

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2072

6 By: Key

7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance; stating legislative
9 intent; defining terms; requiring the filing and
10 approval of certain forms by the Insurance
11 Commissioner; authorizing Commissioner to disapprove
12 certain forms; specifying required contents of form;
13 deeming certain forms approved without filing;
14 prohibiting issuance of certain form; allowing
15 certain addendums; specifying scope of applicability;
16 providing exceptions; distinguishing certificates
17 from policy provisions; limiting reference to
18 contracts or certificates; specifying notice
19 requirements; authorizing certain service fees;
20 providing certificates in violation of requirements
21 shall be void; specifying penalty for certain
22 violations; specifying authority of Commissioner to
23 enforce provisions; authorizing the adoption of
24 certain rules and regulations; amending 36 O.S. 2001,
Section 628, as amended by Section 6, Chapter 222,
O.S.L. 2010 (36 O.S. Supp. 2010, Section 628), which
relates to the imposition of certain taxes or other
obligations on foreign insurers; making the
imposition of certain taxes or other obligations on
state insurers optional; amending 36 O.S. 2001,
Section 1435.29, as last amended by Section 13,
Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2010, Section
1435.29), which relates to insurance producer
continuing-education requirements; modifying
requirements; amending 36 O.S. 2001, Section 3639.1,
which relates to homeowner insurance policy
requirements; requiring notice of certain rate
changes; requiring health carriers to receive
approval for all initial rate and rate adjustments
from Insurance Commissioner; defining term; creating

1 the Independent Insurance Adjusters Licensing Act;
2 providing short title; defining terms; specifying who
3 can act as an independent insurance adjuster;
4 providing exceptions to licensure; allowing temporary
5 emergency licensure or registration of an independent
6 insurance adjuster under certain conditions;
7 specifying length of emergency licensure or
8 registration; authorizing Insurance Commissioner to
9 determine amount of licensure or registration fee;
10 requiring the Commissioner to make certain findings;
11 allowing resident of Canada to be licensed if certain
12 conditions are met; requiring certain entity applying
13 for certain license to make application on certain
14 form and in certain manner; requiring fingerprints
15 and criminal history record checks; providing
16 procedures related to the collection and transmission
17 of such fingerprints; requiring certain information
18 to be treated as confidential; specifying conditions
19 for issuance of an independent insurance adjusters
20 license; authorizing an independent adjuster to
21 qualify for a license in certain lines of authority;
22 allowing for renewal of such license; specifying
23 license fees; authorizing waiver of license renewal
24 requirement under certain circumstances; subjecting
an independent adjuster to certain laws; specifying
content of the license; authorizing the Commissioner
to contract for the performance of certain functions;
requiring written examination; providing exceptions;
providing for nonrefundable examination fee;
exempting persons licensed in another state from
completing certain prelicensing requirements;
providing procedures for licensure of a person
licensed in another state; stating conditions for
receipt of a nonresident independent adjuster
license; requiring nonresident independent adjuster
licensee to maintain licensure in home state;
allowing a resident of Canada to be licensed as a
nonresident independent adjuster under certain
conditions; providing for optional apprentice
independent adjuster license; providing application
process for such license; requiring the Commissioner
to make certain findings; subjecting the apprentice
independent adjuster license to certain terms and
conditions; authorizing the Commissioner to take
certain actions in response to certain causes;
requiring notification in the case of denial of
application or renewal of a license; authorizing

1 certain hearing; allowing certain license to be
2 denied under certain conditions; providing for civil
3 penalty; authorizing the Commissioner to enforce
4 certain provisions; requiring continuing education;
5 providing exceptions; requiring an independent
6 adjuster to maintain copies of certain contracts;
7 specifying professional conduct of an independent
8 adjuster; requiring the independent adjuster to
9 report certain actions; authorizing the Commissioner
10 to promulgate certain rules; amending Section 12,
11 Chapter 390, O.S.L. 2003, as last amended by Section
12 52, Chapter 222, O.S.L. 2010 (36 O.S. Supp. 2010,
13 Section 6811) which relates to closed claim filing
14 reporting requirements; modifying reporting
15 requirements; repealing 36 O.S. 2001, Sections 6201,
16 6202, as amended by Section 23, Chapter 125, O.S.L.
17 2007, 6203, as amended by Section 40, Chapter 176,
18 O.S.L. 2009, Section 41, Chapter 176, O.S.L. 2009,
19 6205, as last amended by Section 42, Chapter 176,
20 O.S.L. 2009, 6206, as last amended by Section 43,
21 Chapter 176, O.S.L. 2009, 6207, 6208, as last amended
22 by Section 44, Chapter 176, O.S.L. 2009, 6209, as
23 amended by Section 45, Chapter 176, O.S.L. 2009,
24 6210, as last amended by Section 46, Chapter 176,
O.S.L. 2009, 6211, 6212, as amended by Section 47,
Chapter 176, O.S.L. 2009, 6214, 6215, as amended by
Section 28, Chapter 125, O.S.L. 2007, 6216, 6216.1,
6216.2, 6217, as last amended by Section 2, Chapter
355, O.S.L. 2010, 6218, 6219, 6220, 6220.1, (36 O.S.
Supp. 2010, Sections 6202, 6203, 6204.1, 6205, 6206,
6208, 6209, 6210, 6212, 6215 and 6217), which relate
to the Insurance Adjusters Licensing Act; providing
for codification; providing for noncodification;
providing an effective date; and declaring an
emergency.

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

22 SECTION 1. NEW LAW A new section of law not to be
23 codified in the Oklahoma Statutes reads as follows:
24

1 The Oklahoma Legislature recognizes that the Insurance
2 Department of the State of Oklahoma is charged with regulating a
3 variety of entities. Each of these entities is a part of the
4 financial services industry in some way. It is the intent of this
5 bill to modify the law as it relates to entities regulated by the
6 Insurance Department.

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 615.3 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 A. As used in this section:

11 1. "Certificate" or "certificate of insurance" means any
12 document or instrument, no matter how titled or described, which is
13 prepared or issued by an insurer or insurance producer as evidence
14 of property or casualty insurance coverage. "Certificate" or
15 "certificate of insurance" shall not include a policy of insurance
16 or insurance binder;

17 2. "Certificate holder" means any person, other than a
18 policyholder, that requests, obtains, or possesses a certificate of
19 insurance;

20 3. "Insurance producer" shall be defined as provided in Section
21 1435.2 of Title 36 of the Oklahoma Statutes;

22 4. "Insurer" means any individual, partnership, corporation,
23 association, or other legal entity, including any government or
24 governmental subdivision or agency; and

1 5. "Policyholder" means a person who has contracted with a
2 property or casualty insurer for insurance coverage.

3 B. No person may prepare, issue, or request the issuance of a
4 certificate of insurance unless the form has been filed with and
5 approved by the Insurance Commissioner, except as provided in
6 subsection E of this section. No person may alter or modify an
7 approved certificate of insurance form.

