety
7 undertakings after the transfer is made, and
8 c. upon the issuance of an order of liquidation and a
9 finding of insolvency, policies or portions of
10 policies of life, disability income, long-term care or
11 health insurance or annuities covered by one or more
12 guaranty associations, under applicable law, shall
13 continue in force, subject to the terms of the policy,
14 including any terms restructured pursuant to a court-
15 approved rehabilitation plan, to the extent necessary
16 to permit the guaranty associations to discharge their
17 statutory obligations. Policies or portions of
18 policies of life, disability income, long-term care or
19 health insurance or annuities, not covered by one or
20 more guaranty associations, and other types of
21 policies, shall terminate by operation of law, except
22 to the extent the liquidator proposes and the
23 receivership court approves the use of property of the
24 estate, consistent with subparagraphs a and b of this

1 paragraph, for the purpose of continuing the contracts
2 or coverage by transferring them to an assuming
3 reinsurer;

4 6. To borrow money on the security of the property of the
5 estate or without security and to execute and deliver all documents
6 necessary to that transaction for the purpose of facilitating the
7 liquidation or rehabilitation. Any such funds borrowed may be
8 repaid as an administrative expense and have priority over any other
9 claims in Class 1 under the priority of distribution in Section
10 1927.1 of this title;

11 7. To enter into contracts, and to assume or reject any
12 executory contract or unexpired lease to which the insurer is a
13 party; provided, however, notwithstanding anything which may appear
14 to the contrary in this act, any statute of this state or of any
15 other state, or of the United States, receiver shall not be bound by
16 any provision of any contract of or by the insurer which requires
17 arbitration;

18 8. To take possession of the records and property of the
19 insurer. Guaranty associations shall have reasonable access to the
20 records of the insurer necessary for them to carry out their
21 statutory obligations;

22 9. To deposit in one or more banks in this state sums required
23 for meeting current administration expenses and dividend
24 distributions;

1 10. To invest the assets of the estate;

2 11. To enter into agreements with any receivers or
3 commissioners of any other states; and

4 12. To exercise all powers now held or hereafter conferred upon
5 receivers by the applicable statutory and common law of this state
6 not inconsistent with the provisions of the Uniform Insurers
7 Liquidation Act.

8 B. The receiver is vested with all the rights of the entity or
9 entities in receivership.

10 C. The enumeration, in this section, of the powers and
11 authority of the receiver shall not be construed as a limitation
12 upon the receiver, nor shall it exclude in any manner the right to
13 do other acts not specifically enumerated or otherwise provided for,
14 to the extent necessary or appropriate for the accomplishment of or
15 in aid of the purpose of liquidation or rehabilitation.

16 D. The receiver shall not be obligated to defend any action
17 against the insurer or insured. An insured not defended by a
18 guaranty association may provide his or her own defense, and include
19 the cost of the defense as part of any claim of the insured against
20 the estate, if the defense was an obligation of the insurer. The
21 right of the receiver to contest coverage on a particular claim
22 shall be deemed preserved without the necessity of an express
23 reservation of rights.

1 SECTION 18. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1924.1 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. If applicable statutory or common law, an order, or an
5 agreement fixes, defines, extends or tolls a period within which the
6 insurer may commence an action, and this period has not expired
7 before the date of the filing of the initial petition in a
8 delinquency proceeding as defined in Section 1901 of Title 36 of the
9 Oklahoma Statutes, the receiver shall not by reason thereof be
10 barred from commencing such an action if the receiver does so on or
11 before the later of:

12 1. The end of the period, including any suspension of the
13 period occurring on or after the filing of the initial petition in a
14 delinquency proceeding; or

15 2. Four (4) years after the entry of the order commencing a
16 delinquency proceeding or entry of a subsequent order granting a
17 different form of relief in a delinquency proceeding.

18 B. Except as provided in subsection A of this section, if
19 applicable law, an order or an agreement fixes, defines, extends or
20 tolls a period within which the insurer may file any pleading,
21 demand, notice, or proof of claim or loss, or cure a default in a
22 case or proceeding, or perform any other similar act, and the period
23 has not expired before the date of the filing of the initial
24 petition in a delinquency proceeding, the receiver shall not by

1 reason thereof be barred from filing, curing or performing, as the
2 case may be, if the receiver does so on or before the later of:

3 1. The end of the period, including any suspension of the
4 period occurring on or after the filing of the initial petition in a
5 delinquency proceeding; or

6 2. One hundred eighty (180) days after the entry of the order
7 granting the initial petition in the delinquency proceeding, or
8 within such further extension thereof granted by the court which is
9 shown to the satisfaction of the court not to be unfairly
10 prejudicial to the other party.

11 C. If applicable law, an order or an agreement fixes, defines,
12 extends or tolls a period for commencing or continuing a civil
13 action in a court other than the receivership court on a claim
14 against the insurer, and the period has not expired before the date
15 of the filing of the initial petition in a delinquency proceeding,
16 then the period does not expire until the later of:

17 1. The end of the period, including any suspension of the
18 period occurring on or after the filing of the initial petition in a
19 delinquency proceeding; or

20 2. Thirty (30) days after termination or expiration of a court
21 ordered stay with respect to the claim.

22 D. An allegation by the receiver of improper or fraudulent
23 conduct against any person shall not be the basis of a defense to
24 the enforcement of a contractual obligation owed to the insurer by a

1 third party, but the third party is not barred by this section from
2 seeking to establish independently as a defense that the conduct was
3 materially and substantially related to the contractual obligation
4 for which enforcement is sought.

