

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2072

 By: Key

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8 COMMITTEE SUBSTITUTE

9 An Act relating to insurance; stating legislative
10 intent; defining terms; requiring the filing and
11 approval of certain forms by the Insurance
12 Commissioner; authorizing Commissioner to disapprove
13 certain forms; specifying required contents of form;
14 deeming certain forms approved without filing;
15 prohibiting issuance of certain form; allowing
16 certain addendums; specifying scope of applicability;
17 providing exceptions; distinguishing certificates
18 from policy provisions; limiting reference to
19 contracts or certificates; specifying notice
20 requirements; authorizing certain service fees;
21 providing certificates in violation of requirements
22 shall be void; specifying penalty for certain
23 violations; specifying authority of Commissioner to
24 enforce provisions; authorizing the adoption of
 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

1 changes; requiring health carriers to receive
2 approval for all initial rate and rate adjustments
3 from Insurance Commissioner; defining term; creating
4 the Independent Insurance Adjusters Licensing Act;
5 providing short title; defining terms; specifying who
6 can act as an independent insurance adjuster;
7 providing exceptions to licensure; allowing temporary
8 emergency licensure or registration of an independent
9 insurance adjuster under certain conditions;
10 specifying length of emergency licensure or
11 registration; authorizing Insurance Commissioner to
12 determine amount of licensure or registration fee;
13 requiring the Commissioner to make certain findings;
14 allowing resident of Canada to be licensed if certain
15 conditions are met; requiring certain entity applying
16 for certain license to make application on certain
17 form and in certain manner; requiring fingerprints
18 and criminal history record checks; providing
19 procedures related to the collection and transmission
20 of such fingerprints; requiring certain information
21 to be treated as confidential; specifying conditions
22 for issuance of an independent insurance adjusters
23 license; authorizing an independent adjuster to
24 qualify for a license in certain lines of authority;
allowing for renewal of such license; specifying
license fees; authorizing waiver of license renewal
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

1 conditions; authorizing the Commissioner to take
2 certain actions in response to certain causes;
3 requiring notification in the case of denial of
4 application or renewal of a license; authorizing
5 certain hearing; allowing certain license to be
6 denied under certain conditions; providing for civil
7 penalty; authorizing the Commissioner to enforce
8 certain provisions; requiring continuing education;
9 providing exceptions; requiring an independent
10 adjuster to maintain copies of certain contracts;
11 specifying professional conduct of an independent
12 adjuster; requiring the independent adjuster to
13 report certain actions; authorizing the Commissioner
14 to promulgate certain rules; amending Section 12,
15 Chapter 390, O.S.L. 2003, as last amended by Section
16 52, Chapter 222, O.S.L. 2010 (36 O.S. Supp. 2010,
17 Section 6811) which relates to closed claim filing
18 reporting requirements; modifying reporting
19 requirements; repealing 36 O.S. 2001, Sections 6201,
20 6202, as amended by Section 23, Chapter 125, O.S.L.
21 2007, 6203, as amended by Section 40, Chapter 176,
22 O.S.L. 2009, Section 41, Chapter 176, O.S.L. 2009,
23 6205, as last amended by Section 42, Chapter 176,
24 O.S.L. 2009, 6206, as last amended by Section 43,
Chapter 176, O.S.L. 2009, 6207, 6208, as last amended
by Section 44, Chapter 176, O.S.L. 2009, 6209, as
amended by Section 45, Chapter 176, O.S.L. 2009,
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.

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

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

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

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

12 A. As used in this section:

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

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

22 3. "Insurance producer" shall be defined as provided in Section
23 1435.2 of Title 36 of the Oklahoma Statutes;

1 4. "Insurer" means any individual, partnership, corporation,
2 association, or other legal entity, including any government or
3 governmental subdivision or agency; and

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

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

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

13 1. Is unjust, unfair, misleading, or deceptive, or violates
14 public policy;

15 2. Fails to comply with the requirements of subsection D of
16 this section; or

17 3. Violates any law, including any regulation adopted by the
18 Insurance Commissioner.

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

3 E. Standard certificate of insurance forms promulgated by the
4 Association of Cooperative Operations Research and Development or
5 the Insurance Services Office are deemed approved by the Insurance
6 Commissioner and shall not be required to be filed if the forms
7 otherwise comply with the requirements of this section.

