

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1060

6 By: McEntire

7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance; amending 36 O.S. 2011,
9 Sections 2022, 2023, 2024, 2025, 2026, 2027, 2028,
10 2030, 2032, 2036, 2038 and 2043, which relate to the
11 Oklahoma Life and Health Insurance Guaranty
12 Association Act; providing for broader applicability;
13 defining terms; providing coverages and liabilities;
14 modifying board of directors membership; providing
15 procedural rules and amendments; modifying for
16 impaired or insolvent insurers; providing for
17 assessments of member insurers; modifying powers and
18 duties of the Insurance Commissioner; modifying
19 applicability of procedures for detection and
20 prevention of insolvencies; modifying assets of
21 impaired or insolvent insurers; modifying ownership
22 rights; providing for the recovery of distributions;
23 modifying prohibitions on advertising; amending 36
24 O.S. 2011, Section 6913, as amended by Section 19,
Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2018, Section
6913), which relates to deposit with Insurance
Commissioner; modifying deposit use; repealing 36
O.S. 2011, Sections 6914, 6921 and 6932, which relate
to health maintenance organization insolvency; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 36 O.S. 2011, Section 2022, is
2 amended to read as follows:

3 Section 2022. A. The purpose of ~~this act~~ the Oklahoma Life and
4 Health Insurance Guaranty Association Act is to protect, subject to
5 certain limitations, the persons specified in subsection A of
6 Section 2025 of ~~the Insurance Code~~ this title, against failure in
7 the performance of contractual obligations, under life ~~and,~~ health
8 ~~insurance policies,~~ and annuity policies, plans or contracts
9 specified in subsection B of Section 2025 of the ~~Insurance Code~~ this
10 title, because of the impairment or insolvency of the member insurer
11 that issued the policies, plans or contracts.

12 B. To provide this protection, an association of member
13 insurers has been created and exists to pay benefits and to continue
14 coverages as limited in this act, and members of the Association are
15 subject to assessment to provide funds to carry out the purposes of
16 this act.

17 SECTION 2. AMENDATORY 36 O.S. 2011, Section 2023, is
18 amended to read as follows:

19 Section 2023. A. There is created a nonprofit legal entity to
20 be known as the Oklahoma Life and Health Insurance Guaranty
21 Association. All member insurers shall be and remain members of the
22 Association as a condition of their authority to transact insurance
23 as a health maintenance organization business in this state.

24

1 B. The Association shall perform its functions under a plan of
2 operation established and approved in accordance with this act and
3 shall exercise its powers through the Board of Directors established
4 in this act. For purposes of administration and assessment, the
5 Association shall maintain three ~~(3)~~ accounts:

- 6 1. The health ~~insurance~~ account;
- 7 2. The life insurance account; and
- 8 3. The annuity account.

9 C. The Association shall come under the immediate supervision
10 of the Insurance Commissioner and shall be subject to the applicable
11 provisions of the insurance laws of this state.

12 SECTION 3. AMENDATORY 36 O.S. 2011, Section 2024, is
13 amended to read as follows:

14 Section 2024. As used in ~~Sections 2021 through 2043 of this~~
15 ~~title~~ the Oklahoma Life and Health Insurance Guaranty Association
16 Act:

- 17 1. "Account" means ~~either~~ one of the ~~two~~ three accounts created
18 under Section 2023 of this title;
- 19 2. "Association" means the Oklahoma Life and Health Insurance
20 Guaranty Association created in Section 2023 of this title;
- 21 3. "Commissioner" means the Oklahoma Insurance Commissioner;
- 22 4. "Contractual obligation" means an obligation under a policy
23 or contract or certificate under a group policy or contract, or
24

1 portion thereof for which coverage is provided under Section 2025 of
2 this title;

3 5. "Covered contract" or "covered policy" means a policy or
4 contract or portion of a policy or contract for which coverage is
5 provided under Section 2025 of this title;

6 6. "Extra-contractual claims" includes, but is not limited to,
7 claims relating to bad faith in the payment of claims, punitive or
8 exemplary damages or attorneys fees and costs;

9 7. "Health benefit plan" means any hospital or medical expense
10 policy or certificate or health maintenance organization subscriber
11 contract or any other similar health contract. "Health benefit
12 plan" does not include:

- 13 a. accident only insurance,
- 14 b. credit insurance,
- 15 c. dental only insurance,
- 16 d. vision only insurance,
- 17 e. Medicare supplement insurance,
- 18 f. benefits for long-term care, home health care,
19 community-based care, or any combination thereof,
- 20 g. disability income insurance,
- 21 h. coverage for on-site medical clinics, or
- 22 i. specified disease, hospital confinement indemnity or
23 limited health insurance if the types of coverage do

24

1 not provide coordination of benefits and are provided
2 under separate policies or certificates;

3 8. "Impaired insurer" means a member insurer which, after the
4 effective date of this act, is not an insolvent insurer and is
5 placed under an order of rehabilitation or conservation by a court
6 of competent jurisdiction;

7 ~~8.~~ 9. "Insolvent insurer" means a member insurer which, after
8 the effective date of this act, is placed under an order of
9 liquidation by a court of competent jurisdiction with a finding of
10 insolvency;

11 ~~9.~~ 10. "Member insurer" means any nonprofit hospital service
12 and medical indemnity corporation and any insurer or health
13 maintenance organization licensed or that holds a certificate of
14 authority to transact in this state any kind of insurance or health
15 maintenance organization business for which coverage is provided
16 under Section 2025 of this title, and includes any insurer or health
17 maintenance organization whose license or certificate of authority
18 in this state may have been suspended, revoked, not renewed or
19 voluntarily withdrawn, but does not include:

20 a. ~~a health maintenance organization,~~

21 ~~b.~~ a. a fraternal benefit society,

22 ~~c.~~ b. a mandatory state-pooling plan,

23 ~~d.~~ c. a mutual assessment company or other person that
24 operates on an assessment basis,

1 ~~e.~~ d. an insurance exchange,

2 ~~f.~~ e. an organization that has a certificate or license
3 limited to the issuance of charitable gift annuities
4 under Sections 4071 through 4082 of this title, or

5 ~~g.~~ f. any entity similar to any of the above;

6 ~~10.~~ 11. "Moody's Corporate Bond Yield Average" means the
7 Monthly Average Corporates as published by Moody's Investors
8 Service, Inc., or any successor thereto;

9 ~~11.~~ 12. "Owner", "policyholder", "policy owner" or "contract
10 owner" means the person who is identified as the legal owner of a
11 policy or contract under the terms of the policy or contract or who
12 is otherwise vested with legal title to the policy or contract
13 through a valid assignment completed in accordance with the terms of
14 the policy or contract and properly recorded as the owner on the
15 books of the member insurer. Owner, policyholder, policy owner or
16 contract owner does not include persons with a mere beneficial
17 interest in a policy or contract;

18 ~~12.~~ 13. "Person" means an individual, corporation, limited
19 liability company, partnership, association, governmental body or
20 entity, or voluntary organization;

21 ~~13.~~ 14. "Premiums" means amounts or considerations by whatever
22 name called, received on covered policies or contracts less returned
23 premiums, considerations and deposits and less dividends and
24 experience credits. "Premiums" does not include amounts or

1 considerations received for policies or contracts or for the
2 portions of any policies or contracts for which coverage is not
3 provided under subsection B of Section 2025 of this title except
4 that assessable premium shall not be reduced on account of
5 subparagraph ~~(e)~~ c of paragraph 2 of subsection B of Section 2025 of
6 this title relating to interest limitations and paragraph 2 of
7 subsection C of Section 2025 of this title relating to limitations
8 with respect to one individual, one participant and one policy or
9 contract owner. Premiums does not include:

- 10 a. premiums on an unallocated annuity contract, or
- 11 b. premiums in excess of Five Million Dollars
12 (\$5,000,000.00) on multiple non-group policies of life
13 insurance owned by one owner, whether the policy or
14 contract owner is an individual, firm, corporation, or
15 other person, and whether the persons insured are
16 officers, managers, employees or other persons,
17 regardless of the number of policies or contracts held
18 by the owner;

19 ~~14.~~ 15. "Principal place of business" of a person other than a
20 natural person means the single state in which the natural persons
21 who establish policy for the direction, control and coordination of
22 the operations of the entity as a whole primarily exercise that
23 function, determined by the Association in its reasonable judgment
24 by considering the following factors:

- 1 a. the state in which the primary executive and
2 administrative headquarters of the entity are located,
3 b. the state in which the principal office of the chief
4 executive officer of the entity is located,
5 c. the state in which the board of directors or similar
6 governing person or persons of the entity conducts the
7 majority of its meetings,
8 d. the state in which the executive or management
9 committee of the board of directors or similar
10 governing person or persons of the entity conducts the
11 majority of its meetings,
12 e. the state from which the management of the overall
13 operations of the entity is directed, and
14 f. in the case of a benefit plan sponsored by affiliated
15 companies comprising a consolidated corporation, the
16 state in which the holding company or controlling
17 affiliate has its principal place of business as
18 determined using the factors listed in subparagraphs a
19 through e of this paragraph;

20 ~~15.~~ 16. "Receivership court" means the court in the insolvent
21 or impaired state of the insurer having jurisdiction over the
22 conservation, rehabilitation or liquidation of the member insurer;

23 ~~16.~~ 17. "Resident" means a person to whom a contractual
24 obligation is owed and who resides in this state on the date of

1 entry of a court order that determines a member insurer to be an
2 impaired insurer or a court order that determines a member insurer
3 to be an insolvent insurer. A person may be a resident of only one
4 state, which in the case of a person other than a natural person
5 shall be its principal place of business. Citizens of the United
6 States that are either residents of foreign countries or residents
7 of the United States possessions, territories or protectorates that
8 do not have an association similar to the Association created by the
9 Oklahoma Life and Health Insurance Guaranty Association Act, shall
10 be deemed residents of the state of domicile of the insurer that
11 issued the policy or contract;

12 ~~17.~~ 18. "State" means a state of the United States, the
13 District of Columbia, Puerto Rico, or a United States possession,
14 territory or protectorate;

15 ~~18.~~ 19. "Structured settlement annuity" means an annuity
16 purchased in order to fund periodic payments for a plaintiff or
17 other claimant in payment for or with respect to personal injury
18 suffered by a plaintiff or other claimant;

19 ~~19.~~ 20. "Supplemental contract" means a written agreement
20 entered into for the distribution of proceeds under a life, health
21 or annuity policy or contract; and

22 ~~20.~~ 21. "Unallocated annuity contract" means an annuity
23 contract or group annuity certificate which is not issued to and
24 owned by an individual, except to the extent of any annuity benefits

1 guaranteed to an individual by an insurer under the contract or
2 certificate.