5 E. No prior wrongful or negligent actions of any present or
6 former officer, manager, director, trustee, owner, employee or agent
7 of the insurer may be asserted as a defense to a claim by the
8 receiver under a theory of estoppel, comparative fault, intervening
9 cause, proximate cause, reliance, mitigation of damages or
10 otherwise; except that the affirmative defense of fraud in the
11 inducement may be asserted against the receiver in a claim based on
12 a contract and a principal under a surety bond or a surety
13 undertaking shall be entitled to credit against any reimbursement
14 obligation to the receiver for the value of any property pledged to
15 secure the reimbursement obligation to the extent that the receiver
16 has possession or control of the property or the insurer or its
17 agents misappropriated such property. Evidence of fraud in the
18 inducement will be admissible only if it is contained in the records
19 of the insurer.

20 F. No action or inaction by the insurance regulatory
21 authorities may be asserted as a defense to a claim by the receiver.

22 G. A judgment or order entered against an insured or the
23 insurer in contravention of any stay or injunction under the Uniform
24 Insurers Liquidation Act, or at any time by default or collusion,

1 shall not be considered as evidence of liability or of the quantum
2 of damages in adjudicating claims filed in the estate arising out of
3 the subject matter of the judgment or order.

4 H. The provisions of subsection G of this section do not apply
5 to guaranty associations' claims for amounts paid on settlements and
6 judgments in pursuit of their statutory obligations.

7 SECTION 19. AMENDATORY 36 O.S. 2001, Section 4424, is
8 amended to read as follows:

9 Section 4424. Unless the context requires otherwise, the
10 definitions in this section apply throughout the Long-Term Care
11 Insurance Act.

12 1. a. "Long-term care insurance" means any insurance policy,
13 certificate or rider, including qualified long-term
14 care insurance contracts and long-term care
15 partnership program contracts, which are advertised,
16 marketed, offered or designed primarily to provide
17 coverage for not less than twelve (12) consecutive
18 months for each covered person on an expense incurred,
19 indemnity, prepaid, or other basis, for one or more
20 necessary or medically necessary diagnostic,
21 preventive, therapeutic, rehabilitative, maintenance,
22 or personal care services, provided in a setting other
23 than an acute care unit of a hospital.

24

1 b. This term includes group and individual health
2 policies or riders or group and individual life
3 policies or annuities or riders which provide,
4 directly or as a supplement, coverage for long-term
5 care, whether issued by insurers, fraternal benefit
6 societies, nonprofit health, hospital, and medical
7 service corporations, prepaid health plans, health
8 maintenance organizations, life care communities, or
9 any similar organization.

10 c. This term also includes a policy or rider which
11 provides for payment of long-term care benefits based
12 upon cognitive impairment or the loss of functional
13 capacity.

14 d. Long-term care insurance shall not include any
15 insurance policy which is offered primarily to provide
16 basic Medicare supplement coverage, basic hospital
17 expense coverage, basic medical-surgical expense
18 coverage, hospital confinement indemnity coverage,
19 major medical expense coverage, disability income
20 protection coverage or related asset-protection
21 coverage, catastrophic coverage, comprehensive
22 coverage, accident only coverage, specified disease or
23 specified accident coverage, or limited benefit health
24 coverage.

1 e. With regard to life insurance, this term does not
2 include life insurance policies which accelerate the
3 death benefit specifically for one or more of the
4 qualifying events of terminal illness, medical
5 conditions requiring extraordinary medical
6 intervention, or permanent institutional confinement,
7 and which provide the option of a lump-sum payment for
8 those benefits and in which neither the benefits nor
9 the eligibility for the benefits is conditioned upon
10 the receipt of long-term care.

11 f. Notwithstanding any other provision contained herein,
12 any product advertised, marketed or offered as long-
13 term care insurance shall be subject to the provisions
14 of this act.

15 2. "Applicant" means:

16 a. in the case of an individual long-term care insurance
17 policy, the person who seeks to contract for such
18 benefits, and

19 b. in the case of a group long-term care insurance
20 policy, the proposed certificate holder.

21 3. "Certificate" means any certificate issued under a group
22 long-term care insurance policy, which certificate has been
23 delivered, or issued for delivery, in this state.

1 4. "Group long-term care insurance" means a long-term care
2 insurance policy which is delivered, or issued for delivery, in this
3 state and issued to:

4 a. one or more employers or labor organizations, or to a
5 trust or to the trustees of a fund established by one
6 or more employers or labor organizations, or a
7 combination thereof, for employees or former
8 employees, or a combination thereof or for members or
9 former members, or a combination thereof, of the labor
10 organizations, or

11 b. any professional, trade or occupational association
12 for its members or former or retired members, or
13 combination thereof, if such association:

14 (1) is composed of individuals, all of whom are or
15 were actively engaged in the same profession,
16 trade or occupation, and

17 (2) has been maintained in good faith for purposes
18 other than insurance, or

19 c. an association, a trust, or the trustee or trustees of
20 a fund established, created, or maintained for the
21 benefit of members of one or more associations. Prior
22 to advertising, marketing or offering such policy
23 within this state, the association or associations, or
24 the insurer of the association or associations, shall

1 file evidence with the Insurance Commissioner that the
2 association or associations shall have at the outset
3 of transacting long-term care insurance in this state
4 a minimum of one hundred (100) persons in the
5 association or associations and shall have been
6 organized and maintained in good faith for purposes
7 other than that of obtaining insurance; shall have
8 been in active existence for at least one (1) year;
9 and shall have a constitution and bylaws which provide
10 that (i) the association or associations hold regular
11 meetings not less than annually to further purposes of
12 the members, (ii) except for credit unions, the
13 association or associations collect dues or solicit
14 contributions from members, and (iii) the members have
15 voting privileges and representation on the governing
16 board and committees. Thirty (30) days after such
17 filing the association or associations shall be deemed
18 to satisfy such organizational requirements, unless
19 the Commissioner makes a finding that the association
20 or associations do not satisfy those organizational
21 requirements, or

- 22 d. a group other than as described in subparagraphs a, b
23 and c of this paragraph, subject to a finding by the
24 Commissioner that:

- 1 (1) the issuance of the group policy is not contrary
- 2 to the best interest of the public,
- 3 (2) the issuance of the group policy would result in
- 4 economies of acquisition or administration, and
- 5 (3) the benefits are reasonable in relation to the
- 6 premiums charged.