8 F. No person, wherever located, shall demand or require the
9 issuance of a certificate of insurance from an insurer, insurance
10 producer, or policyholder which contains any false or misleading
11 information concerning the policy of insurance to which the
12 certificate makes reference.

13 G. No person, wherever located, may knowingly prepare or issue
14 a certificate of insurance that contains any false or misleading
15 information or that purports to affirmatively or negatively alter,
16 amend, or extend the coverage provided by the policy of insurance to
17 which the certificate makes reference.

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

3 I. The provisions of this section apply to all certificate
4 holders, policyholders, insurers or insurance producers with regard
5 to a certificate of insurance issued on property or casualty
6 operations or a risk located in this state, regardless of where the
7 certificate holder, policyholder, insurer or insurance producer is
8 located. These provisions shall not be construed to apply to:

9 1. Evidence of insurance required by a lender in a lending
10 transaction involving:

- 11 a. a mortgage,
- 12 b. a lien,
- 13 c. a deed or trust, or
- 14 d. any other security interest in real or personal
15 property as security for a loan;

16 2. A certificate issued under:

- 17 a. a group or individual policy for:
 - 18 (1) life insurance,
 - 19 (2) credit insurance,
 - 20 (3) accident and health insurance,
 - 21 (4) long-term care benefit insurance, or
 - 22 (5) Medicare supplement insurance, or
- 23 b. an annuity contract; or

1 3. Standard proof of motor vehicle liability insurance pursuant
2 to the requirements of Section 3636 of Title 36 of the Oklahoma
3 Statutes.

4 J. A certificate of insurance is not a policy of insurance and
5 does not affirmatively or negatively amend, extend, or alter the
6 coverage afforded by the policy to which the certificate of
7 insurance makes reference. A certificate of insurance shall not
8 confer to a certificate holder new or additional rights beyond what
9 the referenced policy of insurance expressly provides.

10 K. No certificate of insurance shall contain references to
11 contracts, including construction or service contracts, other than
12 the referenced contract of insurance. Notwithstanding any
13 requirements, term, or condition of any contract or other document
14 with respect to which a certificate of insurance may be issued or
15 may pertain, the insurance afforded by the referenced policy of
16 insurance shall be subject to all the terms, exclusions and
17 conditions of the policy itself.

18 L. A certificate holder shall only have a legal right to notice
19 of cancelation, nonrenewal, or any material change, or any similar
20 notice concerning a policy of insurance if the person is named
21 within the policy or any endorsement as an additional insured and
22 the policy or endorsement requires notice to be provided. The terms
23 and conditions of the notice, including the required timing of the

1 notice, are governed by the policy of insurance and cannot be
2 altered by a certificate of insurance.

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

5 N. Any certificate of insurance or any other document or
6 correspondence prepared, issued, demanded, or required in violation
7 of this section shall be null and void and of no force and effect.

8 O. Any person who violates this section may be fined up to One
9 Thousand Dollars (\$1,000.00) per violation.

10 P. The Commissioner shall have the authority to examine and
11 investigate the activities of any person that the Commissioner
12 reasonably believes has been or is engaged in an act or practice
13 prohibited by this section. The Commissioner shall have the
14 authority to enforce the provisions of this section and impose any
15 authorized penalty or remedy against any person who violates this
16 section.

17 Q. The Commissioner may adopt reasonable rules and regulations
18 as are necessary or proper to carry out the provisions of this
19 section.

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

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1 Section 628. When by or pursuant to the laws of any other state
2 or foreign country any premium or income or other taxes, or any
3 fees, fines, penalties, licenses, deposit requirements or other
4 material obligations, prohibitions or restrictions are imposed upon
5 Oklahoma insurers doing business, or that might seek to do business
6 in such other state or country, or upon the agents of such insurers,
7 which in the aggregate are in excess of such taxes, fees, fines,
8 penalties, licenses, deposit requirements or other obligations,
9 prohibitions or restrictions directly imposed upon similar insurers
10 or agents of such other state or foreign country under the statutes
11 of this state, so long as such laws continue in force or are so
12 applied, the same obligations, prohibitions and restrictions of
13 whatever kind ~~shall~~ may be imposed upon similar insurers or agents
14 of such other state or foreign country doing business in Oklahoma.
15 All insurance companies of other nations shall be held to the same
16 obligations and prohibitions that are imposed by the state where
17 they have elected to make their deposit and establish their
18 principal agency in the United States. Any tax, license or other
19 obligation imposed by any city, county or other political
20 subdivision of a state or foreign country on Oklahoma insurers or
21 their agents shall be deemed to be imposed by such state or foreign
22 country within the meaning of this section. The provisions of this

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1 section shall not apply to ad valorem taxes on real or personal
2 property or to personal income taxes.

