

ENROLLED SENATE
BILL NO. 170

BY: HOOPER of the SENATE

and

BENSON, WIDENER, POPE and
COLEMAN of the HOUSE

AN ACT RELATING TO INSURANCE; AMENDING SECTION 16, CHAPTER 210, O.S.L. 1987, SECTION 6, CHAPTER 175, O.S.L. 1987, 36 O.S. 1981, SECTIONS 903, AS LAST AMENDED BY SECTION 3, CHAPTER 291, O.S.L. 1988, SECTION 1, CHAPTER 122, O.S.L. 1985, AS AMENDED BY SECTION 1, CHAPTER 297, O.S.L. 1990, SECTION 1, CHAPTER 198, O.S.L. 1987, AND 3611.1, AS AMENDED BY SECTION 8, CHAPTER 181, O.S.L. 1989 (36 O.S. SUPP. 1990, SECTIONS 901.4, 902.1, 903, 924.1, 1425.1 AND 3611.1), WHICH RELATE TO INSURANCE RATING, MOTOR VEHICLE ACCIDENT PREVENTION COURSES, INSURANCE AGENTS CONTINUING EDUCATION AND MEDICARE SUPPLEMENT POLICIES; DEFINING TERMS; AUTHORIZING INSURANCE COMMISSIONER TO CONDUCT CERTAIN EXAMINATIONS OF INSURERS; PROVIDING FOR SCHEDULING, SCOPE AND FREQUENCY OF EXAMINATION AND INVESTIGATION OF CERTAIN PERSONS; ALLOWING ACCEPTANCE OF CERTAIN REPORTS IN LIEU OF EXAMINATION OF CERTAIN INSURERS; STATING PROCEDURE FOR CONDUCTING EXAMINATION; PROVIDING FOR ACCESS TO INFORMATION, SUBPOENA POWER AND RETAINING OF CERTAIN PROFESSIONALS; PROVIDING FOR CERTAIN EXAMINATION REPORTS, CONTENTS, FILING PROCEDURES AND REVIEW; PROVIDING FOR CERTAIN ORDERS, HEARINGS AND RELATED PROCEDURES; STATING CERTAIN INFORMATION AND RECORDS MAY NOT BE DISCLOSED; MAKING EXAMINATION REPORTS CONFIDENTIAL EXCEPT UNDER CERTAIN CIRCUMSTANCES; AUTHORIZING INITIATION OF CERTAIN PROCEEDINGS OR ACTIONS; REQUIRING CERTAIN DOCUMENTS BE GIVEN CONFIDENTIAL TREATMENT; PROHIBITING CERTAIN CONFLICT OF INTEREST AND NOTING EXCEPTIONS; ALLOWING RETENTION OF CERTAIN PROFESSIONALS; PROVIDING FOR PAYMENT OF CERTAIN CHARGES AND EXPENSES; PROVIDING IMMUNITY FROM CERTAIN ACTIONS AND LIABILITY; CLARIFYING EFFECT OF IMMUNITY; PROVIDING FOR CERTAIN AWARD IN CIVIL ACTION; AUTHORIZING USE OF HEARING OFFICERS FOR CERTAIN PROCEEDINGS; REQUIRING CERTAIN FILED RATES TO REMAIN IN EFFECT UNDER CERTAIN CONDITIONS; PROVIDING TIME PERIOD DURING WHICH FILED RATES REMAIN EFFECTIVE; REQUIRING NEW RATE FILING UPON EXPIRATION OF RATES; REQUIRING NOTIFICATION TO INSURER OR RATING ORGANIZATION OF PENDING EXPIRATION WITHIN CERTAIN TIME PERIOD; SPECIFYING RATES THAT ARE SUBJECT TO EFFECTIVE PERIOD AND EXPIRATION PROVISIONS; SPECIFYING EXPIRATION DATE FOR CERTAIN RATES; MODIFYING TIME PERIOD FOR CERTAIN PREMIUM REDUCTIONS; MODIFYING INSURANCE AGENTS CONTINUING EDUCATION REQUIREMENTS; UPDATING