7 5. "Life care community" means any arrangement pursuant to
8 which a person contracts for a place of residence and personal care
9 services, including but not limited to services which progress from
10 independent living to semi-dependent nursing care to acute nursing
11 care, in consideration of a payment or payments of fees prior to the
12 delivery of services and accommodations. Life care community shall
13 not include the following:

- 14 a. traditional landlord and tenant agreements utilizing
- 15 periodic rental and security deposit payments,
- 16 b. residential care homes licensed pursuant to the
- 17 Oklahoma Residential Care Act,
- 18 c. assisted living centers and continuum of care
- 19 facilities licensed pursuant to the Oklahoma Continuum
- 20 of Care and Assisted Living Act, or
- 21 d. facilities licensed pursuant to the Oklahoma Nursing
- 22 Home Care Act.

23 6. "Policy" means any policy, contract, certificate, subscriber
24 agreement, rider or endorsement delivered, or issued for delivery,

1 in this state by an insurer, fraternal benefit society, nonprofit
2 health, hospital, or medical service corporation, prepaid health
3 plan, health maintenance organization, life care community, or any
4 similar organization.

5 7. "Qualified long-term care insurance contract" means any:

6 a. individual or group insurance contract if the contract
7 meets the requirements of Section 7702(B) of the
8 Internal Revenue Code, as amended, and if:

9 (1) the only insurance protection provided under the
10 contract is coverage of qualified long-term care
11 services,

12 (2) the contract does not pay or reimburse expenses
13 incurred for services or items to the extent that
14 such expenses are reimbursable under Title XVIII
15 of the Social Security Act as amended, or would
16 be so reimbursable but for the application of a
17 deductible or coinsurance amount. The

18 requirements of this subparagraph do not apply to
19 contracts where Medicare is a secondary payor, or
20 where the contract makes per diem or other
21 periodic payments without regard to expenses,

22 (3) the contract is guaranteed renewable,

23 (4) the contract does not provide for a cash
24 surrender value or other money that can be paid,

1 assigned, pledged as collateral for a loan, or
2 borrowed. All refunds of premiums and all
3 policyholder dividends or similar amounts, under
4 such contract are to be applied as a reduction in
5 future premiums or to increase future benefits,
6 except that a refund of the aggregate premium
7 paid under the contract may be allowed in the
8 event of death of the insured or a complete
9 surrender or cancellation of the contract, and

10 (5) the contract contains the consumer protection
11 provisions set forth in Section 7702(B)(g) of the
12 Internal Revenue Code, or

13 b. life insurance contract which provides long-term care
14 coverage by rider or as part of the contract if the
15 contract complies with the applicable provisions of
16 Section 7702(B) of the Internal Revenue Code, as
17 amended.

18 8. "Qualified long-term care services" means necessary
19 diagnostic, preventive, therapeutic, curing, treating, mitigating,
20 and rehabilitative services, and maintenance for personal care
21 services for which an insured is eligible under a qualified long-
22 term care insurance contract, and which are provided pursuant to a
23 plan of care prescribed by a licensed health care practitioner.

1 SECTION 20. AMENDATORY 36 O.S. 2001, Section 4501, is
2 amended to read as follows:

3 Section 4501. Group accident and health insurance is hereby
4 declared to be that form of accident and health insurance covering
5 groups of persons as defined below, with or without one or more
6 members of their families or one or more of their dependents, or
7 covering one or more members of the families or one or more
8 dependents of persons in such groups, and issued upon the following
9 basis:

10 1. Under a policy issued to an association, which has been in
11 existence for at least twelve (12) months, including a labor union,
12 which shall have a constitution and bylaws and which has been
13 organized and is maintained in good faith for purposes other than
14 that of obtaining insurance, insuring at least ten members,
15 employees, or employees of members of the association for the
16 benefit of persons other than the association or its officers or
17 trustees. The term "employees" as used herein shall be deemed to
18 include retired employees;

19 2. Under a policy issued to the trustees of a fund established
20 by two or more employers or by one or more labor unions or by one or
21 more employers and one or more labor unions, which trustees shall be
22 deemed the policyholder, to insure employees of the employers or
23 members of the unions for the benefit of persons other than the
24 employers or the unions. The term "employees" as used herein shall

1 be deemed to include the officers, managers and employees of the
2 employer, and the individual proprietor or partners if the employer
3 is an individual proprietor or partnership. The term "employees" as
4 used herein shall be deemed to include retired employees. The
5 policy may provide that the term "employees" shall include the
6 trustees or their employees, or both, if their duties are
7 principally connected with such trusteeship;

8 3. Under a policy issued to any persons or organizations to
9 which a policy of group life insurance may be delivered in this
10 state, to insure any class or classes of individuals that could be
11 insured under such group life policy;

12 4. Under a health insurance policy issued to an employer or
13 trustees of a fund established by an employer, who shall be deemed
14 the policyholder insuring at least one employee of such employer for
15 the benefit of persons other than the employer. The term "employee"
16 as used herein shall be deemed to include the officers, managers,
17 and employees of the employer, the individual proprietor or partners
18 if the employer is an individual proprietor or partnership, the
19 officers, managers, and employees of subsidiary or affiliated
20 corporations, the individual proprietors, partners and employees of
21 individuals and firms, if the business of the employer and such
22 individual or firm is under common control through stock ownership,
23 contract, or otherwise. The term "employee" as used herein shall be
24 deemed to include retired employees and their dependents and the

1 dependents of employees eligible for Medicare. A policy issued to
2 insure employees of a public body may provide that the term
3 "employees" shall include elected or appointed officials;

4 5. Under a policy issued to cover any other substantially
5 similar group which, in the discretion of the Insurance
6 Commissioner, may be subject to the issuance of a group accident and
7 health policy or contract; and

8 6. Nothing in this article validates any charge or practice
9 illegal under any rule of law or regulation governing usury, small
10 loans, retail installment sales, or the like, or extends the
11 application of any such rule of law or regulation to any transaction
12 not otherwise subject thereto.