8 C. The Commissioner shall disapprove a form filed pursuant to
9 this section, or withdraw approval of a form, if the form:

10 1. Is unjust, unfair, misleading, or deceptive, or violates
11 public policy;

12 2. Fails to comply with the requirements of subsection D of
13 this section; or

14 3. Violates any law, including any regulation adopted by the
15 Insurance Commissioner.

16 D. Each certificate of insurance shall contain the following or
17 similar statement: "This certificate of insurance is issued as a
18 matter of information only and confers no rights upon the
19 certificate holder. This certificate does not amend, extend, or
20 alter the coverage, terms, exclusions, and conditions afforded by
21 the policies referenced herein."

22 E. Standard certificate of insurance forms promulgated by the
23 Association of Cooperative Operations Research and Development or
24 the Insurance Services Office are deemed approved by the Insurance

1 Commissioner and shall not be required to be filed if the forms
2 otherwise comply with the requirements of this section.

3 F. No person, wherever located, shall demand or require the
4 issuance of a certificate of insurance from an insurer, insurance
5 producer, or policyholder which contains any false or misleading
6 information concerning the policy of insurance to which the
7 certificate makes reference.

8 G. No person, wherever located, may knowingly prepare or issue
9 a certificate of insurance that contains any false or misleading
10 information or that purports to affirmatively or negatively alter,
11 amend, or extend the coverage provided by the policy of insurance to
12 which the certificate makes reference.

13 H. No person may prepare, issue, demand, or require, either in
14 addition to or in lieu of a certificate of insurance, an opinion
15 letter or other document or correspondence that is inconsistent with
16 this section; provided, however, an insurer or insurance producer
17 may prepare or issue an addendum to a certificate that clarifies and
18 explains the coverages provided by a policy of insurance and
19 otherwise complies with the requirements of this section.

20 I. The provisions of this section apply to all certificate
21 holders, policyholders, insurers or insurance producers with regard
22 to a certificate of insurance issued on property or casualty
23 operations or a risk located in this state, regardless of where the
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1 certificate holder, policyholder, insurer or insurance producer is
2 located. These provisions shall not be construed to apply to:

3 1. Evidence of insurance required by a lender in a lending
4 transaction involving:

- 5 a. a mortgage,
- 6 b. a lien,
- 7 c. a deed or trust, or
- 8 d. any other security interest in real or personal
9 property as security for a loan;

10 2. A certificate issued under:

- 11 a. a group or individual policy for:
 - 12 (1) life insurance,
 - 13 (2) credit insurance,
 - 14 (3) accident and health insurance,
 - 15 (4) long-term care benefit insurance, or
 - 16 (5) Medicare supplement insurance, or
- 17 b. an annuity contract; or

18 3. Standard proof of motor vehicle liability insurance pursuant
19 to the requirements of Section 3636 of Title 36 of the Oklahoma
20 Statutes.

21 J. A certificate of insurance is not a policy of insurance and
22 does not affirmatively or negatively amend, extend, or alter the
23 coverage afforded by the policy to which the certificate of
24 insurance makes reference. A certificate of insurance shall not

1 confer to a certificate holder new or additional rights beyond what
2 the referenced policy of insurance expressly provides.

3 K. No certificate of insurance shall contain references to
4 contracts, including construction or service contracts, other than
5 the referenced contract of insurance. Notwithstanding any
6 requirements, term, or condition of any contract or other document
7 with respect to which a certificate of insurance may be issued or
8 may pertain, the insurance afforded by the referenced policy of
9 insurance shall be subject to all the terms, exclusions and
10 conditions of the policy itself.

11 L. A certificate holder shall only have a legal right to notice
12 of cancelation, nonrenewal, or any material change, or any similar
13 notice concerning a policy of insurance if the person is named
14 within the policy or any endorsement as an additional insured and
15 the policy or endorsement requires notice to be provided. The terms
16 and conditions of the notice, including the required timing of the
17 notice, are governed by the policy of insurance and cannot be
18 altered by a certificate of insurance.

19 M. An insurance producer may charge a reasonable service fee
20 for issuing a certificate to a policy holder or certificate holder.

21 N. Any certificate of insurance or any other document or
22 correspondence prepared, issued, demanded, or required in violation
23 of this section shall be null and void and of no force and effect.
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1 O. Any person who violates this section may be fined up to One
2 Thousand Dollars (\$1,000.00) per violation.

3 P. The Commissioner shall have the authority to examine and
4 investigate the activities of any person that the Commissioner
5 reasonably believes has been or is engaged in an act or practice
6 prohibited by this section. The Commissioner shall have the
7 authority to enforce the provisions of this section and impose any
8 authorized penalty or remedy against any person who violates this
9 section.

10 Q. The Commissioner may adopt reasonable rules and regulations
11 as are necessary or proper to carry out the provisions of this
12 section.

13 SECTION 3. AMENDATORY 36 O.S. 2001, Section 628, as
14 amended by Section 6, Chapter 222, O.S.L. 2010 (36 O.S. Supp. 2010,
15 Section 628), is amended to read as follows:

16 Section 628. When by or pursuant to the laws of any other state
17 or foreign country any premium or income or other taxes, or any
18 fees, fines, penalties, licenses, deposit requirements or other
19 material obligations, prohibitions or restrictions are imposed upon
20 Oklahoma insurers doing business, or that might seek to do business
21 in such other state or country, or upon the agents of such insurers,
22 which in the aggregate are in excess of such taxes, fees, fines,
23 penalties, licenses, deposit requirements or other obligations,
24 prohibitions or restrictions directly imposed upon similar insurers

1 or agents of such other state or foreign country under the statutes
2 of this state, so long as such laws continue in force or are so
3 applied, the same obligations, prohibitions and restrictions of
4 whatever kind ~~shall~~ may be imposed upon similar insurers or agents
5 of such other state or foreign country doing business in Oklahoma.
6 All insurance companies of other nations shall be held to the same
7 obligations and prohibitions that are imposed by the state where
8 they have elected to make their deposit and establish their
9 principal agency in the United States. Any tax, license or other
10 obligation imposed by any city, county or other political
11 subdivision of a state or foreign country on Oklahoma insurers or
12 their agents shall be deemed to be imposed by such state or foreign
13 country within the meaning of this section. The provisions of this
14 section shall not apply to ad valorem taxes on real or personal
15 property or to personal income taxes.

16 SECTION 4. AMENDATORY 36 O.S. 2001, Section 1435.29, as
17 last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
18 2010, Section 1435.29), is amended to read as follows:

19 Section 1435.29 A. 1. Each insurance producer, with the
20 exception of title producers and aircraft title producers or any
21 other producer exempt by rule, shall, biennially, complete not less
22 than twenty-one (21) clock hours of continuing insurance education
23 which shall cover subjects in the lines for which the insurance
24

1 producer is licensed. Such education may include a written or oral
2 examination.