STATUTORY REFERENCES; REQUIRING THE INSURANCE COMMISSIONER TO ESTABLISH CERTAIN MINIMUM STANDARDS RELATING TO MEDICARE SUPPLEMENT POLICIES; REPEALING 36 O.S. 1981, SECTIONS 308 AND 309, AS AMENDED BY SECTIONS 1 AND 2, CHAPTER 149, O.S.L. 1984, AND 310 (36 O.S. SUPP. 1990, SECTIONS 308 AND 309), WHICH RELATE TO EXAMINATION AND AUDIT OF INSURERS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in Sections 1 through 7 of this act:

1. "Commissioner" means the Insurance Commissioner;
2. "Company" means any person engaging in or proposing or attempting to engage in any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative or regulatory authority of the Commissioner;
3. "Department" means the Insurance Department;
4. "Examiner" means any individual or firm having been authorized by the Commissioner to conduct an examination under this act;
5. "Insurer" means every person engaged in the business of making contracts of insurance or indemnity including not-for-profit hospital service and medical indemnity corporations; and
6. "Person" means any individual, aggregation of individuals, trust, association, partnership or corporation, or any affiliate thereof.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner or any of his examiners may conduct an examination under Sections 1 through 7 of this act of any company as often as the Commissioner deems appropriate but shall at a minimum, conduct an examination of every insurer licensed in this state not less frequently than once every three (3) years. In scheduling and determining the nature, scope and frequency of the examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners and in effect when the Commissioner exercises discretion under this subsection. The Commissioner may also make such examinations, upon the request of five or more persons pecuniarily interested therein, who shall make affidavit of their belief, with specifications of their reasons therefor, that such company is in an unsound condition.

B. For purposes of completing an examination of any company under Sections 1 through 7 of this act, the Commissioner may examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the company.

C. In lieu of an examination under Sections 1 through 7 of this act of any foreign or alien insurer licensed in this state, the Commissioner may accept an examination report on such company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, such reports may only be accepted if:

1. The insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' Financial Regulation Standards and Accreditation Program; or

2. The examination is performed with the participation of one or more examiners who are employed by such an accredited state insurance department and who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Upon determining that an examination should be conducted, the Insurance Commissioner or his designee shall issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the Examiners' Handbook adopted by the National Association of Insurance Commissioners. The Commissioner may also employ such other guidelines or procedures as the Commissioner may deem appropriate.

B. Every company or person from whom information is sought, its officers, directors and agents shall provide to the examiners appointed under subsection A of this section timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The officers, directors, employees and agents of the company or person shall facilitate such examination and aid in such examination so far as it is in their power to do so. The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the Commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to Section 619 of Title 36 of the Oklahoma Statutes.

C. The Commissioner or any of his examiners shall have the power to issue subpoenas, to administer oaths and to examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of any person to obey a subpoena, the Commissioner may petition a court of competent jurisdiction, and upon proper showing, the Court may enter any order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court.

D. When making an examination under Sections 1 through 7 of this act, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the cost of which

shall be borne by the company which is the subject of the examination.

E. Nothing contained in Sections 1 through 7 of this act shall be construed to limit the Commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

F. Nothing contained in Sections 1 through 7 of this act shall be construed to limit the Commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or company workpapers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action which the Commissioner may deem appropriate.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309.4 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. All examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the company, its agents or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonably warranted from such facts.

B. No later than thirty (30) days following completion of the examination, the examiner in charge shall file with the Insurance Department a verified written report of examination under oath. Upon receipt of the verified report, the Department shall transmit the report to the company examined, together with a notice which shall afford such company examined a reasonable opportunity of not more than twenty (20) days to make a written submission or written rebuttal with respect to any matters contained in the examination report.

C. Within twenty (20) days of the end of the period allowed for the receipt of written submissions or written rebuttals, the Insurance Commissioner shall fully consider and review the report, together with any written submissions or written rebuttals and any relevant portions of the examiners' workpapers and enter an order:

1. Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the Commissioner, the Commissioner may order the company to take any action the Commissioner considers necessary and appropriate to cure such violation;

2. Rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refile pursuant to subsection A of this section; or

3. Calling for an investigatory hearing with notice pursuant to the Administrative Procedures Act to the company for purposes of obtaining additional documentation, data, information and testimony.