13 SECTION 21. AMENDATORY 36 O.S. 2001, Section 5002, is
14 amended to read as follows:

15 Section 5002. A. A domestic title insurer shall invest its
16 capital accumulations, up to the sum of One Hundred Thousand Dollars
17 (\$100,000.00), in capital investments as defined in ~~subsection A of~~
18 ~~section~~ Section 1606 of ~~article~~ Article 16 (Investments), but
19 subject to the exception in subsection B of this section, below.

20 B. A domestic title insurer may invest its capital and
21 accumulations in excess of One Hundred Thousand Dollars
22 (\$100,000.00) in such investments as are made eligible for funds of
23 domestic insurers by ~~article~~ Article 16; except, that any such
24 insurer may invest an amount not exceeding fifty per cent (50%) of

1 its combined capital and surplus in the preparation and purchase of
2 material or plants or both necessary to enable it to engage in the
3 business of title insurance, and such materials and plants shall be
4 deemed to be capital funds investments and shall be valued as the
5 actual cost thereof.

6 C. ~~Subsections B and C of section~~ Section 1606 of article
7 Article 16 shall not apply to domestic title insurers, nor shall
8 such insurers be subject to the limitations as to amount invested in
9 real estate for home office and branch office purposes contained in
10 ~~subdivision A paragraph 1 of section~~ Section 1624 of article Article
11 16.

12 SECTION 22. AMENDATORY 36 O.S. 2001, Section 5005, is
13 amended to read as follows:

14 Section 5005. A. Title insurers shall be governed by this
15 article and, to the extent not modified by or inconsistent with the
16 provisions of this article or the provisions of this code made
17 applicable to such insurers, by the general laws of this state
18 governing corporations organized for profit.

19 B. To the extent not modified by the provisions of this
20 article, title insurers shall be subject to and governed by the
21 other applicable provisions of this code.

22 C. No new insurance law hereafter enacted shall be deemed to
23 apply to title insurers unless they be expressly referred to
24 therein.

1 D. Notwithstanding anything to the contrary, the following
2 sections, acts and articles of the Insurance Code and related rules
3 of the Insurance Department shall apply to title insurers in
4 addition to those applicable to title insurers on November 1, 2008:

5 1. Section 311 of this title, Annual Financial Statements;

6 2. Section 615.2 of this title, Duty of Domestic Insurers and
7 Health Maintenance Organizations to Keep Biographical Information
8 Current;

9 3. Article 12, Unfair Practices and Frauds;

10 4. Article 12A-1, Unfair Claims Settlement Practices Act;

11 5. Article 16A, Subsidiaries of Insurers;

12 6. Article 18, Supervision and Conservatorship of Insurers Act;

13 and

14 7. Article 19, Rehabilitation and Liquidation.

15 SECTION 23. AMENDATORY 36 O.S. 2001, Section 6060, as
16 amended by Section 1, Chapter 78, O.S.L. 2002 (36 O.S. Supp. 2007,
17 Section 6060), is amended to read as follows:

18 Section 6060. A. All individual and group health insurance
19 policies providing coverage on an expense incurred basis, and all
20 individual and group service or indemnity type contracts issued by a
21 nonprofit corporation, including the Oklahoma State and Education
22 Employees Group Insurance Board, which provide coverage for a female
23 thirty-five (35) years old or older in this state, except for
24 policies that provide coverage for specified disease or other

1 limited benefit coverage, shall include the coverage specified by
2 this section for a ~~routine low dose~~ mammography screening in a
3 reimbursement amount not to exceed One Hundred Fifteen Dollars
4 (\$115.00) for the presence of occult breast cancer. Such coverage
5 shall not:

6 1. Be subject to the policy deductible, co-payments and co-
7 insurance limits of the plan; or

8 2. Require that a female undergo a mammography screening at a
9 specified time as a condition of payment.

10 B. 1. Any female thirty-five (35) through thirty-nine (39)
11 years of age shall be entitled pursuant to the provisions of this
12 section to coverage for a ~~low dose~~ mammography screening once every
13 five (5) years.

14 2. Any female forty (40) years of age or older shall be
15 entitled pursuant to the provisions of this section to coverage for
16 an annual ~~low dose~~ mammography screening.

17 ~~C. For the purposes of this section, the term "low dose~~
18 ~~mammography" means the x ray examination of the breast using~~
19 ~~equipment dedicated specifically for mammography, including but not~~
20 ~~limited to the x ray tube, filter, compression device, screens,~~
21 ~~films, and cassettes, with an average radiation exposure delivery of~~
22 ~~less than one rad mid breast, with two views for each breast.~~

23

24

1 SECTION 24. AMENDATORY 36 O.S. 2001, Section 6210, as
2 amended by Section 27, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,
3 Section 6210), is amended to read as follows:

4 Section 6210. A. The answers of the applicant to any
5 examination for licensing as an adjuster shall be written by the
6 applicant under supervision of the Insurance Commissioner.

7 B. The examination shall be given at such times and places
8 within this state as the Commissioner deems necessary to reasonably
9 serve the convenience of both the Commissioner and the applicants.

10 C. An applicant who has failed to pass the first examination
11 for the license for which applied may take a second examination
12 within thirty (30) days following the first examination. An
13 applicant who has failed to pass the first two examinations for the
14 license for which applied shall not be permitted to take a
15 subsequent examination until the expiration of thirty (30) days
16 after the last previous examination. ~~A current~~ An applicant shall
17 take and pass the examination within one hundred eighty (180) days
18 of the date of the initial application and. If the applicant fails
19 to pass an examination within the specified time period, the
20 applicant shall submit a new application accompanied by any
21 applicable fees shall be submitted with each request to take a.
22 Examination fees for subsequent examination examinations shall not
23 be waived.
24

1 SECTION 25. AMENDATORY 36 O.S. 2001, Section 6217, as
2 amended by Section 29, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,
3 Section 6217), is amended to read as follows:

4 Section 6217. A. A license as an adjuster shall expire two (2)
5 years from the month of original issuance of the license or
6 subsequent renewal of the license.