3 SECTION 4. AMENDATORY 36 O.S. 2001, Section 1435.29, as
4 last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
5 2010, Section 1435.29), is amended to read as follows:

6 Section 1435.29 A. 1. Each insurance producer, with the
7 exception of title producers and aircraft title producers or any
8 other producer exempt by rule, shall, biennially, complete not less
9 than twenty-one (21) clock hours of continuing insurance education
10 which shall cover subjects in the lines for which the insurance
11 producer is licensed. Such education may include a written or oral
12 examination.

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

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

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

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

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

1 materials provided for review directly from the course
2 providers.

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

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

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

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

3 ~~Each course in the~~ The curriculum for the program shall total a
4 minimum of twenty-four (24) hours within a twenty-four-month period.

5 Each approved professional designation program included in this
6 section shall be reviewed for quality and compliance every three (3)
7 years in accordance with standardized criteria promulgated by rule.
8 Continuation of approved status is contingent upon the findings of
9 the review. The list of professional designation programs approved
10 under this paragraph shall be made available to producers and
11 providers annually.

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

22 5. Subject to approval by the Commissioner, the active
23 membership of the licensed producer or broker in local, regional,
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1 state, or national professional insurance organizations or
2 associations may be approved for up to one (1) annual hour of
3 instruction. The hour shall be credited upon timely filing with the
4 Commissioner, or designee of the Commissioner, and appropriate
5 written evidence acceptable to the Commissioner of such active
6 membership in the organization or association.

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

11 C. Annual fees and course submission fees shall be set forth as
12 a rule by the Commissioner. The fees are payable to the Insurance
13 Commissioner. Provided, public-funded educational institutions,
14 federal agencies, nonprofit organizations, not-for-profit
15 organizations, and Oklahoma state agencies shall be exempt from this
16 subsection.

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

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

4 F. Members of the Legislature shall be exempt from this
5 section.

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

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

10 Section 3639.1 A. No insurer shall cancel, refuse to renew or
11 increase the premium of a homeowner's insurance policy, which has
12 been in effect more than forty-five (45) days, solely because the
13 insured filed a first claim against the policy. The provisions of
14 this section shall not be construed to prevent the cancellation,
15 nonrenewal or increase in premium of a homeowner's insurance policy
16 for the following reasons:

17 1. Nonpayment of premium;

18 2. Discovery of fraud or material misrepresentation in the
19 procurement of the insurance or with respect to any claims submitted
20 thereunder;

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

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1 4. A change in the risk which substantially increases any
2 hazard insured against after insurance coverage has been issued or
3 renewed;

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

8 6. A determination by the Commissioner that the continuation of
9 the policy would place the insurer in violation of the insurance
10 laws of this state; or

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

13 B. An insurer shall give to the named insured at the mailing
14 address shown on the policy, written notice of premium increase,
15 change in deductible, reduction in limits or coverage at least sixty
16 (60) days prior to the expiration date of the policy. If the
17 insurer fails to provide such notice, the premium, deductible,
18 limits and coverage provided to the named insured prior to the
19 change shall remain in effect until notice is given or until the
20 effective date of replacement coverage obtained by the named
21 insured, whichever first occurs. If notice is given by mail, said
22 notice shall be deemed to have been given on the day said notice is
23 mailed. If the insured elects not to renew, any earned premium for

1 the period of extension of the terminated policy shall be calculated
2 pro rata at the lower of the current or previous year's rate. If
3 the insured accepts the renewal, the premium increase, if any, and
4 other changes shall be effective the day following the prior
5 policy's expiration or anniversary date.