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

8 3. Licensees, with the exception of title producers and
9 aircraft title producers or any other producer exempt by rule, shall
10 complete, in addition to the foregoing, three (3) clock hours of
11 ethics course work in this same period.

12 4. Each title producer and aircraft title producer shall,
13 biennially, complete not less than sixteen (16) clock hours of
14 continuing insurance education, two (2) hours of which shall be
15 ethics course work, which shall cover the line for which the
16 producer is licensed. Such education may include a written or oral
17 examination.

18 B. 1. The Insurance Commissioner shall approve courses and
19 providers of resident provisional producer prelicensing education
20 and continuing education. The Insurance Department may use one or
21 more of the following to review and provide a nonbinding
22 recommendation to the Insurance Commissioner on approval or
23 disapproval of courses and providers of resident provisional
24 producer prelicensing education and continuing education:

- 1 a. employees of the Insurance Commissioner,
- 2 b. a continuing education advisory committee, or
- 3 c. an independent service whose normal business
- 4 activities include the review and approval of
- 5 continuing education courses and providers. The
- 6 Commissioner may negotiate agreements with such
- 7 independent service to review documents and other
- 8 materials submitted for approval of courses and
- 9 providers and provide the Commissioner with its
- 10 nonbinding recommendation. The Commissioner may
- 11 require such independent service to collect the fee
- 12 charged by the independent service for reviewing
- 13 materials provided for review directly from the course
- 14 providers.

15 The Insurance Commissioner has sole authority to approve courses
16 and providers of resident provisional producer prelicensing
17 education and continuing education. If the Insurance Commissioner
18 uses one of the entities listed above to provide a nonbinding
19 recommendation, the Commissioner shall adopt or decline to adopt the
20 recommendation within thirty (30) days of receipt of the
21 recommendation. In the event the Insurance Commissioner takes no
22 action within said thirty-day period, the recommendation made to the
23 Commissioner will be deemed to have been adopted by the
24 Commissioner.

1 The Insurance Commissioner may certify providers and courses
2 offered for license examination study. The Insurance Department
3 shall use employees of the Insurance Commissioner to review and
4 certify license examination study program providers and courses.

5 2. Each insurance company shall be allowed to provide
6 continuing education to insurance producers and customer service
7 representatives as required by this section; provided that such
8 continuing education meets the general standards for education
9 otherwise established by the Insurance Commissioner.

10 3. An insurance producer who, during the time period prior to
11 renewal, participates in ~~an approved~~ a professional designation
12 program, approved by the Insurance Commissioner, shall be deemed to
13 have met the biennial requirement for continuing education.

14 ~~Each course in the~~ The curriculum for the program shall total a
15 minimum of twenty-four (24) hours within a twenty-four-month period.
16 Each approved professional designation program included in this
17 section shall be reviewed for quality and compliance every three (3)
18 years in accordance with standardized criteria promulgated by rule.
19 Continuation of approved status is contingent upon the findings of
20 the review. The list of professional designation programs approved
21 under this paragraph shall be made available to producers and
22 providers annually.

23 4. The Insurance Department may promulgate rules providing that
24 courses or programs offered by professional associations shall

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

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

9 5. Subject to approval by the Commissioner, the active
10 membership of the licensed producer or broker in local, regional,
11 state, or national professional insurance organizations or
12 associations may be approved for up to one (1) annual hour of
13 instruction. The hour shall be credited upon timely filing with the
14 Commissioner, or designee of the Commissioner, and appropriate
15 written evidence acceptable to the Commissioner of such active
16 membership in the organization or association.

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

21 C. Annual fees and course submission fees shall be set forth as
22 a rule by the Commissioner. The fees are payable to the Insurance
23 Commissioner. Provided, public-funded educational institutions,
24 federal agencies, nonprofit organizations, not-for-profit

1 organizations, and Oklahoma state agencies shall be exempt from this
2 subsection.

3 D. Failure of an insurance producer or customer service
4 representative to comply with the requirements of the Oklahoma
5 Producer Licensing Act may, after notice and opportunity for
6 hearing, result in censure, suspension, nonrenewal of license or a
7 civil penalty of up to Five Hundred Dollars (\$500.00) or by both
8 such penalty and civil penalty. Said civil penalty may be enforced
9 in the same manner in which civil judgments may be enforced.

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

13 F. Members of the Legislature shall be exempt from this
14 section.

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

17 SECTION 5. AMENDATORY 36 O.S. 2001, Section 3639.1, is
18 amended to read as follows:

19 Section 3639.1 A. No insurer shall cancel, refuse to renew or
20 increase the premium of a homeowner's insurance policy, which has
21 been in effect more than forty-five (45) days, solely because the
22 insured filed a first claim against the policy. The provisions of
23 this section shall not be construed to prevent the cancellation,

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1 nonrenewal or increase in premium of a homeowner's insurance policy
2 for the following reasons:

3 1. Nonpayment of premium;

4 2. Discovery of fraud or material misrepresentation in the
5 procurement of the insurance or with respect to any claims submitted
6 thereunder;

7 3. Discovery of willful or reckless acts or omissions on the
8 part of the named insured which increase any hazard insured against;

9 4. A change in the risk which substantially increases any
10 hazard insured against after insurance coverage has been issued or
11 renewed;

12 5. Violation of any local fire, health, safety, building, or
13 construction regulation or ordinance with respect to any insured
14 property or the occupancy thereof which substantially increases any
15 hazard insured against;

16 6. A determination by the Commissioner that the continuation of
17 the policy would place the insurer in violation of the insurance
18 laws of this state; or

19 7. Conviction of the named insured of a crime having as one of
20 its necessary elements an act increasing any hazard insured against.

21 B. An insurer shall give to the named insured at the mailing
22 address shown on the policy, written notice of premium increase,
23 change in deductible, reduction in limits or coverage at least sixty
24 (60) days prior to the expiration date of the policy. If the

1 insurer fails to provide such notice, the premium, deductible,
2 limits and coverage provided to the named insured prior to the
3 change shall remain in effect until notice is given or until the
4 effective date of replacement coverage obtained by the named
5 insured, whichever first occurs. If notice is given by mail, said
6 notice shall be deemed to have been given on the day said notice is
7 mailed. If the insured elects not to renew, any earned premium for
8 the period of extension of the terminated policy shall be calculated
9 pro rata at the lower of the current or previous year's rate. If
10 the insured accepts the renewal, the premium increase, if any, and
11 other changes shall be effective the day following the prior
12 policy's expiration or anniversary date.

13 SECTION 6. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4250 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. On or after November 1, 2011, pursuant to the provisions of
17 this section and any other applicable section of Title 36 of the
18 Oklahoma Statutes, every health carrier shall file all initial rates
19 and all rate adjustments for approval with the Insurance
20 Commissioner. If the Commissioner determines that the initial rate
21 or the rate adjustment is unreasonable or not justified or that the
22 initial rate or rate adjustment renders the policy form unjust,
23 unfair, or inequitable to the insured, the initial rate adjustment
24 shall be disapproved. If the Commissioner disapproves the initial

1 rate or rate adjustment, the Commissioner shall make a written
2 decision stating the reason or reasons for the disapproval, and
3 shall deliver a copy of the decision to the company. Any insurer
4 that receives a disapproval shall have twenty (20) days from the
5 date of receipt of the notice of disapproval in which to request a
6 hearing on the disapproval.