D. 1. All orders entered pursuant to paragraph 1 of subsection C of this section shall be accompanied by findings and conclusions resulting from the Commissioner's consideration and review of the examination report, relevant examiner workpapers and any written submissions or rebuttals. Any such order shall be considered a final administrative decision and may be appealed pursuant to the Administrative Procedures Act, and shall be served upon the company by certified mail, together with a copy of the adopted examination

report. Within thirty (30) days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

2. Any hearing conducted pursuant to paragraph 3 of subsection C of this section by the Commissioner or authorized representative, shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies or disputed issues apparent upon the face of the filed examination report or raised by or as a result of the Commissioner's review of relevant workpapers or by the written submission or rebuttal of the company. Within thirty (30) days of the conclusion of any such hearing, the Commissioner shall enter an order pursuant to paragraph 1 of subsection C of this section.

3. The Commissioner shall not appoint an examiner as an authorized representative to conduct the hearing. The Commissioner or his representative may issue subpoenas for the attendance of any witnesses or the production of any documents deemed relevant to the investigation whether under the control of the Department, the company or other persons. The documents produced shall be included in the record, and testimony taken by the Commissioner or his representative shall be under oath and preserved for the record.

4. Nothing contained in this section shall require the Department to disclose any information or records which would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

5. The hearing shall proceed with the Commissioner or his representative posing questions to the persons subpoenaed. Thereafter the company and the Department may present testimony relevant to the investigation. The company and the Department shall be permitted to make closing statements and may be represented by counsel of their choice.

E. 1. Upon the adoption of the examination report under paragraph 1 of subsection C of this section, the Commissioner shall continue to hold the content of the examination report as private and confidential information for a period of two (2) days except to the extent provided in subsection B of this section and subsection F of Section 3 of this act. Thereafter, the Commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

2. Nothing contained in Sections 1 through 7 of this act shall prevent or be construed as prohibiting the Commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the insurance department of this or any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time, so long as such agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with Sections 1 through 7 of this act.

3. In the event the Commissioner determines that regulatory action is appropriate as a result of any examination, he may initiate any proceedings or actions as provided by law.

F. All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the Commissioner or any other person in the course of an examination made under Sections 1 through 7 of this act shall be given confidential treatment and are not subject to subpoena and may not be made public by the Commissioner or any other person, except to the extent provided in subsection E of this section and subsection F

of Section 3 of this act. Access may also be granted to the National Association of Insurance Commissioners. Such parties shall agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309.5 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No examiner may be appointed by the Insurance Commissioner if such examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under Sections 1 through 7 of this act. This section shall not be construed to automatically preclude an examiner from being:

1. A policyholder or claimant under an insurance policy;
2. A grantor of a mortgage or similar instrument on such examiner's residence to a regulated entity if done under customary terms and in the ordinary course of business;
3. An investment owner in shares of regulated diversified investment companies; or
4. A settlor or beneficiary of a blind trust into which any otherwise impermissible holdings have been placed.

B. Notwithstanding the requirements of this section, the Commissioner may retain from time to time, on an individual basis, qualified actuaries, an accounting firm or individual holding a permit to practice public accounting in this state, or other similar individuals who are independently practicing their professions, even though said persons may from time to time be similarly employed or retained by persons subject to examination under this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309.6 of Title 36, unless there is created a duplication in numbering, reads as follows:

Any insurer or person examined under the provisions of Sections 1 through 7 of this act shall pay the proper charges incurred in such examination, including the actual expense of the Insurance Commissioner or the expenses and compensation of his authorized representative and the expense and compensation of assistants and examiners employed therein. All expenses incurred in such examination shall be verified by affidavit and a copy shall be filed and kept in his office.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 309.7 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No cause of action shall arise nor shall any liability be imposed against the Insurance Commissioner, the Commissioner's authorized representatives or any examiner appointed by the Commissioner for any statements made or conduct performed in good faith while carrying out the provisions of Sections 1 through 7 of this act.