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

9 A. On or after November 1, 2011, pursuant to the provisions of
10 this section and any other applicable section of Title 36 of the
11 Oklahoma Statutes, every health carrier shall file all initial rates
12 and all rate adjustments for approval with the Insurance
13 Commissioner. If the Commissioner determines that the initial rate
14 or the rate adjustment is unreasonable or not justified or that the
15 initial rate or rate adjustment renders the policy form unjust,
16 unfair, or inequitable to the insured, the initial rate adjustment
17 shall be disapproved. If the Commissioner disapproves the initial
18 rate or rate adjustment, the Commissioner shall make a written
19 decision stating the reason or reasons for the disapproval, and
20 shall deliver a copy of the decision to the company. Any insurer
21 that receives a disapproval shall have twenty (20) days from the
22 date of receipt of the notice of disapproval in which to request a
23 hearing on the disapproval.

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

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

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

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

18 As used in the Independent Insurance Adjusters Licensing Act:

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

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

- 3 a. may only be utilized by a licensed independent
4 adjuster, licensed agent, or individuals supervised by
5 a licensed independent adjuster or licensed agent,
- 6 b. shall comply with all claims payment requirements of
7 the Oklahoma Insurance Code, and
- 8 c. shall be certified as compliant by a licensed
9 independent adjuster;

10 3. "Business entity" means a corporation, association,
11 partnership, limited liability company, limited liability
12 partnership, or other legal entity;

13 4. "Catastrophe" means an event that:

- 14 a. results in large numbers of deaths or injuries,
- 15 b. causes extensive damage or destruction of facilities
16 that provide and sustain human needs,
- 17 c. produces an overwhelming demand on state and local
18 response resources and mechanisms,
- 19 d. causes a severe long-term effect on general economic
20 activity, or
- 21 e. severely affects state, local and private sector
22 capabilities to begin and sustain response activities.

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

3 5. "Commissioner" means the Insurance Commissioner;

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

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

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

15 a. is an individual, a business entity, an independent
16 contractor, or an employee of a contractor, who
17 contracts for compensation with insurers or self-
18 insurers,

19 b. is an individual whom the insurer's or self-insurer's
20 tax treatment of the individual is consistent with
21 that of an independent contractor rather than as an
22 employee, as defined in the Internal Revenue Code,
23 United States Code, Title 26, Subtitle C, and

1 c. investigates, negotiates or settles property, casualty
2 or workers' compensation claims for insurers or for
3 self-insurers;

4 9. "Individual" means a natural person;

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

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

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

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

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 6252 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 No person shall act or hold himself or herself out as an
22 independent adjuster in this state unless the person is licensed as
23 an independent adjuster pursuant to the Independent Insurance
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1 Adjusters Licensing Act, or is exempt from licensure as an
2 independent adjuster pursuant to the provisions of the Independent
3 Insurance Adjusters Licensing Act.

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

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

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

12 2. A person employed solely to obtain facts surrounding a claim
13 or to furnish technical assistance to a licensed independent
14 adjuster;

15 3. An individual who is employed to investigate suspected
16 fraudulent insurance claims but who does not adjust losses or
17 determine claims payments;

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

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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

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

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

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

22 B. A person who is otherwise qualified to adjust claims, but
23 not already licensed in this state where the catastrophe has been
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1 declared, may act as an emergency independent adjuster and adjust
2 claims, if, within five (5) days of deployment to adjust claims
3 arising from the declared catastrophe, the insurer notifies the
4 Commissioner by providing the following information in a format
5 prescribed by the Commissioner:

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

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

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

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

4 A. An individual applying for a resident independent adjuster
5 license shall make application to the Insurance Commissioner on the
6 appropriate NAIC Uniform Individual 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 individual's knowledge and belief. Before approving the
11 application, the Commissioner shall find that the individual:

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

13 2. Is eligible to designate this state as his or her home
14 state;

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

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

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

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

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

4 B. An individual who is a resident of Canada shall not be
5 licensed pursuant to the Independent Insurance Adjusters Licensing
6 Act nor designate this state as the individual's home state, unless
7 the individual has successfully passed the independent adjuster
8 examination and has complied with the other applicable requirements
9 of the Independent Insurance Adjusters Licensing Act. The
10 individual shall not be required to comply with the provisions of
11 paragraph 2 of subsection A of this section.