7 B. For purposes of this section, "health carrier" means an
8 entity subject to the insurance laws and regulations of this state,
9 or subject to the jurisdiction of the Insurance Commissioner, that
10 contracts or offers to contract to provide, deliver, arrange for,
11 pay for, or reimburse any of the costs of health care services,
12 including a sickness and accident insurance company, a health
13 maintenance organization, a nonprofit hospital and health service
14 corporation, or any other entity providing a plan of health
15 insurance, health benefits or health care services.

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6250 of Title 36, unless there
18 is created a duplication in numbering, reads as follows:

19 Sections 5 through 21 of this act shall be known and may be
20 cited as the "Independent Insurance Adjusters Licensing Act".

21 SECTION 8. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 6251 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:

24 As used in the Independent Insurance Adjusters Licensing Act:

1 1. "Apprentice independent adjuster" means one who is qualified
2 in all respects as an independent adjuster except as to experience,
3 education and/or training;

4 2. "Automated claims adjudication system" means a preprogrammed
5 computer system designed for the collection, data entry, calculation
6 and final resolution of consumer electronic products insurance
7 claims which:

8 a. may only be utilized by a licensed independent
9 adjuster, licensed agent, or individuals supervised by
10 a licensed independent adjuster or licensed agent,

11 b. shall comply with all claims payment requirements of
12 the Oklahoma Insurance Code, and

13 c. shall be certified as compliant by a licensed
14 independent adjuster;

15 3. "Business entity" means a corporation, association,
16 partnership, limited liability company, limited liability
17 partnership, or other legal entity;

18 4. "Catastrophe" means an event that:

19 a. results in large numbers of deaths or injuries,

20 b. causes extensive damage or destruction of facilities
21 that provide and sustain human needs,

22 c. produces an overwhelming demand on state and local
23 response resources and mechanisms,
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1 d. causes a severe long-term effect on general economic
2 activity, or

3 e. severely affects state, local and private sector
4 capabilities to begin and sustain response activities.

5 A catastrophe shall be declared by the Governor of the state,
6 district, or territory in which the catastrophe occurred;

7 5. "Commissioner" means the Insurance Commissioner;

8 6. "Fingerprints" means an impression of the lines on the
9 finger taken for purpose of identification;

10 7. "Home state" means the District of Columbia and any state or
11 territory of the United States in which an independent adjuster
12 maintains his, her, or its principal place of residence or business
13 and is licensed to act as a resident independent adjuster. If the
14 resident state does not license independent adjusters for the line
15 of authority sought, the independent adjuster shall designate as
16 his, her, or its home state any state in which the independent
17 adjuster is licensed and in good standing;

18 8. "Independent adjuster" means a person who:

19 a. is an individual, a business entity, an independent
20 contractor, or an employee of a contractor, who
21 contracts for compensation with insurers or self-
22 insurers,

23 b. is an individual whom the insurer's or self-insurer's
24 tax treatment of the individual is consistent with

1 that of an independent contractor rather than as an
2 employee, as defined in the Internal Revenue Code,
3 United States Code, Title 26, Subtitle C, and

4 c. investigates, negotiates or settles property, casualty
5 or workers' compensation claims for insurers or for
6 self-insurers;

7 9. "Individual" means a natural person;

8 10. "Insurer" means any authorized insurance company,
9 corporation, reciprocal group, mutual group, underwriting
10 association or bureau, or any combination thereof, writing or
11 underwriting any insurance contracts;

12 11. "Person" means an individual or business entity;

13 12. "Uniform Individual Application" means the current version
14 of the National Association of Insurance Commissioners (NAIC)
15 Uniform Individual Application for resident and nonresident
16 individuals; and

17 13. "Uniform Business Entity Application" means the current
18 version of the National Association of Insurance Commissioners
19 (NAIC) Uniform Business Entity Application for resident and
20 nonresident business entities.

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 6252 of Title 36, unless there
23 is created a duplication in numbering, reads as follows:
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1 No person shall act or hold himself or herself out as an
2 independent adjuster in this state unless the person is licensed as
3 an independent adjuster pursuant to the Independent Insurance
4 Adjusters Licensing Act, or is exempt from licensure as an
5 independent adjuster pursuant to the provisions of the Independent
6 Insurance Adjusters Licensing Act.

7 SECTION 10. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6253 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 For the purposes of the Independent Insurance Adjusters
11 Licensing Act, no person or individual shall be deemed to be an
12 adjuster or be required to obtain a license as an adjuster who is:

13 1. A licensed attorney in the State of Oklahoma, when acting in
14 his or her professional capacity as an attorney;

15 2. A person employed solely to obtain facts surrounding a claim
16 or to furnish technical assistance to a licensed independent
17 adjuster;

18 3. An individual who is employed to investigate suspected
19 fraudulent insurance claims but who does not adjust losses or
20 determine claims payments;

21 4. A person who solely performs executive, administrative,
22 managerial or clerical duties or any combination thereof and who
23 does not investigate, negotiate or settle claims with policyholders,
24 claimants or their legal representative;

- 1 5. A licensed health care provider or its employee who provides
2 managed care services so long as the services do not include the
3 determination of compensability;
- 4 6. A managed care organization or any of its employees or an
5 employee of any organization providing managed care services so long
6 as the services do not include the determination of compensability;
- 7 7. A person who settles only reinsurance or subrogation claims;
- 8 8. An officer, director, manager or employee of an authorized
9 insurer, surplus lines insurer, a risk retention group, or an
10 attorney-in-fact of a reciprocal insurer;
- 11 9. A U.S. Manager of the United States branch of an alien
12 insurer;
- 13 10. A person who investigates, negotiates or settles life,
14 accident and health, annuity, or disability insurance claims;
- 15 11. An individual employee, under a self-insured arrangement,
16 who adjusts claims on behalf of his or her employer;
- 17 12. A licensed insurance producer, attorney-in-fact of a
18 reciprocal insurer or managing general agent of the insurer to whom
19 claim authority has been granted by the insurer;
- 20 13. A person authorized to adjust workers' compensation or
21 disability claims pursuant to the provisions of the Third-party
22 Administrator Act; or
- 23 14. An individual who collects claim information from, or
24 furnishes claim information to insureds or claimants, and who

1 conducts data entry including entering data into an automated claims
2 adjudication system, provided that the individual is an employee of
3 a licensed independent adjuster or an affiliate where no more than
4 twenty-five persons are under the supervision of one licensed
5 independent adjuster or licensed agent who is exempt from licensure
6 pursuant to the requirements of the Independent Insurance Adjusters
7 Licensing Act.