3 SECTION 4. AMENDATORY 36 O.S. 2011, Section 2025, is
4 amended to read as follows:

5 Section 2025. A. For the policies and contracts specified in
6 subsection B of this section, the Oklahoma Life and Health Insurance
7 Guaranty Association Act shall provide coverage:

8 1. a. To persons, who regardless of where they reside,
9 except for nonresident certificate holders under group
10 policies or contracts, are the beneficiaries,
11 assignees or payees, including health care providers
12 rendering services covered under health insurance
13 policies or certificates, of the persons covered under
14 subparagraph b of this paragraph,

15 b. To persons who are owners of or certificate holders or
16 enrollees under the policies or contracts, other than
17 structured settlement annuities, and in each case who:

18 (1) are residents, or
19 (2) are not residents, but only under all of the

20 following conditions:

21 (a) the member insurer that issued the policies
22 or contracts are domiciled in this state,

23 (b) the states in which the persons reside have
24 associations similar to the Oklahoma Life

1 and Health Insurance Guaranty Association
2 created by this act, and the persons are not
3 eligible for coverage by an association in
4 any other state due to the fact that the
5 insurer or health maintenance organization
6 was not licensed in the state at the time
7 specified in the guaranty association law of
8 the state;

9 2. Subparagraphs a and b of paragraph 1 of this subsection
10 shall not apply to structured settlement annuities specified in
11 subsection B of this section and in the Oklahoma Life and Health
12 Insurance Guaranty Association Act shall, except as provided in
13 paragraphs 3 and 4 of this subsection, provide coverage to a person
14 who is a payee under a structured settlement annuity or a
15 beneficiary of a payee if the payee is deceased, if the payee:

16 a. is a resident, regardless of where the contract owner
17 resides, or

18 b. is not a resident, but only under both of the
19 following conditions:

20 (1) (a) the contract owner of the structured
21 settlement annuity is a resident, or

22 (b) the contract owner of the structured
23 settlement annuity is not a resident but:
24

- i. the insurer that issued the structured settlement annuity is domiciled in this state, and
- ii. the state in which the contract owner resides has an association similar to the association created by the Oklahoma Life and Health Insurance Guaranty Association Act, and

(2) neither the payee nor beneficiary nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides;

3. The Oklahoma Life and Health Insurance Guaranty Association Act shall not provide coverage to a person who is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded coverage by the association of another state; and

4. The Oklahoma Life and Health Insurance Guaranty Association Act is intended to provide coverage to a person who is a resident of this state and in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage under the Oklahoma Life and Health Insurance Guaranty Association Act is provided coverage under the laws of any other state, the person shall not be provided coverage under the Oklahoma

1 Life and Health Insurance Guaranty Association Act. In determining
2 the application of the provisions of this paragraph to situations
3 where a person could be covered by the association of more than one
4 state, whether as an owner, payee, enrollee, beneficiary or
5 assignee, the Oklahoma Life and Health Insurance Association Act
6 shall be construed in conjunction with the laws of other states to
7 result in coverage by only one association.

8 B. 1. The Oklahoma Life and Health Insurance Guaranty
9 Association Act shall provide coverage to the persons specified in
10 subsection A of this section for policies or contracts of direct,
11 non-group life insurance, health, annuity insurance, which for the
12 purposes of this act includes health maintenance organization
13 subscriber contracts and certificates, or annuities and supplemental
14 policies or contracts to any of these, and for certificates under
15 direct group policies and contracts, except as limited by the
16 Oklahoma Life and Health Insurance Guaranty Association Act.
17 Annuity contracts and certificates under group annuity contracts
18 include allocated funding agreements, structured settlement
19 annuities and any immediate or deferred annuity contracts.

20 2. ~~This act~~ Except as provided in paragraph 3 of this
21 subsection, the Oklahoma Life and Health Insurance Guaranty
22 Association Act shall not provide coverage for:
23
24

- 1 a. a portion of a policy or contract not guaranteed by
2 the insurer, or under which the risk is borne by the
3 policy or contract owner,
- 4 b. a policy or contract of reinsurance, unless assumption
5 certificates have been issued pursuant to the
6 reinsurance policy or contract,
- 7 c. a portion of a policy or contract to the extent that
8 the rate of interest on which it is based, or the
9 interest rate, crediting rate or similar factor
10 determined by use of an index or other external
11 reference stated in the policy or contract employed in
12 calculating returns or changes in value:
- 13 (1) averaged over the period of four (4) years prior
14 to the date on which the Association becomes
15 obligated with respect to the policy or contract,
16 exceeds a rate of interest determined by
17 subtracting two (2) percentage points from
18 Moody's Corporate Bond Yield Average averaged for
19 that same four-year period or for such lesser
20 period if the policy or contract was issued less
21 than four (4) years before the Association became
22 obligated, and
- 23 (2) on and after the date on which the Association
24 becomes obligated with respect to the policy or

1 contract, exceeds the rate of interest determined
2 by subtracting three (3) percentage points from
3 Moody's Corporate Bond Yield Average as most
4 recently available,

5 d. a portion of a policy or contract issued to a plan or
6 program of an employer, association or other person to
7 provide life, health or annuity benefits to its
8 employees, members or others, to the extent that the
9 plan or program is self-funded or uninsured, including
10 but not limited to benefits payable by an employer,
11 association or other person under:

- 12 (1) a Multiple Employer Welfare Arrangement as
13 defined in 29 U.S.C. Section 1144,
- 14 (2) a minimum premium group insurance plan,
- 15 (3) a stop-loss group insurance plan, or
- 16 (4) an administrative services only contract~~†~~

17 e. a portion of a policy or contract to the extent that
18 it provides for:

- 19 (1) dividends or experience rating credits,
- 20 (2) voting rights, or
- 21 (3) payment of any fees or allowances to any person,
22 including the policy or contract owner, in
23 connection with the service to or administration
24 of the policy or contract,

1 f. a policy or contract issued in this state by a member
2 insurer at a time when it was not licensed or did not
3 have a certificate of authority to issue the policy or
4 contract in this state,

5 g. a portion of a policy or contract to the extent that
6 the assessments required by Section 2030 of this title
7 with respect to the policy or contract are preempted
8 by federal or state law,

9 h. an obligation that does not arise under the express
10 written terms of the policy or contract issued by the
11 member insurer to the enrollee, certificate holder or
12 contract or policy owner, including without
13 limitation:

14 (1) claims based on marketing materials,

15 (2) claims based on side letters, riders or other
16 documents that were issued by the member insurer
17 without meeting applicable policy or contract
18 form filing or approval requirements,

19 (3) misrepresentations of or regarding policy or
20 contract benefits,

21 (4) extra-contractual claims, or

22 (5) a claim for penalties or consequential or
23 incidental damages,
24

- 1 i. a contractual agreement that establishes the
2 obligations of the member insurer to provide a book
3 value accounting guaranty for defined contribution
4 benefit plan participants by reference to a portfolio
5 of assets that is owned by the benefit plan or its
6 trustee, which in each case is not an affiliate of the
7 member insurer,
- 8 j. an unallocated annuity contract,
- 9 k. a portion of a policy or contract to the extent it
10 provides for interest or other changes in value to be
11 determined by the use of an index or other external
12 reference stated in the policy or contract, but which
13 have not been credited to the policy or contract, or
14 as to which the policy or contract owner's rights are
15 subject to forfeiture, as of the date the member
16 insurer becomes an impaired or insolvent insurer under
17 the Oklahoma Life and Health Insurance Guaranty
18 Association Act, whichever is earlier. If a policy's
19 or contract's interest or changes in value are
20 credited less frequently than annually, then for
21 purposes of determining the values that have been
22 credited and are not subject to forfeiture under this
23 subparagraph, the interest or change in value
24 determined by using the procedures defined in the

1 policy or contract will be credited as if the
2 contractual date of crediting interest or changing
3 values was the date of impairment or insolvency,
4 whichever is earlier, and will not be subject to
5 forfeiture, or

- 6 1. a policy or contract providing any hospital, medical,
7 prescription drug or other health care benefits
8 pursuant to Part C or Part D of Subchapter XVIII,
9 Chapter 7 of Title 42 of the United States Code,
10 commonly known as Medicare Part C or Part D, or
11 Subchapter XIX, Chapter 7 of Title 42 of the United
12 States Code or any regulations issued pursuant
13 thereto.

14 3. The exclusion from coverage in this section shall not apply
15 to any portion of a policy or contract, including a rider that
16 provides long-term care or any other health insurance benefits.