12 C. A business entity applying for a resident independent
13 adjuster license shall make application to the Commissioner on the
14 appropriate NAIC Uniform Business Entity Application in a format
15 prescribed by the Commissioner and declare under penalty of
16 suspension, revocation or refusal of the license that the statements
17 made in the application are true, correct and complete to the best
18 of the business entity's knowledge and belief. Before approving the
19 application, the Commissioner shall find that the business entity:

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

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

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

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

5 5. Has submitted the names, addresses, Social Security numbers,
6 criminal and administrative history, background checks, biographical
7 statements, and fingerprints, of all executive officers and
8 directors of the applicant and of all executive officers and
9 directors of entities owning and any individuals owning, directly or
10 indirectly, fifty-one percent (51%) or more of the outstanding
11 voting securities of the applicant.

12 D. In order to make a determination of license eligibility, the
13 Commissioner is authorized to require fingerprints of applicants and
14 to submit the fingerprints and the fee required to perform the
15 criminal history record checks to the Oklahoma State Bureau of
16 Investigation (OSBI) and the Federal Bureau of Investigation (FBI)
17 for state and national criminal history record checks.

18 E. The Commissioner shall require a criminal history record
19 check on each applicant in accordance with the Independent Insurance
20 Adjusters Licensing Act. The Commissioner shall require each
21 applicant to submit a full set of fingerprints including a scanned
22 file from a hard copy fingerprint in order for the Commissioner to
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1 obtain and receive national criminal history records from the FBI
2 Criminal Justice Information Services Division.

3 F. The Commissioner may contract for the collection and
4 transmission of fingerprints authorized under the Independent
5 Insurance Adjusters Licensing Act. If the Commissioner does
6 contract, the Commissioner may order the fee for collecting and
7 transmitting fingerprints to be payable directly to the contractor
8 by the applicant. The Commissioner may agree to a reasonable
9 fingerprinting fee to be charged by the contractor.

10 G. The Commissioner shall treat and maintain an applicant's
11 fingerprints and any criminal history record information obtained
12 pursuant to the Independent Insurance Adjusters Licensing Act as
13 confidential and shall apply security measures consistent with the
14 Criminal Justice Information Services Division of the Federal Bureau
15 of Investigation standards for the electronic storage of
16 fingerprints and necessary identifying information and limit the use
17 of records solely to the purposes authorized in the Independent
18 Insurance Adjusters Licensing Act. The fingerprints and any
19 criminal history record information shall not be subject to
20 subpoena, other than one issued in a criminal action or
21 investigation, and shall be confidential.

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

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

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

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

- 14 1. Property and casualty; or
- 15 2. Workers compensation; or
- 16 3. Crop.

17 B. Any person holding a license pursuant to this section shall
18 not be required to hold any other independent adjuster, insurance or
19 self-insurance administrator license in this state pursuant to the
20 Third-party Administrator Act or any other provision, provided the
21 licensee does not act as an independent adjuster with respect to
22 life, health or annuity insurance, other than disability insurance.

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

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

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

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

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

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

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

21 G. An independent adjuster who is unable to comply with license
22 renewal procedures and requirements due to military service, long-
23 term medical disability or some other extenuating circumstance may

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 request a waiver of same and a waiver of any examination
2 requirement, fine or other sanction imposed for failure to comply
3 with renewal procedures.

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

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

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

14 K. In order to assist in the performance of the Commissioner's
15 duties, the Commissioner may contract with nongovernmental entities,
16 including the NAIC, its affiliates or subsidiaries, to perform any
17 ministerial functions, including the collection of fees and data,
18 related to licensing that the Commissioner may deem appropriate.

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

22 A. An individual applying for an independent adjuster license
23 pursuant to the Independent Insurance Adjusters Licensing Act shall

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1 pass a written examination unless exempt pursuant to Section 13 of
2 this act. The examination shall test the knowledge of the
3 individual concerning the lines of authority for which application
4 is made, the duties and responsibilities of an independent adjuster
5 and the insurance laws and regulations of this state. Examinations
6 required by this section shall be developed and conducted under
7 rules promulgated by the Insurance Commissioner.

8 B. The Commissioner may make arrangements, including
9 contracting with an outside testing service, for administering
10 examinations and collecting the nonrefundable fee set forth in
11 subsection C of this section.