8 SECTION 11. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6254 of Title 36, unless there
10 is created a duplication in numbering, reads as follows:

11 A. In the event of a declared catastrophe, an insurer shall
12 notify the Insurance Commissioner via an application for temporary
13 emergency licensure, or registration if temporary emergency
14 licensure is not statutorily required, of each individual not
15 already licensed in the state where the catastrophe has been
16 declared, that will act as an emergency independent adjuster on
17 behalf of the insurer. The Commissioner shall establish standards
18 and procedures to allow for the temporary emergency licensure or
19 registration of an emergency independent adjuster in this state.

20 B. A person who is otherwise qualified to adjust claims, but
21 not already licensed in this state where the catastrophe has been
22 declared, may act as an emergency independent adjuster and adjust
23 claims, if, within five (5) days of deployment to adjust claims
24 arising from the declared catastrophe, the insurer notifies the

1 Commissioner by providing the following information in a format
2 prescribed by the Commissioner:

- 3 1. Name of the individual;
- 4 2. Social Security number of the individual;
- 5 3. Name of the insurer which the independent adjuster will
6 represent;
- 7 4. Effective date of the contract between the insurer and
8 independent adjuster;
- 9 5. Catastrophe or loss control number;
- 10 6. Catastrophe event name; and
- 11 7. Other information the Commissioner deems necessary.

12 C. An emergency independent adjuster's license or registration
13 shall remain in force for a period not to exceed ninety (90) days,
14 unless extended by the Commissioner.

15 D. The fee for emergency independent adjuster application for
16 licensure or registration shall be in the amount specified in
17 subsection C of Section 11 of this act and shall be due and payable
18 at the time of application for licensure or registration.

19 SECTION 12. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6255 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. An individual applying for a resident independent adjuster
23 license shall make application to the Insurance Commissioner on the
24 appropriate NAIC Uniform Individual Application in a format

1 prescribed by the Commissioner and declare under penalty of
2 suspension, revocation or refusal of the license that the statements
3 made in the application are true, correct and complete to the best
4 of the individual's knowledge and belief. Before approving the
5 application, the Commissioner shall find that the individual:

6 1. Is at least eighteen (18) years of age;

7 2. Is eligible to designate this state as his or her home
8 state;

9 3. Is trustworthy, reliable and of good reputation, evidence of
10 which shall be determined by the Commissioner;

11 4. Has not committed any act that is a ground for probation,
12 suspension, revocation or refusal of an independent adjuster's
13 license as provided for in Section 16 of this act;

14 5. Has completed a prelicensing course of study for the line(s)
15 of authority for which the individual has applied, where required by
16 the Commissioner;

17 6. Has successfully passed the examination for the line(s) of
18 authority for which the individual has applied; and

19 7. Has paid the fees set forth in Section 11 of this act.

20 B. An individual who is a resident of Canada shall not be
21 licensed pursuant to the Independent Insurance Adjusters Licensing
22 Act nor designate this state as the individual's home state, unless
23 the individual has successfully passed the independent adjuster
24 examination and has complied with the other applicable requirements

1 of the Independent Insurance Adjusters Licensing Act. The
2 individual shall not be required to comply with the provisions of
3 paragraph 2 of subsection A of this section.

4 C. A business entity applying for a resident independent
5 adjuster license shall make application to the Commissioner on the
6 appropriate NAIC Uniform Business Entity Application in a format
7 prescribed by the Commissioner and declare under penalty of
8 suspension, revocation or refusal of the license that the statements
9 made in the application are true, correct and complete to the best
10 of the business entity's knowledge and belief. Before approving the
11 application, the Commissioner shall find that the business entity:

12 1. Is eligible to designate this state as its home state;

13 2. Has designated a licensed independent adjuster responsible
14 for the business entity's compliance with the insurance laws, rules
15 and regulations of this state;

16 3. Has not committed an act that is a ground for probation,
17 suspension, revocation or refusal of an independent adjuster's
18 license as set forth in Section 16 of this act;

19 4. Has paid the fees set forth in Section 11 of this act; and

20 5. Has submitted the names, addresses, Social Security numbers,
21 criminal and administrative history, background checks, biographical
22 statements, and fingerprints, of all executive officers and
23 directors of the applicant and of all executive officers and
24 directors of entities owning and any individuals owning, directly or

1 indirectly, fifty-one percent (51%) or more of the outstanding
2 voting securities of the applicant.

3 D. In order to make a determination of license eligibility, the
4 Commissioner is authorized to require fingerprints of applicants and
5 to submit the fingerprints and the fee required to perform the
6 criminal history record checks to the Oklahoma State Bureau of
7 Investigation (OSBI) and the Federal Bureau of Investigation (FBI)
8 for state and national criminal history record checks.

9 E. The Commissioner shall require a criminal history record
10 check on each applicant in accordance with the Independent Insurance
11 Adjusters Licensing Act. The Commissioner shall require each
12 applicant to submit a full set of fingerprints including a scanned
13 file from a hard copy fingerprint in order for the Commissioner to
14 obtain and receive national criminal history records from the FBI
15 Criminal Justice Information Services Division.

16 F. The Commissioner may contract for the collection and
17 transmission of fingerprints authorized under the Independent
18 Insurance Adjusters Licensing Act. If the Commissioner does
19 contract, the Commissioner may order the fee for collecting and
20 transmitting fingerprints to be payable directly to the contractor
21 by the applicant. The Commissioner may agree to a reasonable
22 fingerprinting fee to be charged by the contractor.

23 G. The Commissioner shall treat and maintain an applicant's
24 fingerprints and any criminal history record information obtained

1 pursuant to the Independent Insurance Adjusters Licensing Act as
2 confidential and shall apply security measures consistent with the
3 Criminal Justice Information Services Division of the Federal Bureau
4 of Investigation standards for the electronic storage of
5 fingerprints and necessary identifying information and limit the use
6 of records solely to the purposes authorized in the Independent
7 Insurance Adjusters Licensing Act. The fingerprints and any
8 criminal history record information shall not be subject to
9 subpoena, other than one issued in a criminal action or
10 investigation, and shall be confidential.

11 H. The Commissioner is authorized to receive criminal history
12 record information from another government agency, in lieu of the
13 OSBI, that submitted the fingerprints to the FBI.

14 I. The Commissioner may require any documents reasonably
15 necessary to verify the information contained in the application.

16 SECTION 13. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 6256 of Title 36, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Unless denied licensure pursuant to Section 16 of this act,
20 persons who have met the requirements of Sections 10 and 12 of this
21 act shall be issued an independent adjuster license. An independent
22 adjuster may qualify for a license in one or more of the following
23 lines of authority:

24 1. Property and casualty; or

1 2. Workers compensation; or

2 3. Crop.

3 B. Any person holding a license pursuant to this section shall
4 not be required to hold any other independent adjuster, insurance or
5 self-insurance administrator license in this state pursuant to the
6 Third-party Administrator Act or any other provision, provided the
7 licensee does not act as an independent adjuster with respect to
8 life, health or annuity insurance, other than disability insurance.