B. No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the Commissioner or the Commissioner's authorized representative or examiner pursuant to an examination made under Sections 1 through 7 of this act, if such act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive.

C. This section does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in subsection A of this section.

D. A person identified in subsection A of this section shall be entitled to an award of attorney's fees and costs if they are the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of their activities in carrying out the provisions of this act and the party bringing the action was not substantially justified in doing so. For purposes of this section, a proceeding is substantially justified if it had a reasonable basis in law or fact at the time that it was initiated.

SECTION 8. AMENDATORY Section 16, Chapter 210, O.S.L. 1987 (36 O.S. Supp. 1990, Section 901.4), is amended to read as follows:

Section 901.4 A. Not less than ten (10) days in advance of a meeting to determine whether a hearing will be held, the Board shall give notice to each insurer or organization making the filing, to each party to the filing and to any person who annually requests in writing to be notified of filings made pursuant to this act, of the date, time and location of any hearing or rehearing, the name of the insurer or organization making the filing and of the parties to the filing and a brief statement of the action requested in the filing.

B. Hearings shall be open to the public.

C. Any person aggrieved with respect to a rate filing may make written application to the Board to participate in any hearing called by the Board. If the Board finds the application to be supported by reasonable grounds, it may allow the applicant to appear in person or by counsel.

At the conclusion of any formal hearing and before the final closing of such hearing, any party in interest upon timely request shall be granted, as a matter of right, a continuance of twenty-four (24) hours for the purpose of making examination and analyses of documents introduced in the hearing.

D. The evidentiary procedures of the Administrative Procedures Act, Sections 310 and 315 of Title 75 of the Oklahoma Statutes, shall apply to hearings conducted pursuant to this act.

E. Upon written request seasonably made by a person affected by the hearing, and at such person's expense, the Board shall cause a full stenographic record of the proceedings to be made by a competent court reporter. If transcribed, such record shall be a part of the Board's record of the hearing, and a copy of such stenographic record shall be furnished to any other party having a direct interest therein at the request and expense of such party.

F. Following a hearing on a filing made pursuant to this act, the Board may take the matter under advisement for up to thirty (30) calendar days, subject to the provisions of Section 903 of Title 36 of the Oklahoma Statutes.

G. At any time during the pendency of a filing, the Board may:

1. Require the submission of additional information by any party to the filing;
 2. Solicit proposals for independent analysis of the filing by qualified technicians, such technicians to be chosen pursuant to the provisions of Section 332 of Title 36 of the Oklahoma Statutes;
 3. Consider the findings of its employees or the technician;
- and
4. Conduct other or additional investigations including additional hearings.

H. The provisions of this section shall not apply to regularly scheduled meetings of the Board which are governed by the provisions of the Oklahoma Open Meeting Act and where no hearing has been requested.

I. The Board may utilize hearing officers to hear matters before the Board. The hearing officer shall file a proposed order

for any such matter with the Board. The proposed order shall include findings of fact and conclusions of law. Such proceedings shall be conducted in accordance with the Administrative Procedures Act.

SECTION 9. AMENDATORY Section 6, Chapter 175, O.S.L. 1987 (36 O.S. Supp. 1990, Section 902.1), is amended to read as follows:

Section 902.1 No property or casualty insurer shall increase or decrease a filed rate by more than fifteen percent (15%), inclusive of any rate adjustments, add-ons, deductibles or deviations, without prior approval from the Board for Property and Casualty Rates, pursuant to the request for rate approval required in Article 9 of the Insurance Code. Any such rate shall remain in effect as provided in subsection F of Section 903 of this title.

SECTION 10. AMENDATORY 36 O.S. 1981, Section 903, as last amended by Section 3, Chapter 291, O.S.L. 1988 (36 O.S. Supp. 1990, Section 903), is amended to read as follows:

Section 903. A. 1. Except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every insurer governed by the provisions of this act shall file with the Board, either directly or through a licensed rating organization of which it is a member or subscriber, all rates and rating plans and classifications, class rates, rating schedules and all other supplementary rate information and every modification of any of the foregoing, which it uses or proposes to use in this state except as otherwise provided in this section.