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

14 D. An individual who fails to appear for the examination as
15 scheduled or fails to pass the examination shall reapply for an
16 examination and remit all required fees and forms before being
17 rescheduled for another examination.

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

21 A. An individual who applies for an independent adjuster
22 license in this state who is or was licensed in another state for
23 the same line(s) of authority based on an independent adjuster

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

14 B. A person licensed as an independent adjuster in another
15 state based on an independent adjuster examination, who establishes
16 legal residency in this state, shall make application within ninety
17 (90) days to become a resident independent adjuster licensee
18 pursuant to Section 10 of this act, with the exception that no
19 prelicensing education or examination shall be required of this
20 person.

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

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

6 A. Unless refused licensure pursuant to Section 16 of this act,
7 a nonresident person shall receive a nonresident independent
8 adjuster license if:

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

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

13 3. The person has submitted or transmitted to the Insurance
14 Commissioner the appropriate completed application for licensure;
15 and

16 4. The person's designated home state awards nonresident
17 independent adjuster licenses to persons of this state on the same
18 basis.

19 B. Unless refused licensure pursuant to Section 16 of this act,
20 a nonresident business entity shall provide the names, addresses,
21 fingerprints, Social Security numbers, criminal and administrative
22 history, background checks, and biographical statement, of all
23 executive officers and directors of the applicant and of all

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

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

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

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

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

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

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

21 B. An individual applying for an apprentice independent
22 adjuster license shall make application to the Insurance
23 Commissioner on the appropriate NAIC Uniform Individual Application

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

- 6 1. Is at least eighteen (18) years of age;
- 7 2. Is a resident of this state and has designated this state as
8 his or her home state;
- 9 3. Has a business or mailing address in this state for
10 acceptance of service of process;
- 11 4. Has not committed any act that is a ground for probation,
12 suspension, revocation or denial of licensure as set forth in
13 Section 16 of this act;
- 14 5. Is trustworthy, reliable and of good reputation, evidence of
15 which may be determined by the Commissioner; and
- 16 6. Has paid the fees set forth in Section 11 of this act.

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

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

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

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

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

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

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

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

16 3. Obtaining or attempting to obtain a license through
17 misrepresentation or fraud;

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

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

23 6. Having been convicted of a felony;

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

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

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

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

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

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

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

20 B. In the event that the action by the Commissioner is to
21 refuse application for licensure or renewal of an existing license,
22 the Commissioner shall notify the applicant or licensee in writing,
23 advising of the reason for the refusal. The applicant or licensee

1 may make written demand upon the Commissioner for a hearing before
2 the Commissioner to determine the reasonableness of the refusal.
3 The hearing shall be pursuant to the Administrative Procedures Act.

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

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

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

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

4 A. An individual who holds an independent adjuster license and
5 who is not exempt under subsection B of this section, shall
6 satisfactorily complete a minimum of twenty-four (24) hours of
7 continuing education courses, of which three (3) hours must be in
8 ethics, reported to the Insurance Commissioner on a biennial basis
9 in conjunction with his or her license renewal cycle.

10 B. The provisions of subsection A of this section shall not
11 apply to:

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

14 2. Licensees holding nonresident independent adjuster licenses
15 who have met the continuing education requirements of their
16 designated home state.

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

20 An independent adjuster shall maintain a copy of each contract
21 between the independent adjuster and the insurer or self-insurer and
22 comply with the record retention policy as agreed to in that
23 contract.

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

4 A. An independent adjuster shall:

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

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

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

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

14 B. An independent adjuster shall not:

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

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

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

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1 A. The independent adjuster shall report to the Insurance
2 Commissioner any administrative action taken against the independent
3 adjuster in another jurisdiction or by another governmental agency
4 in this state within thirty (30) days of the final disposition of
5 the matter. This report shall include a copy of the order, consent
6 order and any other relevant legal documents.

7 B. The independent adjuster shall report to the Commissioner
8 any criminal action taken against the independent adjuster in this
9 or any jurisdiction within thirty (30) days of the final disposition
10 of the criminal matter. The report shall include a copy of the
11 initial complaint filed, the final order issued by the court, and
12 any other relevant legal documents.

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

16 The Insurance Commissioner may promulgate rules as are necessary
17 or proper to carry out the purposes of the Independent Insurance
18 Adjusters Licensing Act.