7 B. Any licensee applying for renewal of a license as an
8 adjuster shall have completed not less than twelve (12) clock hours
9 of continuing insurance education within the previous twenty-four
10 (24) months prior to renewal of the license. Such continuing
11 education shall cover subjects in the classes of insurance for which
12 the adjuster is licensed. Such continuing education shall not
13 include a written or oral examination. The Insurance Commissioner
14 shall approve courses and providers of continuing education for
15 insurance adjusters as required by this section.

16 The Insurance Department may use one or more of the following to
17 review and provide a nonbinding recommendation to the Insurance
18 Commissioner on approval or disapproval of courses and providers of
19 continuing education:

- 20 1. Employees of the Insurance Commissioner;
- 21 2. A continuing education advisory committee. The continuing
22 education advisory committee is separate and distinct from the
23 Advisory Board established by Section 6221 of this title;

24

1 3. An independent service whose normal business activities
2 include the review and approval of continuing education courses and
3 providers. The Commissioner may negotiate agreements with such
4 independent service to review documents and other materials
5 submitted for approval of courses and providers and present the
6 Commissioner with its nonbinding recommendation. The Commissioner
7 may require such independent service to collect the fee charged by
8 the independent service for reviewing materials provided for review
9 directly from the course providers.

10 C. An adjuster who, during the time period prior to renewal,
11 participates in an approved professional designation program shall
12 be deemed to have met the biennial requirement for continuing
13 education. ~~Course~~ Each course in the curriculum for the program
14 shall total a minimum of twenty (20) hours. Each approved
15 professional designation program included in this section shall be
16 reviewed for quality and compliance every three (3) years in
17 accordance with standardized criteria promulgated by rule.
18 Continuation of approved status is contingent upon the findings of
19 the review. The list of professional designation programs approved
20 under this subsection shall be made available to producers and
21 providers annually.

22 D. The Insurance Department may promulgate rules providing that
23 courses or programs offered by ~~specified~~ professional associations
24 shall qualify for presumptive continuing education credit approval.

1 The rules shall include standardized criteria for reviewing the
2 professional associations' mission, membership, and other relevant
3 information, and shall provide a procedure for the Department to
4 disallow ~~all or part of~~ a presumptively approved course.

5 Professional association courses approved in accordance with this
6 subsection shall be reviewed every three (3) years to determine
7 whether they continue to qualify for continuing education credit.

8 E. The active service of a licensed adjuster as a member of a
9 continuing education advisory committee, as described in paragraph 2
10 of subsection B of this section, shall be deemed to qualify for
11 continuing education credit on an hour-for-hour basis.

12 F. Each provider of continuing education shall, after approval
13 by the Commissioner, submit an annual fee. A fee may be assessed
14 for each course submission at the time it is first submitted for
15 review and upon submission for renewal at expiration. Annual fees
16 and course submission fees shall be set forth as a rule by the
17 Commissioner. The fees are payable to the Insurance Commissioner
18 and shall be deposited in the State Insurance Commissioner Revolving
19 Fund, created in subsection C of Section 1435.23 of this title, for
20 the purposes of fulfilling and accomplishing the conditions and
21 purposes of the Oklahoma Producer Licensing Act and the Insurance
22 Adjusters Licensing Act. Public-funded educational institutions,
23 federal agencies and Oklahoma state agencies shall be exempt from
24 this subsection.

1 G. Subject to the right of the Commissioner to suspend, revoke,
2 or refuse to renew a license of an adjuster, any such license may be
3 renewed by filing on the form prescribed by the Commissioner on or
4 before the expiration date a written request by or on behalf of the
5 licensee for such renewal and proof of completion of the continuing
6 education requirement set forth in subsection B of this section,
7 accompanied by payment of the renewal fee.

8 ~~G.~~ H. If the request, proof of compliance with the continuing
9 education requirement and fee for renewal of a license as an
10 adjuster are filed with the Commissioner prior to the expiration of
11 the existing license, the licensee may continue to act pursuant to
12 said license, unless revoked or suspended prior to the expiration
13 date, until the issuance of a renewal license or until the
14 expiration of ten (10) days after the Commissioner has refused to
15 renew the license and has mailed notice of said refusal to the
16 licensee. Any request for renewal filed after the date of
17 expiration may be considered by the Commissioner as an application
18 for a new license.

19 SECTION 26. AMENDATORY 36 O.S. 2001, Section 6602, as
20 last amended by Section 31, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
21 2007, Section 6602), is amended to read as follows:

22 Section 6602. As used in the Service Warranty Insurance Act:

23 1. "Commissioner" means the Insurance Commissioner;
24

- 1 2. "Consumer product" means tangible personal property
2 primarily used for personal, family, or household purposes;
- 3 3. "Department" means the Insurance Department;
- 4 4. "Gross income" means the total amount of revenue received in
5 connection with business-related activity;
- 6 5. "Gross written premiums" means the total amount of premiums,
7 inclusive of commissions, for which the association is obligated
8 under service warranties issued in this state;
- 9 6. "Impaired" means having liabilities in excess of assets;
- 10 7. "Indemnify" means to undertake repair or replacement of a
11 consumer product or a newly-constructed residential structure,
12 including any appliances, electrical, plumbing, heating, cooling or
13 air conditioning systems, in return for the payment of a segregated
14 premium, when the consumer product or residential structure becomes
15 defective or suffers operational failure;
- 16 8. "Insolvent" means any actual or threatened delinquency
17 including, but not limited to, any one or more of the following
18 circumstances:
- 19 a. an association's total liabilities exceed the
20 association's total assets of the association
21 excluding goodwill, franchises, customer lists,
22 patents or trademarks, and receivables from or
23 advances to officers, directors, employees, salesmen,
24 and affiliated companies. In order to include