17 C. The benefits that the Association may become obligated to
18 cover shall in no event exceed the lesser of:

19 1. The contractual obligations for which the member insurer is
20 liable or would have been liable if it were not an impaired or
21 insolvent insurer; or

- 22 2. a. with respect to any one life, regardless of the number
23 of policies or contracts:
24

1 (1) Three Hundred Thousand Dollars (\$300,000.00) in
2 life insurance death benefits, but not more than
3 One Hundred Thousand Dollars (\$100,000.00) in net
4 cash surrender and net cash withdrawal values for
5 life insurance,

6 (2) ~~in~~ for health insurance benefits:

7 (a) One Hundred Thousand Dollars (\$100,000.00)
8 for coverages not defined as disability
9 income insurance or ~~basic hospital, medical~~
10 ~~and surgical insurance or major medical~~
11 ~~insurance~~ health benefit plans or long-term
12 care insurance as defined in Section 4424 of
13 this title, including any net cash surrender
14 and net cash withdrawal values,

15 (b) Three Hundred Thousand Dollars (\$300,000.00)
16 for insurance providing income payments to
17 an insured wage earner when income is
18 interrupted or terminated because of
19 illness, sickness or accident, commonly
20 known as disability income insurance and
21 Three Hundred Thousand Dollars (\$300,000.00)
22 for long-term care insurance as defined in
23 Section 4424 of this title, and
24

1 (c) Five Hundred Thousand Dollars (\$500,000.00)
2 for ~~basic hospital, medical and surgical~~
3 ~~insurance or insurance providing coverage in~~
4 ~~excess of that provided by a basic hospital,~~
5 ~~medical and surgical insurance, commonly~~
6 ~~known as major medical insurance health~~
7 ~~benefit plans, or~~

8 (3) Three Hundred Thousand Dollars (\$300,000.00) in
9 the present value of annuity benefits, including
10 net cash surrender and net cash withdrawal
11 values, or

12 b. with respect to each payee of a structured settlement
13 annuity or beneficiary or beneficiaries of the payee
14 if the payee is deceased, Three Hundred Thousand
15 Dollars (\$300,000.00) in present value annuity
16 benefits, in the aggregate, including net cash
17 surrender and net cash withdrawal values,

18 c. however, in no event shall the Association be
19 obligated to cover more than:

20 (1) an aggregate of Three Hundred Thousand Dollars
21 (\$300,000.00) in benefits with respect to any one
22 life under this subparagraph and subparagraphs a
23 and b of this paragraph except with respect to
24 ~~benefits for basic hospital, medical and surgical~~

1 ~~insurance and major medical insurance~~ health
2 benefit plans under division (2) of subparagraph
3 a of this paragraph, in which case the aggregate
4 liability of the Association shall not exceed
5 Five Hundred Thousand Dollars (\$500,000.00) with
6 respect to any one individual, or

7 (2) with respect to one owner of multiple non-group
8 policies of life insurance, whether the policy
9 or contract owner is an individual, firm,
10 corporation or other person, and whether the
11 persons insured are officers, managers,
12 employees or other persons, more than Five
13 Million Dollars (\$5,000,000.00) in benefits,
14 regardless of the number of policies and
15 contracts held by the owner,

16 d. the limitations set forth in this subsection are
17 limitations on benefits for which the Association is
18 obligated before taking into account either its
19 subrogation and assignment rights or the extent to
20 which those benefits could be provided out of the
21 assets of the impaired or insolvent insurer
22 attributable to covered policies. The costs of the
23 obligations of the Association under the Oklahoma Life
24 and Health Insurance Guaranty Association Act may be

1 met by the use of assets attributable to covered
2 policies or reimbursed to the Association pursuant to
3 its subrogation and assignment rights.

4 e. For purposes of the Oklahoma Life and Health Insurance
5 Guaranty Association Act, benefits provided by a long-
6 term care rider to a life insurance policy or annuity
7 contract shall be considered the same type of benefits
8 as the base life insurance policy or annuity contract
9 to which it relates.

10 D. In performing its obligations to provide coverage under
11 Section 2028 of this title, the Association shall not be required to
12 guarantee, assume, reinsure, reissue or perform, or cause to be
13 guaranteed, assumed, reinsured, reissued or performed, the
14 contractual obligations of the insolvent or impaired insurer under a
15 covered policy or contract that do not materially affect the
16 economic values or economic benefits of the covered policy or
17 contract.

18 SECTION 5. AMENDATORY 36 O.S. 2011, Section 2026, is
19 amended to read as follows:

20 Section 2026. A. The Board of Directors of the Oklahoma Life
21 and Health Insurance Guaranty Association shall consist of not less
22 than ~~five (5)~~ seven (7) nor more than ~~nine (9)~~ eleven (11) member
23 insurers serving terms as established in the procedural rules of the
24 Association. A majority of the Board shall be selected from the

1 fifty (50) member insurers which write the largest volume of life
2 and accident and health premiums and annuity considerations for the
3 previous year. The members of the Board shall be selected by member
4 insurers subject to the approval of the Insurance Commissioner.
5 Vacancies on the Board shall be filled for the remaining period of
6 the term by a majority vote of the remaining Board members, subject
7 to the approval of the Commissioner.

8 B. In calculating total premium for Board qualification
9 purposes, premiums collected by different members of the same multi-
10 insurer group may be attributable to each member of the group;
11 provided, no two members of the same group shall serve on the Board
12 at the same time.

13 C. In approving selections, the Commissioner shall consider,
14 among other things, whether all member insurers are fairly
15 represented.

16 D. Members of the Board may be reimbursed according to the
17 provisions of the State Travel Reimbursement Act for expenses
18 incurred by them as members of the Board, but members of the Board
19 shall not otherwise be compensated by the Association for their
20 services.

21 SECTION 6. AMENDATORY 36 O.S. 2011, Section 2027, is
22 amended to read as follows:

23 Section 2027. A. 1. The Oklahoma Life and Health Insurance
24 Guaranty Association shall submit to the Insurance Commissioner

1 procedural rules and any amendments thereto necessary or suitable to
2 assure the fair, reasonable and equitable administration of the
3 Association. The procedural rules and any amendments thereto shall
4 become effective upon approval in writing by the Commissioner.

5 2. If the Association fails to submit suitable procedural rules
6 within one hundred eighty (180) days following the effective date of
7 this act or if at any time thereafter the Association fails to
8 submit suitable amendments to the rules, the Commissioner shall,
9 after notice and hearing, adopt and promulgate such reasonable rules
10 as are necessary to effectuate the provisions of ~~this act~~ the
11 Oklahoma Life and Health Insurance Guaranty Association Act. Such
12 rules shall continue in force until modified by the Commissioner or
13 superseded by rules submitted by the Association and approved by the
14 Commissioner. All member insurers shall comply with the procedural
15 rules.

16 B. The procedural rules shall, in addition to requirements
17 enumerated elsewhere in ~~this act~~ the Oklahoma Life and Health
18 Insurance Guaranty Association Act:

19 1. Establish procedures for handling the assets of the
20 Association;

21 2. Establish regular places and times for meeting of the Board
22 of Directors;

1 3. Establish procedures for records to be kept of all financial
2 transactions of the Association, its agents, and the Board of
3 Directors;

4 4. Establish the procedures whereby selections for the Board of
5 Directors will be made and submitted to the Commissioner;

6 5. Establish any additional procedures for assessments under
7 ~~Section 10 of this act~~ 2030 of this title; and

8 6. Contain additional provisions necessary or proper for the
9 execution of the powers and duties of the Association.

10 C. The procedural rules may provide that any or all powers and
11 duties of the Association, except those under ~~paragraph 3 of Section~~
12 ~~9 and those under~~ Section 10 of this act 2030 of this title, are
13 delegated to a corporation, association or other organization which
14 performs or will perform functions similar to those of this
15 Association, or its equivalent, in two or more states if there is a
16 reciprocal agreement with such states to provide similar services.
17 Such a corporation, association or organization shall be reimbursed
18 for any payments made on behalf of the Association and shall be paid
19 for the performance of any function of the Association. A
20 delegation of powers or duties under this subsection shall take
21 effect only with the approval of both the Board and the
22 Commissioner, and may be made only to a corporation, association or
23 organization which extends protection not substantially less
24 favorable and effective than that provided by this act.