9 C. The Insurance Commissioner shall collect the following fees
10 for an independent adjuster's license:

11 1. For a license in any single class of business, every two (2)
12 years, Thirty Dollars (\$30.00);

13 2. For a license in any combination of two or more classes of
14 business, every two (2) years, Fifty Dollars (\$50.00); and

15 3. Emergency adjuster, as provided for in Section 9 of this
16 act, each year, Fifteen Dollars (\$15.00).

17 D. The fee for the original license or renewal license shall be
18 collected in advance of issuance.

19 E. An independent adjuster license shall remain in effect
20 unless probated, suspended, revoked or refused, as long as the
21 request for renewal and fee set forth in subsection C of this
22 section is paid and all other requirements for license renewal are
23 met by the due date; otherwise, the license expires.

1 F. An independent adjuster whose license expires may, within
2 twelve (12) months of the renewal date, be reissued an independent
3 adjuster license upon receipt of the renewal request, as prescribed
4 by the Commissioner. However, a penalty in the amount of double the
5 unpaid renewal fee shall be required to reissue the expired license.

6 G. An independent adjuster who is unable to comply with license
7 renewal procedures and requirements due to military service, long-
8 term medical disability or some other extenuating circumstance may
9 request a waiver of same and a waiver of any examination
10 requirement, fine or other sanction imposed for failure to comply
11 with renewal procedures.

12 H. An independent adjuster shall be subject to the Unfair
13 Claims Settlement Practices Act and Sections 1201 through 1213 of
14 Title 36 of the Oklahoma Statutes.

15 I. The independent adjuster shall inform the Commissioner by
16 any means acceptable of any change in resident or business
17 address(es) for the home state or in legal name, within thirty (30)
18 days of the change.

19 J. The license shall contain the licensee's name, address,
20 personal identification number, the date of issuance and expiration
21 and any other information the Commissioner deems necessary.

22 K. In order to assist in the performance of the Commissioner's
23 duties, the Commissioner may contract with nongovernmental entities,
24 including the NAIC, its affiliates or subsidiaries, to perform any

1 ministerial functions, including the collection of fees and data,
2 related to licensing that the Commissioner may deem appropriate.

3 SECTION 14. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6257 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An individual applying for an independent adjuster license
7 pursuant to the Independent Insurance Adjusters Licensing Act shall
8 pass a written examination unless exempt pursuant to Section 13 of
9 this act. The examination shall test the knowledge of the
10 individual concerning the lines of authority for which application
11 is made, the duties and responsibilities of an independent adjuster
12 and the insurance laws and regulations of this state. Examinations
13 required by this section shall be developed and conducted under
14 rules promulgated by the Insurance Commissioner.

15 B. The Commissioner may make arrangements, including
16 contracting with an outside testing service, for administering
17 examinations and collecting the nonrefundable fee set forth in
18 subsection C of this section.

19 C. Each individual applying for an examination shall remit a
20 nonrefundable fee of Twenty Dollars (\$20.00).

21 D. An individual who fails to appear for the examination as
22 scheduled or fails to pass the examination shall reapply for an
23 examination and remit all required fees and forms before being
24 rescheduled for another examination.

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6258 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. An individual who applies for an independent adjuster
5 license in this state who is or was licensed in another state for
6 the same line(s) of authority based on an independent adjuster
7 examination shall not be required to complete any prelicensing
8 education or examination. This exemption is only available if the
9 individual is currently licensed in another state or if that state
10 license has expired and the application is received by this state
11 within ninety (90) days of expiration. The applicant must provide
12 certification from the other state that the applicant's license is
13 currently in good standing or was in good standing at the time of
14 expiration or certification from the other state that its Producer
15 Database records, maintained by the NAIC, its affiliates or
16 subsidiaries, indicate that the applicant or the applicant's company
17 is or was licensed in good standing. The certification must be of a
18 license with the same line of authority for which the individual has
19 applied.

20 B. A person licensed as an independent adjuster in another
21 state based on an independent adjuster examination, who establishes
22 legal residency in this state, shall make application within ninety
23 (90) days to become a resident independent adjuster licensee
24 pursuant to Section 10 of this act, with the exception that no

1 prelicensing education or examination shall be required of this
2 person.

3 C. An individual who applies for an apprentice independent
4 adjuster license, pursuant to Section 15 of this act, and who
5 adjusts claims in that capacity, shall not be required to take and
6 successfully complete the independent adjuster examination.

7 SECTION 16. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6259 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 A. Unless refused licensure pursuant to Section 16 of this act,
11 a nonresident person shall receive a nonresident independent
12 adjuster license if:

13 1. The person is currently licensed in good standing as an
14 independent adjuster in his, her, or its resident or home state;

15 2. The person has submitted the proper request for licensure,
16 and has paid the fees required by Section 11 of this act;

17 3. The person has submitted or transmitted to the Insurance
18 Commissioner the appropriate completed application for licensure;
19 and

20 4. The person's designated home state awards nonresident
21 independent adjuster licenses to persons of this state on the same
22 basis.

23 B. Unless refused licensure pursuant to Section 16 of this act,
24 a nonresident business entity shall provide the names, addresses,

1 fingerprints, Social Security numbers, criminal and administrative
2 history, background checks, and biographical statement, of all
3 executive officers and directors of the applicant and of all
4 executive officers and directors of entities owning and any
5 individuals owning, directly or indirectly, fifty-one percent (51%)
6 or more of the outstanding voting securities of the applicant. Any
7 nonresident business entity applicant whose state of domicile
8 complies with all of the provisions of this subsection shall not be
9 required to submit a criminal history, background check, and
10 biographical statement for its executive officers, directors and
11 owners of outstanding voting securities.

12 C. The Commissioner may verify the independent adjuster's
13 licensing status through any appropriate database, including the
14 Producer Database maintained by the NAIC, its affiliates or
15 subsidiaries, or may request certification of good standing as
16 described in Section 13 of this act.

17 D. As a condition to the continuation of a nonresident
18 independent adjuster license, the licensee shall maintain a resident
19 independent adjuster license in his, her, or its home state. The
20 nonresident independent adjuster license issued under this section
21 shall terminate and be surrendered immediately to the Commissioner
22 if the resident independent adjuster license terminates for any
23 reason, unless the termination is due to the independent adjuster
24 being issued a new resident independent adjuster license in his,

1 her, or its new home state. The new state resident independent
2 adjuster license must have reciprocity with the licensing
3 nonresident state(s), otherwise the nonresident independent adjuster
4 license(s) will terminate. Notice of resident independent adjuster
5 license termination must be given to any state(s) that issued a
6 nonresident independent adjuster license. Notice must be given
7 within thirty (30) days of the termination date; if terminated for
8 change in resident home state, then the notice must include both the
9 previous and current address. Maintaining a resident independent
10 adjuster license is required for the nonresident independent
11 adjuster license(s) to remain valid.