1 receivables from affiliated companies as assets as
2 defined pursuant to this subparagraph and paragraph 10
3 of this section, the service warranty association
4 shall provide a written guarantee to assure repayment
5 of all receivables, loans, and advances from
6 affiliated companies. The written guarantee must be
7 made by a guaranteeing organization which:

8 (1) has been in continuous operation for ten (10)
9 years or more and has net assets in excess of
10 Fifty Million Dollars (\$50,000,000.00),

11 (2) submits a guarantee on a form provided by the
12 Insurance Commissioner by rule that contains a
13 provision which requires that the guarantee be
14 irrevocable and contains a provision setting out
15 that the Commissioner may pursue appropriate
16 legal actions in the courts of this state or any
17 other state against the guaranteeing company to
18 collect the receivable on behalf of the service
19 warranty association in the event of the
20 insolvency or threatened insolvency of the
21 association, unless the guaranteeing organization
22 can demonstrate to the Commissioner's
23 satisfaction that the cancellation of the
24 guarantee will not result in the net assets of

1 the service warranty association falling below
2 its minimum net asset requirement and the
3 Commissioner approves cancellation of the
4 guarantee,

5 (3) initially submits a statement from an independent
6 certified public accountant of the guaranteeing
7 agency attesting that the net assets of the
8 guaranteeing company meets or exceeds the net
9 assets requirement as provided in division 1 of
10 this subparagraph,

11 (4) submits annually to the Commissioner, within
12 three (3) months after the end of its fiscal
13 year, a statement from an independent certified
14 public accountant of the guaranteeing agency
15 attesting that the net assets of the guaranteeing
16 company meet or exceed the net assets requirement
17 as provided in division 1 of this subparagraph,
18 and

19 (5) the receivables are maintained as cash or as
20 securities described in Sections 1607, 1608, 1610
21 and 1620 of this title,

22 b. the business of any such association is being
23 conducted fraudulently, or

24 c. the association has knowingly overvalued its assets;

1 9. "Insurer" means any property or casualty insurer duly
2 authorized to transact such business in this state;

3 10. "Net assets" means the amount by which the total assets of
4 an association, excluding goodwill, franchises, customer lists,
5 patents or trademarks, and receivables from or advances to officers,
6 directors, employees, salesmen, and affiliated companies, exceed the
7 total liabilities of the association. For purposes of the Service
8 Warranty Insurance Act, the term "total liabilities" does not
9 include the capital stock, paid-in capital, or retained earning of
10 an association;

11 11. "Person" includes an individual, company, corporation,
12 association, insurer, agent and any other legal entity;

13 12. "Premium" means the total consideration received or to be
14 received, by whatever name called, by an insurer or service warranty
15 association for, or related to, the issuance and delivery of a
16 service warranty, including any charges designated as assessments or
17 fees for membership, policy, survey, inspection, or service or other
18 charges. However, a repair charge is not a premium unless it
19 exceeds the usual and customary repair fee charged by the
20 association, provided the repair is made before the issuance and
21 delivery of the warranty;

22 13. "Sales representative" means any person utilized by an
23 insurer or service warranty association for the purpose of selling
24 or issuing service warranties and includes any individual possessing

1 a certificate of competency who has the power to legally obligate
2 the insurer or service warranty association or who merely acts as
3 the qualifying agent to qualify the association in instances when a
4 state statute or local ordinance requires a certificate of
5 competency to engage in a particular business. However, in the case
6 of service warranty associations selling service warranties from
7 five or more business locations, the store manager or other person
8 in charge of each such location shall be considered the sales
9 representative;

10 14. "Service warranty" means any warranty, home warranty,
11 guaranty, extended warranty or extended guaranty, contract
12 agreement, or other written promise entered into between a consumer
13 and a service warranty association under the terms of which there is
14 an undertaking to indemnify against the cost of repair or
15 replacement of a consumer product or newly-constructed residential
16 structure, including any appliances, electrical, plumbing, heating,
17 cooling or air conditioning systems, in return for the payment of a
18 segregated charge by the consumer; however:

- 19 a. maintenance service contracts under the terms of which
20 there are no provisions for such indemnification are
21 expressly excluded from this definition,
22 b. those contracts issued solely by the manufacturer,
23 distributor, importer or seller of the product, or any
24 affiliate or subsidiary of the foregoing entities,

1 whereby such entity has contractual liability
2 insurance in place, from an insurer licensed in the
3 state, which covers one hundred percent (100%) of the
4 claims exposure on all contracts written without being
5 predicated on the failure to perform under such
6 contracts, are expressly excluded from this
7 definition,

8 c. the term "service warranty" does not include service
9 contracts entered into between consumers and nonprofit
10 organizations or cooperatives the members of which
11 consist of condominium associations and condominium
12 owners, which contracts require the performance of
13 repairs and maintenance of appliances or maintenance
14 of the residential property,

15 d. the term "service warranty" does not include
16 warranties, guarantees, extended warranties, extended
17 guarantees, contract agreements or any other service
18 contracts issued by a company which performs at least
19 seventy percent (70%) of the service work itself and
20 not through subcontractors, which has been selling and
21 honoring such contracts in Oklahoma for at least
22 twenty (20) years, and

23 e. the term "service warranty" does not include
24 warranties, guarantees, extended warranties, extended

1 guarantees, contract agreements or any other service
2 contracts issued by a company which has net assets in
3 excess of One Hundred Million Dollars
4 (\$100,000,000.00). The calculation of the net assets
5 shall include the assets of a parent company. When
6 the net assets of the parent company are used to
7 calculate the total net assets of the company, the net
8 assets of the company issuing the policy shall total
9 at least Twenty-five Million Dollars (\$25,000,000.00);

10 15. "Service warranty association" or "association" means any
11 person, other than an authorized insurer, issuing service
12 warranties; provided, this term shall not mean any person engaged in
13 the business of erecting or otherwise constructing a new home;

14 16. "Warrantor" means any service warranty association engaged
15 in the sale of service warranties and deriving not more than fifty
16 percent (50%) of its gross income from the sale of service
17 warranties; and

18 17. "Warranty seller" means any service warranty association
19 engaged in the sale of service warranties and deriving more than
20 fifty percent (50%) of its gross income from the sale of service
21 warranties.