1 SECTION 7. AMENDATORY 36 O.S. 2011, Section 2028, is
2 amended to read as follows:

3 Section 2028. A. If a member insurer is an impaired insurer,
4 the Oklahoma Life and Health Insurance Guaranty Association may, in
5 its discretion, and subject to any conditions imposed by the
6 Association that do not impair the contractual obligations of the
7 impaired insurer and that are approved by the Insurance
8 Commissioner:

9 1. Guarantee, assume, reissue or reinsure, or cause to be
10 guaranteed, assumed, reissued or reinsured, any or all of the
11 policies or contracts of the impaired insurer; or

12 2. Provide monies, pledges, notes, guarantees or other means as
13 are proper to effectuate paragraph 1 of this subsection, and assure
14 payment of the contractual obligations of the impaired insurer
15 pending action under paragraph 1 of this subsection

16 B. If a member insurer is an insolvent insurer, the Association
17 shall, in its discretion, either:

18 1. a. (1) guarantee, assume, reissue or reinsure, or cause
19 to be guaranteed, assumed, reissued or reinsured,
20 the policies or contracts of the insolvent
21 insurer, or

22 (2) assure payment of the contractual obligations of
23 the insolvent insurer, and
24

1 b. provide monies, pledges, loans, notes, guarantees or
2 other means as are reasonably necessary to discharge
3 the duties of the Association; or

4 2. Provide benefits and coverages in accordance with the
5 following provisions:

6 a. with respect to ~~life and health insurance policies and~~
7 annuities policies and contracts, assure payment of
8 benefits ~~for premiums identical to the premiums and~~
9 ~~benefits, except for terms of conversion and~~
10 ~~renewability~~, that would have been payable under the
11 policies or contracts of the insolvent insurer for
12 claims incurred:

13 (1) with respect to group policies and contracts, not
14 later than the earlier of the next renewal date
15 under those policies or contracts or forty-five
16 (45) days, but in no event less than thirty (30)
17 days, after the date on which the Association
18 becomes obligated with respect to the policies
19 and contracts, or

20 (2) with respect to non-group policies, contracts,
21 and annuities not later than the earlier of the
22 next renewal date, if any, under the policies or
23 contracts for one (1) year, but in no event less
24 than thirty (30) days, from the date on which the

1 Association becomes obligated with respect to the
2 policies or contracts,

3 b. make diligent efforts to provide all known insureds,
4 enrollees or annuitants for non-group policies and
5 contracts, or group policy or contract owners with
6 respect to group policies and contracts, thirty (30)
7 days' notice of the termination of the benefits
8 provided pursuant to subparagraph a of this paragraph,

9 c. with respect to non-group ~~life and health insurance~~
10 ~~policies and annuities~~ policies and contracts covered
11 by the Association, make available to each known
12 insured, enrollee or annuitant, or owner if other than
13 the insured, enrollee or annuitant, and with respect
14 to an individual formerly an insured, enrollee or
15 ~~formerly an~~ annuitant under a group policy or contract
16 who is not eligible for replacement group coverage,
17 make available substitute coverage on an individual
18 basis in accordance with the provisions of
19 subparagraph d of this paragraph, if the insureds,
20 enrollees or annuitants had a right under law or the
21 terminated policy, contract or annuity to convert
22 coverage to individual coverage or to continue an
23 individual policy, contract or annuity in force until
24 a specified age or for a specified time, during which

1 the insurer or health maintenance organization had no
2 right unilaterally to make changes in any provision of
3 the policy, contract or annuity or had a right only to
4 make changes in premium by class,

5 d. (1) in providing the substitute coverage required
6 under subparagraph c of this paragraph, the
7 Association may offer either to reissue the
8 terminated coverage or to issue an alternative
9 policy or contract at actuarially justified
10 rates, subject to the prior approval of the
11 Insurance Commissioner,

12 (2) alternative or reissued policies or contracts
13 shall be offered without requiring evidence of
14 insurability, and shall not provide for any
15 waiting period or exclusion that would not have
16 applied under the terminated policy or contract,
17 and

18 (3) the Association may reinsure any alternative or
19 reissued policy or contract,

20 e. (1) alternative policies or contracts adopted by the
21 Association shall be subject to the approval of
22 the ~~domiciliary insurance commissioner and the~~
23 ~~receivership court~~ Insurance Commissioner. The
24 Association may adopt alternative policies or

1 contracts of various types for future issuance
2 without regard to any particular impairment or
3 insolvency,

4 (2) alternative policies or contracts shall contain
5 at least the minimum statutory provisions
6 required in this state and provide benefits that
7 shall not be unreasonable in relation to the
8 premium charged. The Association shall set the
9 premium in accordance with a table of rates that
10 it shall adopt. The premium shall reflect the
11 amount of insurance to be provided and the age
12 and class of risk of each insured, but shall not
13 reflect any changes in the health of the insured
14 after the original policy or contract was last
15 underwritten,

16 (3) any alternative policy or contract issued by the
17 Association shall provide coverage of a type
18 similar to that of the policy or contract issued
19 by the impaired or insolvent insurer, as
20 determined by the Association,

21 f. if the Association elects to reissue terminated
22 coverage at a premium rate different from that charged
23 under the terminated policy or contract, the premium
24 shall be actuarially justified and set by the

1 Association in accordance with the amount of insurance
2 or coverage provided and the age and class of risk,
3 subject to prior approval of the ~~domiciliary insurance~~
4 ~~commissioner and the receivership court~~ Insurance
5 Commissioner,

6 g. the obligations of the Association with respect to
7 coverage under any policy or contract of the impaired
8 or insolvent insurer or under any reissued or
9 alternative policy or contract shall cease on the date
10 the coverage or policy or contract is replaced by
11 another similar policy or contract by the policy or
12 contract owner, the insured, enrollee or the
13 Association,

14 h. when proceeding under paragraph 2 of subsection B of
15 this section with respect to a policy or contract
16 carrying guaranteed minimum interest rates, the
17 Association shall assure the payment or crediting of a
18 rate of interest consistent with subparagraph c of
19 paragraph 2 of subsection B of Section 2025 of this
20 title.

21 C. Nonpayment of premiums within thirty-one (31) days after the
22 date required under the terms of any guaranteed, assumed,
23 alternative or reissued policy or contract or substitute coverage
24 shall terminate the Association's obligations under the policy,

1 contract or coverage under the Oklahoma Life and Health Insurance
2 Guaranty Association Act with respect to the policy, contract or
3 coverage, except with respect to any claims incurred or any net cash
4 surrender value which may be due in accordance with the provisions
5 of ~~this act~~ the Oklahoma Life and Health Insurance Guaranty
6 Association Act.

7 D. Premiums due for coverage after entry of an order of
8 liquidation of an insolvent insurer shall belong to and be payable
9 at the direction of the Association. If the liquidator of an
10 insolvent insurer requests, the Association shall provide a report
11 to the liquidator regarding the premium collected by the
12 Association. The Association shall be liable for unearned premiums
13 due to policy or contract owners arising after the entry of the
14 order.

15 E. The protection provided by the Oklahoma Life and Health
16 Insurance Guaranty Association Act shall not apply where any
17 guaranty protection is provided to residents of this state by the
18 laws of the domiciliary state or jurisdiction of the impaired or
19 insolvent insurer other than this state.

20 F. In carrying out its duties under subsection B of this
21 section the Association may, subject to approval by a court in this
22 state:

23 1. Impose permanent policy or contract liens in connection with
24 a guarantee, assumption or reinsurance agreement, if the Association

1 finds that the amounts which can be assessed under this act are less
2 than the amounts needed to assure full and prompt performance of the
3 duties of the Association under the Oklahoma Life and Health
4 Guaranty Insurance Association Act, or that the economic or
5 financial conditions as they affect member insurers are sufficiently
6 adverse to render the imposition of permanent policy or contract
7 liens, to be in the public interest; and

8 2. Impose temporary moratoriums or liens on payments of cash
9 values and policy loans, or any other right to withdraw funds held
10 in conjunction with policies or contracts, in addition to any
11 contractual provisions for deferral of cash or policy loan value.
12 In addition, in the event of a temporary moratorium or moratorium
13 charge imposed by the receivership court on payment of cash values
14 or policy loans, or on any other right to withdraw funds held in
15 conjunction with policies or contracts, out of the assets of the
16 impaired or insolvent insurer, the Association may defer the payment
17 of cash values, policy loans or other rights by the Association for
18 the period of the moratorium or moratorium charge imposed by the
19 receivership court, except for claims covered by the Association to
20 be paid in accordance with a hardship procedure established by the
21 liquidator or rehabilitator and approved by the receivership court.

22 G. A deposit in this state, held pursuant to law or required by
23 the Commissioner for the benefit of creditors, including but not
24 limited to policy or contract owners, not turned over to the

1 domiciliary liquidator upon the entry of a final order of
2 liquidation or order approving a rehabilitation plan of ~~an~~ a member
3 insurer domiciled in this state or in a reciprocal state, shall be
4 promptly paid by the Association. The Association shall be entitled
5 to retain a portion of any amount so paid to it equal to the
6 percentage determined by dividing the aggregate amount of policy or
7 contract owners claims related to that insolvency for which the
8 Association has provided statutory benefits by the aggregate amount
9 of all claims by the policy or contract owners in this state related
10 to that insolvency and shall remit to the domiciliary receiver the
11 amount so paid to the Association less the amount retained pursuant
12 to this subsection. Any amount so paid to the Association and
13 retained by it shall be treated as a distribution of estate assets
14 pursuant to applicable state receivership laws dealing with early
15 access disbursements.

16 H. If the Association fails to act within a reasonable period
17 of time with respect to an insolvent insurer, as provided in
18 subsection B of this section, the Commissioner shall have the powers
19 and duties of the Association under the Oklahoma Life and Health
20 Insurance Guaranty Association Act with respect to the insolvent
21 insurer~~†~~.

22 I. The Association may render assistance and advice to the
23 Commissioner, upon the request of the Commissioner, concerning
24 rehabilitation, payment of claims, continuance of coverage, or the

1 performance of other contractual obligations of an impaired or
2 insolvent insurer~~+~~.

3 J. The Association shall have standing to appear or intervene
4 before a court or agency in this state which has jurisdiction over
5 an impaired or insolvent insurer concerning which the Association is
6 or may become obligated under the Oklahoma Life and Health Guaranty
7 Insurance Association Act or with jurisdiction over any person or
8 property against which the Association may have rights through
9 subrogation or otherwise. Standing shall extend to all matters
10 germane to the powers and duties of the Association including, but
11 not limited to, proposals for reinsuring, reissuing, modifying or
12 guaranteeing the policies or contracts of the impaired or insolvent
13 insurer and the determination of the policies or contracts and
14 contractual obligations. The Association shall also have the right
15 to appear or intervene before a court or agency in another state
16 with jurisdiction over an impaired or insolvent insurer for which
17 the Association is or may become obligated or with jurisdiction over
18 any person or property against whom the Association may have rights
19 through subrogation or otherwise.