12 E. A resident of Canada may be licensed as a nonresident
13 independent adjuster if such person has obtained a resident or home
14 state independent adjuster license.

15 SECTION 17. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6260 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The apprentice independent adjuster license is an optional
19 license to facilitate the experience, education and/or training
20 necessary to ensure reasonable competency of the responsibilities
21 and duties of an independent adjuster as defined in the Independent
22 Insurance Adjusters Licensing Act.

23 B. An individual applying for an apprentice independent
24 adjuster license shall make application to the Insurance

1 Commissioner on the appropriate NAIC Uniform Individual Application
2 in a format prescribed by the Commissioner and declare under penalty
3 of suspension, revocation or refusal of the license that the
4 statements made in the application are true, correct and complete to
5 the best of the individual's knowledge and belief. Before approving
6 the application, the Commissioner shall find that the individual:

7 1. Is at least eighteen (18) years of age;

8 2. Is a resident of this state and has designated this state as
9 his or her home state;

10 3. Has a business or mailing address in this state for
11 acceptance of service of process;

12 4. Has not committed any act that is a ground for probation,
13 suspension, revocation or denial of licensure as set forth in
14 Section 16 of this act;

15 5. Is trustworthy, reliable and of good reputation, evidence of
16 which may be determined by the Commissioner; and

17 6. Has paid the fees set forth in Section 11 of this act.

18 C. The apprentice independent adjuster license shall be subject
19 to the following terms and conditions:

20 1. Accompanying the apprentice independent adjuster application
21 shall be an attestation, from a licensed independent adjuster with
22 the same line(s) of authority for which the apprentice has applied,
23 certifying that the apprentice will be subject to training,
24 direction and control by the licensed independent adjuster and

1 further certifying that the licensed independent adjuster assumes
2 responsibility for the actions of the apprentice in the apprentice's
3 capacity as an independent adjuster;

4 2. The apprentice independent adjuster is only authorized to
5 adjust claims in the state that has issued the apprentice
6 independent adjuster license;

7 3. The apprentice independent adjuster licensee is restricted
8 to participation in the investigation, settlement and negotiation of
9 claims subject to the review and final determination of the claim by
10 the supervising licensed independent adjuster;

11 4. Compensation of an apprentice independent adjuster shall be
12 on a salaried or hourly basis only;

13 5. The apprentice independent adjuster shall not be required to
14 take and successfully complete the independent adjuster examination
15 pursuant to Section 13 of this act to adjust claims as an apprentice
16 independent adjuster. However, at any time during the
17 apprenticeship the apprentice independent adjuster may choose to
18 take the examination required by Section 12 of this act. If the
19 individual takes and successfully completes the independent adjuster
20 exam the apprentice independent adjuster license shall automatically
21 terminate and an independent adjuster license shall be issued to
22 that individual in place thereof;

23 6. The apprentice independent adjuster license is for a period
24 not to exceed twelve (12) months and is nonrenewable; and

1 7. The licensee shall be subject to probation, suspension,
2 revocation, or refusal pursuant to Section 16 of this act.

3 SECTION 18. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6261 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Insurance Commissioner may place on probation, suspend,
7 revoke, or refuse to issue or renew an independent adjuster's
8 license or may levy a civil penalty or any combination of the above
9 actions for any one or more of the following causes:

10 1. Providing incorrect, misleading, incomplete or materially
11 untrue information in the license application;

12 2. Violating any insurance laws, regulations, subpoena or order
13 of the Commissioner or of another state's Insurance Commissioner;

14 3. Obtaining or attempting to obtain a license through
15 misrepresentation or fraud;

16 4. Improperly withholding, misappropriating, or converting any
17 monies or properties received in the course of doing insurance
18 business;

19 5. Intentionally misrepresenting the terms of an actual or
20 proposed insurance contract or application for insurance;

21 6. Having been convicted of a felony;

22 7. Having admitted or been found to have committed any
23 insurance unfair trade practice or fraud;

24

1 8. Using fraudulent, coercive or dishonest practices, or
2 demonstrating incompetence, untrustworthiness or financial
3 irresponsibility, in the conduct of insurance business in this state
4 or elsewhere;

5 9. Having an insurance license, or its equivalent, probated,
6 suspended, revoked or refused in any other state, province,
7 district, or territory;

8 10. Forging another's name to any document related to an
9 insurance transaction;

10 11. Cheating, including improperly using notes or any other
11 reference material, to complete an examination for an insurance
12 license;

13 12. Failing to comply with an administrative or court order
14 imposing a child support obligation; or

15 13. Failing to pay state income tax or comply with any
16 administrative or court order directing payment of state income tax
17 which remains unpaid.

18 B. In the event that the action by the Commissioner is to
19 refuse application for licensure or renewal of an existing license,
20 the Commissioner shall notify the applicant or licensee in writing,
21 advising of the reason for the refusal. The applicant or licensee
22 may make written demand upon the Commissioner for a hearing before
23 the Commissioner to determine the reasonableness of the refusal.
24 The hearing shall be pursuant to the Administrative Procedures Act.

1 C. The license of a business entity may be probated, suspended,
2 revoked, or refused if the Commissioner finds, after a hearing, that
3 its designated individual licensee's violation occurred while acting
4 on behalf of or representing the business entity and that the
5 violation was known or should have been known by one or more of the
6 business entity's partners, officers or managers and that the
7 violation was neither reported to the Commissioner nor was
8 corrective action taken.

9 D. In addition to or in lieu of any applicable probation,
10 suspension, revocation or refusal, a person may, after a hearing,
11 additionally be subject to a civil fine.

12 E. The Commissioner shall retain the authority to enforce the
13 provisions of and impose any penalty or remedy authorized by the
14 Independent Insurance Adjusters Licensing Act and Title 36 of the
15 Oklahoma Statutes, against any person who is under investigation for
16 or charged with a violation of the Independent Insurance Adjusters
17 Licensing Act or Title 36 of the Oklahoma Statutes, even if the
18 person's license or registration has been surrendered or has expired
19 by operation of law.

20 SECTION 19. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6262 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

23 A. An individual who holds an independent adjuster license and
24 who is not exempt under subsection B of this section, shall

1 satisfactorily complete a minimum of twenty-four (24) hours of
2 continuing education courses, of which three (3) hours must be in
3 ethics, reported to the Insurance Commissioner on a biennial basis
4 in conjunction with his or her license renewal cycle.

5 B. The provisions of subsection A of this section shall not
6 apply to:

7 1. Licensees not licensed for one (1) full year prior to the
8 end of the applicable continuing education biennium; or

9 2. Licensees holding nonresident independent adjuster licenses
10 who have met the continuing education requirements of their
11 designated home state.

12 SECTION 20. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 6263 of Title 36, unless there
14 is created a duplication in numbering, reads as follows:

15 An independent adjuster shall maintain a copy of each contract
16 between the independent adjuster and the insurer or self-insurer and
17 comply with the record retention policy as agreed to in that
18 contract.