22 SECTION 27. AMENDATORY 36 O.S. 2001, Section 6609, is
23 amended to read as follows:

1 Section 6609. Each license issued to a service warranty
2 association shall expire on ~~June~~ November 1 following the date of
3 issuance. If the association is then qualified therefor under the
4 provisions of the Service Warranty Insurance Act, its license may be
5 renewed annually, upon its request, and upon payment to the
6 Insurance Commissioner of the license fee in the amount of Two
7 Hundred Dollars (\$200.00) in advance for each such license year.

8 SECTION 28. AMENDATORY 36 O.S. 2001, Section 6615, as
9 last amended by Section 32, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
10 2007, Section 6615), is amended to read as follows:

11 Section 6615. A. In addition to the license fees provided in
12 the Service Warranty Insurance Act for service warranty associations
13 each such association and insurer shall, annually on or before ~~the~~
14 ~~last day of February~~ May 1, file with the Insurance Commissioner its
15 annual statement in the form prescribed by the Commissioner showing
16 all premiums or assessments received by it in connection with the
17 issuance of service warranties in this state during the preceding
18 calendar year and other relevant financial information as deemed
19 necessary by the Commissioner, using accounting principles which
20 will enable the Commissioner to ascertain whether the financial
21 requirements set forth in Section 6607 of this title have been
22 satisfied.

23 B. The Commissioner may levy a fine of up to One Hundred
24 Dollars (\$100.00) a day for each day an association neglects to file

1 the annual statement in the form and within the time provided by the
2 Service Warranty Insurance Act.

3 C. In addition to an annual statement, the Commissioner may
4 require of licensees, under oath and in the form prescribed by it,
5 quarterly statements or special reports which the Commissioner deems
6 necessary for the proper supervision of licensees under the Service
7 Warranty Insurance Act.

8 D. Premiums and assessments received by associations and
9 insurers for service warranties shall not be subject to the premium
10 tax provided for in Section 624 of this title, but shall be subject
11 to an administrative fee of Two Dollars (\$2.00) for each service
12 warranty issued that provides coverage not to exceed Seventy-five
13 Dollars (\$75.00), Five Dollars (\$5.00) for each service warranty
14 issued that provides coverage in excess of Seventy-five Dollars
15 (\$75.00) but not to exceed Two Hundred Fifty Dollars (\$250.00), and
16 Ten Dollars (\$10.00) for each service warranty that provides
17 coverage in excess of Two Hundred Fifty Dollars (\$250.00). However,
18 associations and insurers that have contractual liability insurance
19 in place, from a company licensed in the state, which covers one
20 hundred percent (100%) of the claims exposure of the association or
21 insurer on all contracts written shall be subject to an annual
22 administrative fee of Two Thousand Five Hundred Dollars (\$2,500.00).
23 Said fees shall be paid quarterly to the Insurance Commissioner.
24 All such fees, up to a maximum of Two Hundred Seventy-five Thousand

1 Dollars (\$275,000.00) per year, received by the Insurance
2 Commissioner shall be deposited into the State Treasury to the
3 credit of the Insurance Commissioner Revolving Fund for the payment
4 of costs incurred by the Insurance Department in the administration
5 of the Service Warranty Insurance Act. Amounts received in excess
6 of the annual limitation shall be deposited to the credit of the
7 General Revenue Fund.

8 SECTION 29. AMENDATORY 59 O.S. 2001, Section 1316, as
9 last amended by Section 4, Chapter 386, O.S.L. 2005 (59 O.S. Supp.
10 2007, Section 1316), is amended to read as follows:

11 Section 1316. A. 1. A bail bondsman shall neither sign nor
12 countersign in blank any bond, nor shall the bondsman give a power
13 of attorney to, or otherwise authorize, anyone to countersign his or
14 her name to bonds unless the person so authorized is a licensed
15 surety bondsman or managing general agent directly employed by a
16 licensed professional bondsman giving such power of attorney. The
17 professional bondsman shall submit to the Insurance Commissioner the
18 agreement between the professional bondsman and the employed
19 bondsman. The agreement shall be submitted to the Commissioner
20 prior to the employed bondsman writing bonds on behalf of the
21 professional. The professional bondsman shall notify the
22 Commissioner whenever any agreement is canceled. If the bondsman
23 surrenders the professional qualification, or the professional
24 qualification is suspended or revoked, then the Commissioner shall

1 suspend the appointment of all of the professional bondsman's bail
2 agents. The Commissioner shall immediately notify any bail agent
3 whose license is affected and the court clerk of the agent's
4 resident county upon such suspension or revocation of the
5 professional bondsman's qualification. If the professional
6 qualification is reinstated within twenty-four (24) hours, the
7 Commissioner shall not be required to suspend the bail agent
8 appointments. If the Commissioner reinstates the professional
9 qualification within twenty-four (24) hours, the Commissioner shall
10 also reinstate the appointment of the professional bondsman's bail
11 agents. If more than twenty-four (24) hours elapse following the
12 suspension or revocation, then the professional bondsman shall
13 submit new agent appointments to the Commissioner.

14 2. Bail bondsmen shall not allow other licensed bondsmen to
15 present bonds that have previously been signed and completed by
16 other licensed bondsmen unless a written authorization is on file
17 with the court clerk where the bond is filed. The individual that
18 presents the bond shall sign the form in the presence of the
19 official that receives the bond.