20 K. 1. Any person receiving benefits under the Oklahoma Life
21 and Insurance Health Insurance Association Act shall be deemed to
22 have assigned the rights under, and any causes of action against any
23 person for losses arising under, resulting from or otherwise
24 relating to, the covered policy or contract to the Association to

1 the extent of the benefits received because of this act, whether the
2 benefits are payments of or on account of contractual obligations,
3 continuation of coverage or provision of substitute or alternative
4 policies, contracts or coverages. The Association may require an
5 assignment to it of the rights and cause of action by any enrollee,
6 payee, policy or contract owner, beneficiary, insured or annuitant
7 as a condition precedent to the receipt of any rights or benefits
8 conferred by this act upon the person.

9 2. The subrogation rights of the Association under this
10 subsection shall have the same priority against the assets of the
11 impaired or insolvent insurer as that possessed by the person
12 entitled to receive benefits under the Oklahoma Life and Health
13 Insurance Guaranty Association Act.

14 3. In addition to paragraphs 1 and 2 of this subsection, the
15 Association shall have all common law rights of subrogation and any
16 other equitable or legal remedy that would have been available to
17 the impaired or insolvent insurer or owner, beneficiary, enrollee,
18 or payee of a policy or contract with respect to the policy or
19 contracts, including without limitation, in the case of a structured
20 settlement annuity, any rights of the owner, beneficiary or payee of
21 the annuity, to the extent of benefits received pursuant to the
22 Oklahoma Life and Health Insurance Guaranty Association Act, against
23 a person originally or by succession responsible for the losses
24 arising from the personal injury relating to the annuity or payment

1 therefore, excepting any person responsible solely by reason of
2 serving as an assignee in respect of a qualified assignment under
3 Internal Revenue Code Section 130.

4 4. If paragraphs 1 through 3 of this subsection are invalid or
5 ineffective with respect to any person or claim for any reason, the
6 amount payable by the Association with respect to the related
7 covered obligations shall be reduced by the amount realized by any
8 other person with respect to the person or claim that is
9 attributable to the policies or contracts, or portion thereof,
10 covered by the Association.

11 5. If the Association has provided benefits with respect to a
12 covered obligation and a person recovers amounts as to which the
13 Association has rights as described in paragraphs 1 through 4 of
14 this subsection, the person shall pay to the Association the portion
15 of the recovery attributable to the policies or contracts, or
16 portion thereof, covered by the Association.

17 L. In addition to the rights and powers specified in the
18 Oklahoma Life and Health Insurance Guaranty Association Act, the
19 Association may:

20 1. Enter into contracts as are necessary or proper to carry out
21 the provisions and purposes of the Oklahoma Life and Health
22 Insurance Guaranty Association Act;

23 2. Sue or be sued, including, but not limited to, taking any
24 legal actions necessary or proper to recover any unpaid assessments

1 under Section 2030 of this title and to settle claims or potential
2 claims against it;

3 3. Borrow money to effect the purposes of the Oklahoma Life and
4 Health Insurance Guaranty Association Act. Any notes or other
5 evidence of indebtedness of the Association not in default shall be
6 legal investments for domestic member insurers and may be carried as
7 admitted assets;

8 4. Employ or retain persons as are necessary or appropriate to
9 handle the financial transactions of the Association, and to perform
10 other functions as become necessary or proper under the Oklahoma
11 Life and Health Insurance Guaranty Association Act;

12 5. Take any legal action as may be necessary or appropriate to
13 avoid or recover payment of improper claims;

14 6. Exercise, for the purposes of the Oklahoma Life and Health
15 Insurance Guaranty Association Act and to the extent approved by the
16 Commissioner, the powers of a domestic life ~~or~~ insurer, health
17 insurer or health maintenance organization, but in no case may the
18 Association issue ~~insurance~~ policies or ~~annuity~~ contracts other than
19 those issued to perform its obligations under the Oklahoma Life and
20 Health Insurance Guaranty Association Act;

21 7. Organize itself as a corporation or in other legal form
22 permitted by the laws of the state;

23 8. Request information from a person seeking coverage from the
24 Association in order to aid the Association in determining its

1 obligations under the Oklahoma Life and Health Insurance Guaranty
2 Association Act with respect to the person, and the person shall
3 promptly comply with the request; ~~and~~

4 9. Unless prohibited by law, in accordance with the terms and
5 conditions of the policy or contract, file for actuarially justified
6 rate or premium increases for any policy or contract for which it
7 provides coverage under the Oklahoma Life and Health Insurance
8 Guaranty Association Act; and

9 10. Take other necessary or appropriate action to discharge its
10 duties and obligations under the Oklahoma Life and Health Insurance
11 Guaranty Association Act or to exercise its powers under the
12 Oklahoma Life and Health Insurance Guaranty Association Act.

13 M. The Association may join an organization of one or more
14 other state associations of similar purposes, to further the
15 purposes and administer the powers and duties of the Association.

16 N. 1. a. At any time within one hundred eighty (180) days of
17 the date of the order of liquidation, the Association
18 may elect to succeed to the rights and obligations of
19 the ceding member insurer that relate to policies,
20 contracts or annuities covered, in whole or in part,
21 by the Association, in each case under any one or more
22 reinsurance contracts entered into by the insolvent
23 insurer and its reinsurers and selected by the
24 Association. Any assumption shall be effective as of

1 the date of the order of liquidation. The election
2 shall be effected by the Association or the National
3 Organization of Life and Health Insurance Guaranty
4 Associations (NOLHGA) on its behalf sending written
5 notice, return receipt requested, to the affected
6 reinsurers.

7 b. To facilitate the earliest practicable decision about
8 whether to assume any of the contracts of reinsurance,
9 and in order to protect the financial position of the
10 estate, the receiver and each reinsurer of the ceding
11 member insurer shall make available upon request to
12 the Association or to NOLHGA on its behalf as soon as
13 possible after commencement of formal delinquency
14 proceedings, copies of in-force contracts of
15 reinsurance and all related files and records relevant
16 to the determination of whether the contracts should
17 be assumed, and notices of any defaults under the
18 reinsurance contracts or any known event or condition
19 which with the passage of time could become a default
20 under the reinsurance contracts.

21 c. The requirements provided in this subparagraph shall
22 apply to reinsurance contracts assumed by the
23 Association:
24

- 1 (1) the Association shall be responsible for all
2 unpaid premiums due under the reinsurance
3 contracts for periods both before and after the
4 date of the order of liquidation, and shall be
5 responsible for the performance of all other
6 obligations to be performed after the date of the
7 order of liquidation, in each case which relate
8 to policies, contracts or annuities covered, in
9 whole or in part, by the Association. The
10 Association may charge policies, contracts or
11 annuities covered in part by the Association,
12 through reasonable allocation methods, the costs
13 for reinsurance in excess of the obligations of
14 the Association and shall provide notice and an
15 accounting of these charges to the liquidator,
- 16 (2) the Association shall be entitled to any amounts
17 payable by the reinsurer under the reinsurance
18 contracts with respect to losses or events that
19 occur in periods after the date of the order of
20 liquidation and that relate to policies, contracts
21 contracts or annuities covered, in whole or in
22 part, by the Association, provided that, upon
23 receipt of any of these amounts, the Association
24 shall be obliged to pay to the beneficiary under

1 the policy, contract or annuity on account of
2 which the amounts were paid a portion of the
3 amount equal to the lesser of:

4 (a) the amount received by the Association, or

5 (b) the excess of the amount received by the
6 Association over the amount equal to the
7 benefits paid by the Association on account
8 of the policy, contract or annuity less the
9 retention of the insurer applicable to the
10 loss or event,

11 (3) within thirty (30) days following the election
12 date of the Association, the Association and each
13 reinsurer under contracts assumed by the
14 Association shall calculate the net balance due
15 to or from the Association under each reinsurance
16 contract as of the election date with respect to
17 policies, contracts or annuities covered, in
18 whole or in part, by the Association, which
19 calculation shall give full credit to all items
20 paid by either the member insurer or its receiver
21 or the reinsurer prior to the election date. The
22 reinsurer shall pay the receiver any amounts due
23 for losses or events prior to the date of the
24 order of liquidation, subject to any set-off for

1 premiums unpaid for periods prior to the date,
2 and the Association or reinsurer shall pay any
3 remaining balance due the other, in each case
4 within five (5) days of the completion of the
5 aforementioned calculation. Any disputes over
6 the amounts due to either the Association or the
7 reinsurer shall be resolved by arbitration
8 pursuant to the terms of the affected reinsurance
9 contracts or, if the contract contains no
10 arbitration clause, as otherwise provided by law.
11 If the receiver has received any amounts due the
12 Association pursuant to division (2) of this
13 subparagraph, the receiver shall remit the same
14 to the Association as promptly as practicable,
15 and

16 (4) if the Association or receiver, on the behalf of
17 the Association, within sixty (60) days of the
18 election date, pays the unpaid premiums due for
19 periods both before and after the election date
20 that relate to policies, contracts or annuities
21 covered, in whole or in part, by the Association,
22 the reinsurer shall not be entitled to terminate
23 the reinsurance contracts for failure to pay the
24 premium insofar as the reinsurance contracts

1 relate to policies, contracts or annuities
2 covered, in whole or in part, by the Association,
3 and shall not be entitled to set off any unpaid
4 amounts due under other contracts, or unpaid
5 amounts due from parties other than the
6 Association, against amounts due the Association.