19 SECTION 21. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6264 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. An independent adjuster shall:

23 1. Be honest and fair in all communications with the insured,
24 the insurer and the public;

1 2. Give policyholders and claimants prompt, knowledgeable
2 service and courteous, fair and objective treatment at all times;

3 3. Comply with all local, state and federal privacy and
4 information security laws, if applicable; and

5 4. Identify himself or herself as an independent adjuster and,
6 if applicable, identify his or her employer when dealing with any
7 policyholder or claimant.

8 B. An independent adjuster shall not:

9 1. Give legal advice, and shall not deal directly with any
10 policyholder or claimant who is represented by legal counsel without
11 the consent of the legal counsel involved; and

12 2. Have any financial interest in any adjustment or acquire for
13 himself or herself or any person any interest or title in salvage,
14 without first receiving written authority from the principal.

15 SECTION 22. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 6265 of Title 36, unless there
17 is created a duplication in numbering, reads as follows:

18 A. The independent adjuster shall report to the Insurance
19 Commissioner any administrative action taken against the independent
20 adjuster in another jurisdiction or by another governmental agency
21 in this state within thirty (30) days of the final disposition of
22 the matter. This report shall include a copy of the order, consent
23 order and any other relevant legal documents.

24

1 B. The independent adjuster shall report to the Commissioner
2 any criminal action taken against the independent adjuster in this
3 or any jurisdiction within thirty (30) days of the final disposition
4 of the criminal matter. The report shall include a copy of the
5 initial complaint filed, the final order issued by the court, and
6 any other relevant legal documents.

7 SECTION 23. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 6266 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 The Insurance Commissioner may promulgate rules as are necessary
11 or proper to carry out the purposes of the Independent Insurance
12 Adjusters Licensing Act.

13 SECTION 24. AMENDATORY Section 12, Chapter 390, O.S.L.
14 2003, as last amended by Section 52, Chapter 222, O.S.L. 2010 (36
15 O.S. Supp. 2010, Section 6811), is amended to read as follows:

16 Section 6811. A. ~~When a claim for recovery under a medical~~
17 ~~professional liability insurance policy is closed, the insurer shall~~
18 ~~file with the Insurance Department a closed claim report not later~~
19 ~~than April 1 of the same calendar year if the claim is closed prior~~
20 ~~to April 1, and if the claim is closed after April 1, then the~~
21 ~~closed claim report shall be filed by April 1 of the subsequent~~
22 ~~calendar year~~ An insuring entity shall file, between January 1 and
23 March 15 of each year, a closed claim report. These reports shall
24

1 include data for all claims closed in the preceding calendar year
2 and any adjustments to data reported in prior years.

3 B. Any violation by an insurer of the Medical Professional
4 Liability Insurance Closed Claim Reports Act shall subject the
5 insurer to discipline including a civil penalty of not less than
6 Five Thousand Dollars (\$5,000.00).

7 C. Every insuring entity or self-insurer that provides medical
8 professional liability insurance to any facility or provider in this
9 state shall report each medical professional liability closed claim
10 to the Insurance Commissioner.

11 D. A closed claim that is covered under a primary policy and
12 one or more excess policies shall be reported only by the insuring
13 entity that issued the primary policy. The insuring entity that
14 issued the primary policy shall report the total amount, if any,
15 paid with respect to the closed claim, including any amount paid
16 under an excess policy, any amount paid by the facility or provider,
17 and any amount paid by any other person on behalf of the facility or
18 provider.

19 E. If a claim is not covered by an insuring entity or self-
20 insurer, the facility or provider named in the claim shall report it
21 to the Commissioner after a final claim disposition has occurred due
22 to a court proceeding or a settlement by the parties. Instances in
23 which a claim may not be covered by an insuring entity or self-
24 insurer include situations in which:

1 1. The facility or provider did not buy insurance or maintained
2 a self-insured retention that was larger than the final judgment or
3 settlement;

4 2. The claim was denied by an insuring entity or self-insurer
5 because it did not fall within the scope of the insurance coverage
6 agreement; or

7 3. The annual aggregate coverage limits had been exhausted by
8 other claim payments.

9 F. If a claim is covered by an insuring entity or self-insurer
10 that fails to report the claim to the Commissioner, the facility or
11 provider named in the claim shall report it to the Commissioner
12 after a final claim disposition has occurred due to a court
13 proceeding or a settlement by the parties.

14 1. If a facility or provider is insured by a risk retention
15 group and the risk retention group refuses to report closed claims
16 and asserts that the federal Liability Risk Retention Act (95 Stat.
17 949; 15 U.S.C. Sec. 3901 et seq.) preempts state law, the facility
18 or provider shall report all data required by the Medical
19 Professional Liability Insurance Closed Claim Reports Act on behalf
20 of the risk retention group.

21 2. If a facility or provider is insured by an unauthorized
22 insurer and the unauthorized insurer refuses to report closed claims
23 and asserts a federal exemption or other jurisdictional preemption,
24 the facility or provider shall report all data required by the

1 Medical Professional Liability Insurance Closed Claim Reports Act on
2 behalf of the unauthorized insurer.

3 3. If a facility or provider is insured by a captive insurer
4 and the captive insurer refuses to report closed claims and asserts
5 a federal exemption or other jurisdictional preemption, the facility
6 or provider shall report all data required by the Medical
7 Professional Liability Insurance Closed Claim Reports Act on behalf
8 of the captive insurer.

9 SECTION 25. REPEALER 36 O.S. 2001, Sections 6201, 6202,
10 as amended by Section 23, Chapter 125, O.S.L. 2007, 6203, as amended
11 by Section 40, Chapter 176, O.S.L. 2009, Section 41, Chapter 176,
12 O.S.L. 2009, 6205, as last amended by Section 42, Chapter 176,
13 O.S.L. 2009, 6206, as last amended by Section 43, Chapter 176,
14 O.S.L. 2009, 6207, 6208, as last amended by Section 44, Chapter 176,
15 O.S.L. 2009, 6209, as amended by Section 45, Chapter 176, O.S.L.
16 2009, 6210, as last amended by Section 46, Chapter 176, O.S.L. 2009,
17 6211, 6212, as amended by Section 47, Chapter 176, O.S.L. 2009,
18 6214, 6215, as amended by Section 28, Chapter 125, O.S.L. 2007,
19 6216, 6216.1, 6216.2, 6217, as last amended by Section 2, Chapter
20 355, O.S.L. 2010, 6218, 6219, 6220 and 6220.1 (36 O.S. Supp. 2010,
21 Sections 6202, 6203, 6204.1, 6205, 6206, 6208, 6209, 6210, 6212,
22 6215 and 6217), are hereby repealed.

23 SECTION 26. This act shall become effective June 1, 2011.

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1 SECTION 27. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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6 53-1-7098 SDR 03/03/11

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