2. The Board shall send a notification of filing of rates to any person who annually requests, in writing, to be notified of filings pursuant to regulation of the Board.

3. The Attorney General shall be notified within ten (10) days, in writing, of each:

- a. filing of rates, whether for prior approval or for immediate use, and
- b. certification of completion of a filing.

4. The Attorney General shall be notified at least ten (10) days in advance, in writing, of each:

- a. meeting of the Board, and
- b. hearing conducted by the Board.

B. Rates, rating plans, classifications, schedules and other information shall be deemed approved thirty (30) calendar days following certification of completion of the filing as provided in this act unless, within the thirty (30) calendar-day period:

1. The Board by majority vote, approves, disapproves or approves with modification, the filing at one of its scheduled meetings or hearings;

2. The Board orders a formal hearing on the filing; or

3. The Board or the Commissioner, if a quorum of the Board is not available at the next regularly scheduled meeting, extends this period for one additional thirty (30) calendar-day period.

C. Nothing in this act shall be construed to require any filing for approval of rates, rating plans, classifications, schedules and other information approved by the Board prior to the effective date of this act.

D. Any formal hearing ordered by the Board shall be completed and a written order on the filing issued by the Board within ninety (90) calendar days from the date of the order setting the formal hearing, or the filing shall be deemed approved at the expiration of the ninety-day period.

E. 1. Rate filings on homeowner's insurance shall become effective when filed, or upon a future date specified in such

filing, and shall remain effective unless the Board reviews and disapproves the filing because such rate is not in compliance with the standards set out in this act. Provided, if a rate filing is disapproved because it is excessive or unfairly discriminatory, the Board may order return of premium to the policyholders; plus interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points; ~~and.~~

2. For purposes of this subsection, homeowner's insurance shall mean:

- a. insurance which combines, on an individual basis, property and liability insurance required to protect an individual's investment in his home or contents thereof, commonly called homeowner's or renter's insurance and specifically including insurance on a farm dwelling and attached or detached garage and their contents,
- b. dwelling fire insurance, or
- c. individual fire insurance on dwelling contents.

3. Any such rate shall remain in effect as provided in subsection F of this section.

F. Rates approved as herein provided shall thereafter remain in effect unless and until changed by the Board or superseded by a subsequent filing approved pursuant to the procedures set out herein. Filed rates, whether made by an insurer or by a rating organization, and whether or not prior approval is required under the flex rating, file and use or automatic rate reduction system, shall be effective for a period of not more than four (4) years from the effective date of the insurer's or rating organization's rate filing unless otherwise changed by the Board, or unless superceded by a subsequent filing approved pursuant to the procedures set out herein. At the end of the four-year period, the rates expire, and for an insurer to continue to write the insurance coverage to which the expired rates applied, a new rate filing is required. All rates in effect on or before September 1, 1991, shall expire September 1, 1995.

G. Rates or risks which are not by general custom of the business, or because of rarity or peculiar characteristics, written according to normal classification or rating procedure and which cannot be practicably filed before they are used, may be used before being filed. The Board may make such examination as it may deem advisable to ascertain whether any such rates meet the requirements of this act.

H. Whenever it shall be made to appear to the Board, either from its own information or from complaint of any party alleging to be aggrieved thereby, that there are reasonable grounds to believe that the rates on any or on all risks or classes of risks or kinds of insurance within the scope of this article are not in accordance with the terms of this act, it shall be the duty of the Board to investigate and determine whether or not any or all of such rates meet the requirements of this act.

I. When investigating rates to determine whether or not they comply with the provisions of this act, the previously approved filing shall not be changed, altered, amended, or held in abeyance until after completion of the investigation and an opportunity for hearing in accordance with the provisions of this article. Following such hearing, the Board shall enter its order in accordance with the provisions of this act. The effective date of such order shall not be less than thirty (30) days nor more than sixty (60) days after the date of the order unless the Board

determines that, in the public interest, a shorter or longer period is appropriate; provided, the filer has adequate time to implement such rate change. Any such order shall apply prospectively only and shall not affect premiums collected on new or renewal policies issued prior to the effective date of this order.