7 2. During the period from the date of the order of liquidation
8 until the election date, or if the election date does not occur,
9 until one hundred eighty (180) days after the date of the order of
10 liquidation:

- 11 a. (1) neither the Association nor the reinsurer shall
12 have any rights or obligations under reinsurance
13 contracts that the Association has the right to
14 assume under paragraph 1 of this subsection,
15 whether for periods prior to or after the date of
16 the order of liquidation, and
17 (2) the reinsurer, the receiver and the Association
18 shall, to the extent practicable, provide each
19 other data and records reasonably requested.
- 20 b. Provided that once the Association has elected to
21 assume a reinsurance contract, the rights and
22 obligations of the parties shall be governed by
23 paragraph 1 of this subsection.
24

1 3. If the Association does not elect to assume a reinsurance
2 contract by the election date pursuant to paragraph 1 of this
3 subsection, the Association shall have no rights or obligations, in
4 each case for periods both before and after the date of the order of
5 liquidation, with respect to the reinsurance contract.

6 4. When policies, contracts or annuities, or covered
7 obligations with respect thereto, are transferred to an assuming
8 insurer, reinsurance on the policies, contracts or annuities may
9 also be transferred by the Association, in the case of contracts
10 assumed under paragraph 1 of this subsection, subject to the
11 following:

- 12 a. unless the reinsurer and the assuming insurer agree
13 otherwise, the reinsurance contract transferred shall
14 not cover any new policies, contracts of insurance or
15 annuities in addition to those transferred,
- 16 b. the obligations described in paragraph 1 of this
17 subsection shall no longer apply with respect to
18 matters arising after the effective date of the
19 transfer, and
- 20 c. notice shall be given in writing, return receipt
21 requested, by the transferring party to the affected
22 reinsurer not less than thirty (30) days prior to the
23 effective date of the transfer.

24

1 5. The provisions of this subsection shall govern any affected
2 reinsurance contract that provides for or requires any payment of
3 reinsurance proceeds, on account of losses or events that occur in
4 periods after the date of the order of liquidation, to the receiver
5 of the insolvent insurer or any other person. The receiver shall
6 remain entitled to any amounts payable by the reinsurer under the
7 reinsurance contracts with respect to losses or events that occur in
8 periods prior to the date of the order of liquidation, subject to
9 applicable setoff provisions.

10 6. Except as otherwise provided in this section, nothing in
11 this subsection shall alter or modify the terms and conditions of
12 any reinsurance contract. Nothing in this section shall abrogate or
13 limit any rights of any reinsurer to claim that it is entitled to
14 rescind a reinsurance contract. Nothing in this section shall give
15 a policyholder, contract owner, enrollee, certificate holder or
16 beneficiary an independent cause of action against a reinsurer that
17 is not otherwise set forth in the reinsurance contract. Nothing in
18 this section shall limit or affect the rights of the Association as
19 a creditor of the estate against the assets of the state. Nothing
20 in this section shall apply to reinsurance agreements covering
21 property or casualty risks.

22 0. The Board of Directors of the Association shall have
23 discretion and may exercise reasonable business judgment to
24 determine the means by which the Association is to provide the

1 benefits of the Oklahoma Life and Health Insurance Guaranty
2 Association Act in an economical and efficient manner.

3 P. Where the Association has arranged or offered to provide the
4 benefits of the Oklahoma Life and Health Insurance Guaranty
5 Association Act to a covered person under a plan or arrangement that
6 fulfills the obligations of the Association under the Oklahoma Life
7 and Health Insurance Guaranty Association Act, the person shall not
8 be entitled to benefits from the Association in addition to or other
9 than those provided under the plan or arrangement.

10 Q. Venue in a suit against the Association arising under the
11 Oklahoma Life and Health Insurance Guaranty Association Act shall be
12 in Oklahoma County. The Association shall not be required to give
13 an appeal bond in an appeal that relates to a cause of action
14 arising under the Oklahoma Life and Health Insurance Guaranty
15 Association Act.

16 R. In carrying out its duties in connection with guaranteeing,
17 assuming or reinsuring policies or contracts under subsection A or B
18 of this section, the Association may, subject to approval of the
19 receivership court, issue substitute coverage for a policy or
20 contract that provides an interest rate, crediting rate or similar
21 factor determined by use of an index or other external reference
22 stated in the policy or contract employed in calculating returns or
23 changes in value by issuing an alternative policy or contract in
24 accordance with the following provisions:

1 1. In lieu of the index or other external reference provided
2 for in the original policy or contract, the alternative policy or
3 contract provides for:

- 4 a. a fixed interest rate,
- 5 b. payment of dividends with minimum guarantees, or
- 6 c. a different method for calculating interest or changes
7 in value;

8 2. There is no requirement for evidence of insurability,
9 waiting period or other exclusion that would not have applied under
10 the replaced policy or contract; and

11 3. The alternative policy or contract is substantially similar
12 to the replaced policy or contract in all other material terms.

13 SECTION 8. AMENDATORY 36 O.S. 2011, Section 2030, is
14 amended to read as follows:

15 Section 2030. A. For the purpose of providing the funds
16 necessary to carry out the powers and duties of the Oklahoma Life
17 and Health Insurance Guaranty Association, the Board of Directors of
18 the Oklahoma Life and Health Insurance Guaranty Association shall
19 assess the member insurers, separately for each account, at such
20 time and for such amounts as the Board finds necessary. Assessments
21 shall be due not less than thirty (30) days after prior written
22 notice to the member insurers and shall accrue interest at six
23 percent (6%) per annum on and after the due date.

24 B. There shall be two classes of assessments, as follows:

1 1. Class A assessments shall be made for the purpose of meeting
2 administrative and legal costs and other expenses and examinations
3 conducted under the authority of subsection D of Section 2033 of the
4 Insurance Code. Class A assessments may be made whether or not
5 related to a particular impaired or insolvent insurer;

6 2. Class B assessments shall be made to the extent necessary to
7 carry out the powers and duties of the Association under Section
8 2028 of the Insurance Code with regard to an impaired or an
9 insolvent foreign or domestic insurer.

10 C. 1. The amount of any Class A assessment shall be determined
11 by the Board and may be made on a pro rata or non-pro rata basis.
12 If pro rata, the Board may provide that it be credited against
13 future Class B assessments. A non-pro rata assessment shall be
14 credited against future insolvency ~~assessments and shall not exceed~~
15 ~~One Hundred Fifty Dollars (\$150.00) per member insurer in any one~~
16 ~~calendar year.~~

17 The amount of any Class B assessment, except for assessments
18 related to long-term care insurance, shall be allocated for
19 assessment purposes among the accounts and among the subaccounts of
20 the life insurance and annuity account, pursuant to an allocation
21 formula which may be based on the premiums or reserves of the
22 impaired or insolvent insurer or any other standard deemed by the
23 Board in its sole discretion as being fair and reasonable under the
24 circumstances.

1 The amount of the Class B assessment for long-term care
2 insurance written by the impaired or insolvent insurer shall be
3 allocated according to a methodology included in the Plan of
4 Operation and approved by the Commissioner. The methodology shall
5 provide for fifty percent (50%) of the assessment to be allocated to
6 accident and health member insurers and fifty percent (50%) to be
7 allocated to life and annuity member insurers.

8 2. Class B assessments against member insurers for each account
9 shall be in the proportion that the premiums received on business in
10 this state by each assessed member insurer on policies or contracts
11 covered by each account for the three most recent calendar years for
12 which information is available preceding the year in which the
13 member insurer became impaired or insolvent, as the case may be,
14 bears to such premiums received on business in this state for such
15 calendar years by all assessed member insurers.

16 3. Assessments for funds to meet the requirements of the
17 Association with respect to an impaired or insolvent insurer shall
18 not be made until necessary to implement the purposes of this act.
19 Classification of assessments under subsection B of this section and
20 computation of assessments under this subsection shall be made with
21 a reasonable degree of accuracy, recognizing that exact
22 determinations may not always be possible.

23 D. The Association may abate, or defer in whole or in part, the
24 assessment of a member insurer if, in the opinion of the Board,

1 payment of the assessment would endanger the ability of the member
2 insurer to fulfill its contractual obligations. In the event an
3 assessment against a member insurer is abated, or deferred in whole
4 or in part, the amount by which such assessment is abated or
5 deferred may be assessed against the other member insurers in a
6 manner consistent with the basis for assessments set forth in this
7 section.

8 E. The total of all assessments upon a member insurer for each
9 account in any one calendar year shall not exceed two percent (2%)
10 of such average premiums of the insurer received in this state
11 during the three (3) calendar years preceding the assessment on the
12 policies and contracts covered by the account and in which the
13 member insurer became an impaired or insolvent insurer. If the
14 maximum assessment together with the other assets of the Association
15 in any account does not provide in any one year in either account an
16 amount sufficient to carry out the responsibilities of the
17 Association, the necessary additional funds shall be assessed as
18 soon thereafter as permitted by ~~this act~~ the Oklahoma Life and
19 Health Insurance Guaranty Association Act. The Board may provide in
20 the plan of operation, a method of allocating funds among claims,
21 whether relating to one or more impaired or insolvent insurers, when
22 the maximum assessment will be insufficient to cover anticipated
23 claims.

24

1 F. The Board may, by an equitable method as established in the
2 plan of operation, refund to member insurers, in proportion to the
3 contributions of each insurer to that account, the amount by which
4 the assets of the account exceed the amount the Board finds is
5 necessary to carry out the obligations of the Association during the
6 coming year with regard to that account, including assets accruing
7 from assignment, subrogation, net realized gains and income from
8 investments. A reasonable amount may be retained in any account to
9 provide funds for the continuing expenses of the Association and for
10 future losses.