20 B. Premium charged must be indicated on the appearance bond
21 prior to the filing of the bond.

22 C. A bail bondsman shall provide the indemnitors with a proper
23 receipt which shall include fees, premium or other payments and
24 copies of any agreements executed relating to the appearance bond.

1 D. All surety bondsmen or managing general agents shall attach
2 a completed power of attorney to the appearance bond that is filed
3 with the court clerk on each bond written.

4 E. Any bond written in this state shall contain the name and
5 last-known mailing address of the bondsman and, if applicable, of
6 the insurer.

7 SECTION 30. AMENDATORY 59 O.S. 2001, Section 1317, as
8 amended by Section 1, Chapter 167, O.S.L. 2004 (59 O.S. Supp. 2007,
9 Section 1317), is amended to read as follows:

10 Section 1317. A. Every surety who appoints a surety bondsman
11 or managing general agent in the state, shall give notice thereof to
12 the Insurance Commissioner. The filing fee for appointment of each
13 surety bondsman or managing general agent shall be Ten Dollars
14 (\$10.00), payable to the Commissioner and shall be submitted with
15 the appointment. The appointment shall remain in effect until the
16 surety submits a notice of cancellation to the Commissioner, the
17 bail bondsman's license expires, or the Commissioner cancels the
18 appointment. If the surety changes the liability limitations of the
19 surety bondsman or the managing general agent, or any other
20 provisions of the appointment, the surety shall submit an amended
21 appointment form and a filing fee of Ten Dollars (\$10.00) payable to
22 the Commissioner.

23 B. A surety terminating the appointment of a surety bondsman or
24 managing general agent immediately shall file written notice thereof

1 with the Commissioner, together with a statement that it has given
2 or mailed notice to the surety bondsman or managing general agent.
3 The notice filed with the Commissioner shall state the reasons, if
4 any, for the termination.

5 C. Prior to issuance of a new surety appointment for a surety
6 bondsman or managing general agent, the bondsman or agent shall file
7 an affidavit with the Commissioner stating that no forfeitures are
8 owed to any court, no fines are owed to the insurance department,
9 and no premiums or indemnification for forfeitures or fines are owed
10 to any insurer. This provision shall not require that all
11 outstanding liabilities have been exonerated, but may provide that
12 the liabilities are still being monitored by the bondsman or agent.

13 D. Every bail bondsman who negotiates and posts a bond shall,
14 in any controversy between the defendant, indemnitor, or guarantor
15 and the bail bondsman or surety, be regarded as representing the
16 surety. This provision shall not affect the apparent authority of a
17 bail bondsman as an agent for the insurer.

18 SECTION 31. AMENDATORY Section 1, Chapter 322, O.S.L.
19 2006, as amended by Section 14, Chapter 326, O.S.L. 2007 (47 O.S.
20 Supp. 2007, Section 7-600.2), is amended to read as follows:

21 Section 7-600.2 A. The Department of Public Safety shall
22 promulgate and adopt rules for an online verification system for
23 motor vehicle insurance or bond as required by the Compulsory
24 Insurance Law, subject to the following:

1 1. The Oklahoma Tax Commission and the Insurance Department
2 shall cooperate with the ~~Oklahoma Tax Commission~~ Department of
3 Public Safety in the development of the verification system;

4 2. The verification system shall be accessible through the
5 Internet, World Wide Web or a similar proprietary or common carrier
6 electronic system by authorized personnel of the Department, the
7 Oklahoma Tax Commission, the courts, law enforcement personnel, and
8 any other entities authorized by the Department;

9 3. The verification system shall provide for direct inquiry and
10 response between the Department and insurance carriers, or such
11 other method of inquiry and response as agreed to by the Department
12 and individual insurance carriers, and direct access to insurers'
13 records by personnel authorized by the Department;

14 4. The verification system shall be available twenty-four (24)
15 hours a day to verify the insurance status of any vehicle registered
16 in this state through the vehicle's identification number, policy
17 number, registered owner's name or other identifying characteristic
18 or marker as prescribed by the Department in its rules;

19 5. The Department shall conduct a pilot project to test the
20 system prior to statewide use;

21 6. The verification system shall be installed and operational
22 no later than ~~July 1~~ December 31, 2008, following an appropriate
23 testing period;

24

1 7. The Department may contract with a private vendor to assist
2 in establishing and maintaining the verification system;

3 8. The verification system shall include appropriate
4 provisions, consistent with industry standards, to secure its data
5 against unauthorized access and to maintain a record of all
6 information requests;

7 9. Information contained in the verification system shall not
8 be considered a public record; and

9 10. Any law enforcement officer, during a traffic stop or
10 accident investigation, may access information from the online
11 verification system to establish compliance with the Compulsory
12 Insurance Law and to verify the current validity of the policy
13 described on a security verification form and produced by the
14 operator of a motor vehicle during the traffic stop or accident
15 investigation; and

16 11. All information exchanged between the Department and
17 insurance companies, any database created, and all reports,
18 responses, or other information generated for the purposes of the
19 verification system shall not be subject to the Oklahoma Open
20 Records Act.

21 B. This section shall not apply to a policy issued pursuant to
22 paragraph 3 of subsection A of Section 7-601.1 of this title or
23 paragraph 3 of subsection A of Section 7-602 of this title to insure
24 a commercial motor vehicle.

1 C. Insurance carriers shall cooperate with the Department in
2 establishing and maintaining the insurance verification system and
3 shall provide access to motor vehicle insurance policy status
4 information as provided in the Department's rules.

5 SECTION 32. REPEALER 36 O.S. 2001, Sections 1435.25,
6 1435.32, 1435.34, 1435.35, as amended by Section 11, Chapter 129,
7 O.S.L. 2005, 1435.37 and 1924 (36 O.S. Supp. 2007, Section 1435.35),
8 are hereby repealed.

9 SECTION 33. This act shall become effective July 1, 2008.

10 SECTION 34. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

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