19 SECTION 24. AMENDATORY Section 12, Chapter 390, O.S.L.
20 2003, as last amended by Section 52, Chapter 222, O.S.L. 2010 (36
21 O.S. Supp. 2010, Section 6811), is amended to read as follows:

22 Section 6811. A. ~~When a claim for recovery under a medical~~
23 ~~professional liability insurance policy is closed, the insurer shall~~

1 ~~file with the Insurance Department a closed claim report not later~~
2 ~~than April 1 of the same calendar year if the claim is closed prior~~
3 ~~to April 1, and if the claim is closed after April 1, then the~~
4 ~~closed claim report shall be filed by April 1 of the subsequent~~
5 ~~calendar year~~ An insuring entity shall file, between January 1 and
6 March 15 of each year, a closed claim report. These reports shall
7 include data for all claims closed in the preceding calendar year
8 and any adjustments to data reported in prior years.

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

13 C. Every insuring entity or self-insurer that provides medical
14 professional liability insurance to any facility or provider in this
15 state shall report each medical professional liability closed claim
16 to the Insurance Commissioner.

17 D. A closed claim that is covered under a primary policy and
18 one or more excess policies shall be reported only by the insuring
19 entity that issued the primary policy. The insuring entity that
20 issued the primary policy shall report the total amount, if any,
21 paid with respect to the closed claim, including any amount paid
22 under an excess policy, any amount paid by the facility or provider,

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 and any amount paid by any other person on behalf of the facility or
2 provider.

3 E. If a claim is not covered by an insuring entity or self-
4 insurer, the facility or provider named in the claim shall report it
5 to the Commissioner after a final claim disposition has occurred due
6 to a court proceeding or a settlement by the parties. Instances in
7 which a claim may not be covered by an insuring entity or self-
8 insurer include situations in which:

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

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

15 3. The annual aggregate coverage limits had been exhausted by
16 other claim payments.

17 F. If a claim is covered by an insuring entity or self-insurer
18 that fails to report the claim to the Commissioner, the facility or
19 provider named in the claim shall report it to the Commissioner
20 after a final claim disposition has occurred due to a court
21 proceeding or a settlement by the parties.

22 1. If a facility or provider is insured by a risk retention
23 group and the risk retention group refuses to report closed claims

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1 and asserts that the federal Liability Risk Retention Act (95 Stat.
2 949; 15 U.S.C. Sec. 3901 et seq.) preempts state law, the facility
3 or provider shall report all data required by the Medical
4 Professional Liability Insurance Closed Claim Reports Act on behalf
5 of the risk retention group.

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

12 3. If a facility or provider is insured by a captive insurer
13 and the captive insurer refuses to report closed claims and asserts
14 a federal exemption or other jurisdictional preemption, the facility
15 or provider shall report all data required by the Medical
16 Professional Liability Insurance Closed Claim Reports Act on behalf
17 of the captive insurer.

18 SECTION 25. REPEALER 36 O.S. 2001, Sections 6201, 6202,
19 as amended by Section 23, Chapter 125, O.S.L. 2007, 6203, as amended
20 by Section 40, Chapter 176, O.S.L. 2009, Section 41, Chapter 176,
21 O.S.L. 2009, 6205, as last amended by Section 42, Chapter 176,
22 O.S.L. 2009, 6206, as last amended by Section 43, Chapter 176,
23 O.S.L. 2009, 6207, 6208, as last amended by Section 44, Chapter 176,

1 O.S.L. 2009, 6209, as amended by Section 45, Chapter 176, O.S.L.
2 2009, 6210, as last amended by Section 46, Chapter 176, O.S.L. 2009,
3 6211, 6212, as amended by Section 47, Chapter 176, O.S.L. 2009,
4 6214, 6215, as amended by Section 28, Chapter 125, O.S.L. 2007,
5 6216, 6216.1, 6216.2, 6217, as last amended by Section 2, Chapter
6 355, O.S.L. 2010, 6218, 6219, 6220 and 6220.1 (36 O.S. Supp. 2010,
7 Sections 6202, 6203, 6204.1, 6205, 6206, 6208, 6209, 6210, 6212,
8 6215 and 6217), are hereby repealed.

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

10 SECTION 27. 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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15 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 03-07-2011 - DO
16 PASS, As Amended.

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