11 G. It shall be proper for any member insurer to consider the
12 amount reasonably necessary to meet its obligations under this act
13 in determining its premium rates and ~~policyowner~~ policy owner
14 dividends as to any kind of insurance or health maintenance
15 organization business within the scope of ~~this act~~ the Oklahoma Life
16 and Health Insurance Guaranty Association Act.

17 H. The Association shall issue to each member insurer paying an
18 assessment under ~~this act~~ the Oklahoma Life and Health Insurance
19 Guaranty Association Act, other than a Class A assessment, a
20 certificate of contribution, in a form prescribed by the
21 Commissioner, for the amount of the assessment so paid. All
22 outstanding certificates shall be of equal priority without
23 reference to amounts or dates of issue. A certificate of
24 contribution may be shown by the member insurer in its financial

1 statement as an asset in such form and for such amount, if any, and
2 period of time as the Commissioner may approve.

3 I. A member insurer may offset against its premium, franchise
4 or income tax liability to this state, an assessment described in
5 subsection H of this section to the extent of twenty percent (20%)
6 of the amount of such assessment for each of the five (5) calendar
7 years following the year in which such assessment was paid. In the
8 event a member insurer should cease doing business, all uncredited
9 assessments may be credited against its premium, franchise or income
10 tax liability for the year it ceases doing business.

11 J. Any sums acquired by refund, pursuant to subsection F of
12 this section, from the Association which have theretofore been
13 written off by contributing insurers and offset against premium,
14 franchise or income taxes as provided in subsection I of this
15 section, and are not then needed for purposes of ~~this act~~ the
16 Oklahoma Life and Health Insurance Guaranty Association Act, shall
17 be paid by the Association to the Insurance Commissioner who shall
18 dispense such funds in accordance with the statutes regarding
19 disbursement of such taxes.

20 SECTION 9. AMENDATORY 36 O.S. 2011, Section 2032, is
21 amended to read as follows:

22 Section 2032. A. To aid in the detection and prevention of
23 member insurer insolvencies, it shall be the duty of the Insurance
24 Commissioner:

1 1. To notify the commissioners of all of the other states,
2 territories of the United States and the District of Columbia within
3 thirty (30) days following the action taken or the date the action
4 occurs, when the Commissioner takes any of the following actions
5 against a member insurer:

6 a. revocation of license,

7 b. suspension of license, or

8 c. makes a formal order that the ~~company~~ member insurer

9 restrict its premium writing, obtain additional

10 contributions to surplus, withdraw from the state,

11 reinsure all or any part of its business, or increase

12 capital, surplus or any other account for the security

13 of policy owners, contract owners, certificate owners

14 or creditors;

15 2. To report to the board of directors when the Commissioner
16 has taken any of the actions set forth in paragraph 1 of this
17 subsection or has received a report from any other commissioner of
18 other states indicating that any action has been taken in another
19 state. The report to the board of directors shall contain all
20 significant details of the action taken or the report received from
21 a commissioner from another state;

22 3. To report to the board when the Commissioner has reasonable
23 cause to believe from an examination, whether completed or in
24

1 process, of any member insurer that the insurer may be an impaired
2 or insolvent insurer;

3 4. To furnish to the board of directors the National
4 Association of Insurance Commissioners (NAIC) Insurance Regulatory
5 Information System (IRIS) ratios and listings of companies not
6 included in the ratios developed by the NAIC, and the board may use
7 the information contained therein in carrying out its duties and
8 responsibilities under this section. The report and the information
9 contained therein shall be kept confidential by the board of
10 directors until a time as made public by the Commissioner or other
11 lawful authority.

12 B. The Commissioner may seek the advice and recommendations of
13 the board of directors of the Oklahoma Life and Health Insurance
14 Guaranty Association concerning any matter affecting the duties and
15 responsibilities of the Commissioner regarding the financial
16 condition of member insurers and ~~companies~~ health maintenance
17 organizations seeking admission to transact ~~insurance~~ business in
18 this state.

19 C. The board of directors may, upon majority vote, make reports
20 and recommendations to the Commissioner upon any matter germane to
21 the solvency, liquidation, rehabilitation or conservation of any
22 member insurer or germane to the solvency of any ~~company~~ member
23 insurer or health maintenance organization seeking to do ~~an~~

24

1 ~~insurance~~ business in this state. The reports and recommendations
2 shall not be considered public documents.

3 D. The board of directors may, upon majority vote, notify the
4 Commissioner of any information indicating a member insurer may be
5 an impaired or insolvent insurer.

6 E. The board of directors may, upon majority vote, make
7 recommendations to the Commissioner for the detection and prevention
8 of member insurer insolvencies.

9 SECTION 10. AMENDATORY 36 O.S. 2011, Section 2036, is
10 amended to read as follows:

11 Section 2036. A. For the purpose of carrying out its
12 obligations under the Oklahoma Life and Health Insurance Guaranty
13 Association Act, the Oklahoma Life and Health Insurance Guaranty
14 Association shall be deemed to be a creditor of the impaired or
15 insolvent insurer to the extent of assets attributable to covered
16 policies reduced by any amounts to which the Association is entitled
17 as subrogee pursuant to subsection K of Section 2028 of this title.
18 Assets of the impaired or insolvent insurer attributable to covered
19 policies shall be used to continue all covered policies and pay all
20 contractual obligations of the impaired or insolvent insurer as
21 required by the Oklahoma Life and Health Insurance Guaranty
22 Association Act. Assets attributable to covered policies or
23 contracts, as used in this subsection, are that proportion of the
24 assets that the reserves which should have been established for such

1 policies, or contracts bear to the reserves which should have been
2 established for all policies of insurance or health benefit plans
3 written by the impaired or insolvent insurer.

4 B. As a creditor of the impaired or insolvent insurer as
5 established in subsection A of this section and consistent with
6 Section 1927.1 of this title, the Association and other similar
7 associations shall be entitled to receive a disbursement of assets
8 out of the marshaled assets, from time to time as the assets become
9 available to reimburse it, as a credit against contractual
10 obligations under this act. If the liquidator has not, within one
11 hundred twenty (120) days of a final determination of insolvency of
12 ~~an~~ a member insurer by the receivership court, made an application
13 to the court for the approval of a proposal to disburse assets out
14 of marshaled assets to guaranty associations having obligations
15 because of the insolvency, then the Association shall be entitled to
16 make application to the receivership court for approval of its own
17 proposal to disburse these assets.

18 SECTION 11. AMENDATORY 36 O.S. 2011, Section 2038, is
19 amended to read as follows:

20 Section 2038. A. If an order for liquidation or rehabilitation
21 of ~~an~~ a member insurer domiciled in this state has been entered, the
22 receiver appointed under such order shall have a right to recover on
23 behalf of the member insurer, from any affiliate that controlled it,
24 the amount of distributions, other than stock dividends paid by the

1 member insurer on its capital stock, made at any time during the
2 five (5) years preceding the petition for liquidation or
3 rehabilitation subject to the limitations of subsections B through D
4 of this section.

5 B. No such dividend shall be recoverable if the member insurer
6 shows that when paid the distribution was lawful and reasonable, and
7 that the member insurer did not know and could not reasonably have
8 known that the distribution might adversely affect the ability of
9 the member insurer to fulfill its contractual obligations.

10 C. Any person who was an affiliate that controlled the member
11 insurer at the time the distributions were paid shall be liable up
12 to the amount of distributions he received. Any person who was an
13 affiliate that controlled the member insurer at the time the
14 distributions were declared, shall be liable up to the amount of
15 distributions he would have received if they have been paid
16 immediately. If two ~~(2)~~ persons are liable with respect to the same
17 distributions, they shall be jointly and severally liable.

18 D. The maximum amount recoverable under this subsection shall
19 be the amount needed in excess of all other available assets of the
20 insolvent insurer to pay the contractual obligations of the
21 insolvent insurer.

22 E. If any person liable under subsection C of this section is
23 insolvent, all its affiliates that controlled it at the time the
24 dividend was paid shall be jointly and severally liable for any

1 resulting deficiency in the amount recovered from the insolvent
2 affiliate.

3 SECTION 12. AMENDATORY 36 O.S. 2011, Section 2043, is
4 amended to read as follows:

5 Section 2043. A. No person, including ~~an~~ a member insurer,
6 agent or affiliate of ~~an~~ a member insurer, shall make, publish,
7 disseminate, circulate or place before the public, or cause directly
8 or indirectly to be made, published, disseminated, circulated or
9 placed before the public, in any newspaper, magazine or other
10 publication, or in the form of a notice, circular, pamphlet, letter
11 or poster, or over any radio station or television station, or in
12 any other way, any advertisement, announcement or statement which
13 uses the existence of the Oklahoma Life and Health Insurance
14 Guaranty Association of this state for the purpose of sales,
15 solicitation or inducement to purchase any form of insurance or
16 other coverage covered by the Oklahoma Life and Health Insurance
17 Guaranty Association Act. Provided, however, that this section
18 shall not apply to the Oklahoma Life and Health Insurance Guaranty
19 Association or any other entity which does not sell or solicit
20 insurance or coverage by a health maintenance organization.

21 B. ~~Prior to May 1, 1988, the~~ The Association shall ~~prepare~~ have
22 a summary document describing the general purposes and current
23 limitations of the Association and complying with subsection C of
24 this section. This document shall ~~be~~ have been submitted to, and

1 approved by, the Insurance Commissioner by May 1, 1988, for
2 approval. Sixty (60) days after receiving such approval, no member
3 insurer shall deliver a policy or contract described in paragraph 1
4 of subsection B of Section 2025 of this title to a policy ~~or~~ owner,
5 contract owner, certificate holder or enrollee unless the document
6 is delivered to the policy or contract holder prior to or at the
7 time of delivery of the policy or contract, except if subsection D
8 of this section applies. The document should also be available upon
9 request by a ~~policyholder~~ policy owner, contract owner, certificate
10 holder or enrollee. The distribution, delivery or contents or
11 interpretation of this document shall not mean that either the
12 policy or the contract or the holder thereof would be covered in the
13 event of impairment or insolvency of a member insurer. The
14 description document shall be revised by the Association as
15 amendments to the act may require. Failure to receive this document
16 does not give the policyholder, contract holder, certificate holder,
17 enrollee or insured any greater rights than those stated in this
18 act.

19 C. The document prepared under subsection B of this section
20 shall contain a clear and conspicuous disclaimer on its face. The
21 Commissioner shall promulgate a rule establishing the form and
22 content of the disclaimer. The disclaimer shall:

23 1. State the name and address of the life and health insurance
24 guaranty association and insurance department;

1 2. Prominently warn the policy ~~or~~ owner, contract owner,
2 certificate holder or enrollee that the Life and Health Insurance
3 Guaranty Association may not cover the policy or contract or, if
4 coverage is available, it will be subject to substantial
5 limitations, exclusions and conditioned on continued residence in
6 the state;

7 3. State that the member insurer and its agents are prohibited
8 by law from using the existence of the Life and Health Insurance
9 Guaranty Association for the purpose of sales, solicitation or
10 inducement to purchase any form of insurance or health maintenance
11 organization coverage;

12 4. Emphasize that the policy or contract holder should not rely
13 on coverage under the Life and Health Insurance Guaranty Association
14 when selecting an insurer;

15 5. Provide other information as directed by the Commissioner.

16 D. No insurer or agent may deliver a policy or contract
17 described in paragraph 1 of subsection B of Section 2025 of this
18 title, but excluded under subparagraph a of paragraph 2 of
19 subsection B of Section 2025 of this title from coverage under ~~this~~
20 ~~act~~ the Oklahoma Life and Health Insurance Guaranty Association Act,
21 unless the insurer or agent, prior to or at the time of delivery,
22 gives the policy ~~or~~ owner, contract owner, certificate holder or
23 enrollee a separate written notice which clearly and conspicuously
24 discloses that the policy or contract is not covered by the Life and

1 Health Insurance Guaranty Association. The Commissioner shall by
2 rule specify the form and content of the notice.

3 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6913, as
4 amended by Section 19, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2018,
5 Section 6913), is amended to read as follows:

6 Section 6913. A. 1. Before issuing any certificate of
7 authority, the Insurance Commissioner shall require that the health
8 maintenance organization have an initial net worth of One Million
9 Five Hundred Thousand Dollars (\$1,500,000.00) and that the HMO shall
10 thereafter maintain the minimum net worth required under paragraph 2
11 of this subsection.

12 2. Except as provided in paragraphs 3 and 4 of this subsection,
13 every health maintenance organization shall maintain a minimum net
14 worth equal to the greater of:

- 15 a. One Million Five Hundred Thousand Dollars
16 (\$1,500,000.00),
- 17 b. two percent (2%) of annual premium revenues as
18 reported on the most recent annual financial statement
19 filed with the Commissioner on the first One Hundred
20 Fifty Million Dollars (\$150,000,000.00) of premium and
21 one percent (1%) of annual premium on the premium in
22 excess of One Hundred Fifty Million Dollars
23 (\$150,000,000.00),

24

1 c. an amount equal to the sum of three (3) months of
2 uncovered health care expenditures as reported on the
3 most recent financial statement filed with the
4 Commissioner, or

5 d. an amount equal to the sum of:

6 (1) eight percent (8%) of annual health care
7 expenditures, except those paid on a capitated
8 basis or managed hospital payment basis, as
9 reported on the most recent financial statement
10 filed with the Commissioner, and

11 (2) four percent (4%) of annual hospital expenditures
12 paid on a managed hospital payment basis, as
13 reported on the most recent financial statement
14 filed with the Commissioner.

15 3. Every health maintenance organization licensed before
16 November 1, 2003, shall maintain a minimum net worth of the greater
17 of Seven Hundred Fifty Thousand Dollars (\$750,000.00) or:

18 a. twenty-five percent (25%) of the amount required by
19 paragraph 2 of this subsection by December 31, 2003,

20 b. fifty percent (50%) of the amount required by
21 paragraph 2 of this subsection by December 31, 2004,

22 c. seventy-five percent (75%) of the amount required by
23 paragraph 2 of this subsection by December 31, 2005,
24 and

1 d. one hundred percent (100%) of the amount required by
2 paragraph 2 of this subsection by December 31, 2006.

3 4. a. In determining net worth, no debt shall be considered
4 fully subordinated unless the subordination clause is
5 in a form acceptable to the Commissioner. An interest
6 obligation relating to the repayment of any
7 subordinated debt shall be similarly subordinated.

8 b. The interest expenses relating to the repayment of a
9 fully subordinated debt shall be considered covered
10 expenses.

11 c. A debt incurred by a note meeting the requirements of
12 this section, and otherwise acceptable to the
13 Insurance Commissioner, shall not be considered a
14 liability and shall be recorded as equity.

15 B. 1. Unless otherwise provided below, each health maintenance
16 organization shall deposit with the Commissioner or, at the
17 discretion of the Commissioner, with any organization or trustee
18 acceptable to the Commissioner through which a custodial or
19 controlled account is utilized, cash, securities, or any combination
20 of these or other measures that are acceptable to the Commissioner,
21 which at all times shall have a value of not less than Five Hundred
22 Thousand Dollars (\$500,000.00).

23 2. The deposit shall be an admitted asset of the health
24 maintenance organization in the determination of net worth.

1 3. All income from deposits shall be an asset of the
2 organization. A health maintenance organization that has made a
3 securities deposit may withdraw that deposit or any part thereof
4 after making a substitute deposit of cash, securities, or any
5 combination of these or other measures of equal amount and value.
6 Any securities shall be approved by the Commissioner before being
7 deposited or substituted.

8 4. The deposit shall be used to protect the interests of the
9 health maintenance organization's enrollees and to ensure
10 continuation of health care services to enrollees ~~of a health~~
11 ~~maintenance organization that is in rehabilitation or conservation.~~
12 ~~The Commissioner may use the deposit for administrative costs~~
13 ~~directly attributable to a receivership or liquidation.~~ If a health
14 maintenance organization is placed in receivership or liquidation,
15 the deposit shall be an asset subject to the provisions of the
16 Uniform Insurers Liquidation Act.

17 5. The Insurance Commissioner may reduce or eliminate the
18 deposit requirement if a health maintenance organization deposits
19 with the Commissioner or other official body of the state or
20 jurisdiction of domicile for the protection of all subscribers and
21 enrollees of the health maintenance organization, wherever located,
22 cash, acceptable securities or surety, and delivers to the
23 Commissioner a certificate to that effect, duly authenticated by the
24 appropriate state official holding the deposit.

1 C. 1. Every health maintenance organization shall, when
2 determining liabilities, include an amount estimated in the
3 aggregate to provide for:

4 a. any unearned premium,

5 b. the payment of all claims for incurred health care
6 expenditures, whether reported or unreported, that are
7 unpaid and for which the organization is or may be
8 liable, and

9 c. the expense of adjustment or settlement of those
10 claims.

11 2. The liabilities shall be computed in accordance with rules
12 promulgated by the Commissioner upon reasonable consideration of the
13 ascertained experience and character of the health maintenance
14 organization.

15 D. 1. Every contract between a health maintenance organization
16 and a participating provider of health care services shall be in
17 writing and shall provide that, in the event the health maintenance
18 organization fails to pay for health care services as set forth in
19 the contract, a subscriber or an enrollee shall not be liable to the
20 provider for any sums owed by the health maintenance organization.

21 2. In the event that the participating provider contract has
22 not been reduced to writing as required by this subsection or that
23 the contract fails to contain the required prohibition, the
24 participating provider shall not collect or attempt to collect from

1 a subscriber or an enrollee sums owed by the health maintenance
2 organization.

3 3. No participating provider or the provider's agent, trustee
4 or assignee may maintain an action at law against a subscriber or
5 enrollee to collect sums owed by the health maintenance
6 organization.

7 E. The Commissioner shall require that each health maintenance
8 organization have a plan for handling insolvency that allows for
9 continuation of benefits for the duration of the contract period for
10 which premiums have been paid and continuation of benefits to
11 subscribers or enrollees who are confined on the date of insolvency
12 in an inpatient facility until their discharge or expiration of
13 benefits. In considering such a plan, the Commissioner may require:

14 1. Insurance to cover the expenses to be paid for continued
15 benefits after an insolvency;

16 2. Provisions in provider contracts that obligate the provider
17 to provide services for the duration of the period after the health
18 maintenance organization's insolvency for which premium payment has
19 been made and until the enrollees' discharge from inpatient
20 facilities;

21 3. Insolvency reserves;

22 4. Acceptable letters of credit; or

23 5. Any other arrangements to ensure continuation of benefits as
24 specified above.

1 F. An agreement to provide health care services between a
2 provider and a health maintenance organization shall require that if
3 the provider terminates the agreement, the provider shall give the
4 organization at least ninety (90) days' advance notice of such
5 termination.

6 SECTION 14. REPEALER 36 O.S. 2011, Sections 6914, 6921,
7 and 6932, are hereby repealed.

8 SECTION 15. This act shall become effective November 1, 2019.

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