J. Under such rules and regulations as it shall adopt, the Board may, by written order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Board may make such examination as it may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in this act. This subsection shall not apply to workers' compensation filings.

K. Any filing with respect to fidelity, surety or guaranty bonds shall, however, be deemed approved from the date of filing and shall thereafter be subject to the provisions of subsection F of this section.

L. If the Board finds that a filing does not meet the requirements of this act, it shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing, specifying therein in what respects it finds that such filing fails to meet the requirements of this act and stating that such filing shall not become effective to the extent disapproved.

M. If within thirty (30) days after a rate has become effective for homeowner's insurance the Board finds that such filing does not meet the requirements of this act, it shall send to the rating organization or insurer which made such filing, a written notice of disapproval of such filing, specifying therein in what respect it finds that such filing fails to meet the requirements of this act and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Any such notice shall apply prospectively only and shall not affect premiums collected on new or renewal policies issued prior to the effective date of this notice. If a rate filing is disapproved because it is excessive or unfairly discriminatory the Board may order return of premium to the policyholder; plus interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points.

SECTION 11. AMENDATORY Section 1, Chapter 122, O.S.L. 1985, as amended by Section 1, Chapter 297, O.S.L. 1990 (36 O.S. Supp. 1990, Section 924.1), is amended to read as follows:

Section 924.1 A. Any schedule of rates or rating plan for automobile liability and physical damage insurance submitted to or filed with the State Board for Property and Casualty Rates shall provide for an appropriate reduction in premium charges for those insured persons for a ~~two-year~~ three-year period after successfully completing a motor vehicle accident prevention course meeting the criteria established by the Department of Public Safety. Provided however, there shall be no reduction in premiums for a self-instructed course or a course which does not provide for actual classroom or field driving instruction for a minimum number of hours as determined by the Department of Public Safety. Provided further, there shall be no reduction in premiums for a course attended pursuant to a court order in connection with a motor vehicle violation or an alcohol- or drug-related offense.

B. All insurance companies writing automobile liability and physical damage insurance in this state shall allow an appropriate reduction in premium charges to all eligible persons pursuant to this section.

C. The approved course shall be taught by instructors approved by the Department of Public Safety.

D. Upon successfully completing the approved course, each participant shall be issued by the sponsoring agency of the course, a certificate which shall be the basis of qualification for the discount on insurance.

E. Each participant shall successfully complete an approved course each ~~two (2)~~ three (3) years to continue to be eligible for the discount on insurance.

SECTION 12. AMENDATORY Section 1, Chapter 198, O.S.L. 1987 (36 O.S. Supp. 1990, Section 1425.1), is amended to read as follows:

Section 1425.1 A. Each insurance agent shall, ~~during a thirty-six month period~~ annually, complete not less than ~~eighteen (18)~~ six (6) clock hours of continuing insurance education which shall cover subjects in the lines for which the agent is licensed. Such education ~~shall not~~ may include a written or oral examination.

B. The Insurance Commissioner shall approve courses and providers of continuing education.

Each insurance company shall be allowed to provide continuing education to insurance agents as required by this section; provided that such continuing education meets the general standards for education otherwise established by the Insurance Commission.

C. Each provider of continuing education shall, after approval by the Commissioner, submit an annual fee of One Hundred Dollars (\$100.00), payable to the Insurance Commissioner which shall be deposited in the State Insurance Commissioner Revolving Fund, created in subsection G of Section 1425 of ~~Title 36 of the Oklahoma Statutes~~ this title, for the purposes of fulfilling and accomplishing the conditions and purposes of this act. Provided, public funded educational institutions shall be exempt from this subsection.

D. Failure of an insurance agent to comply with the requirements of this act may, after notice and hearing, result in censure, suspension, nonrenewal of license or a fine of up to Five Hundred Dollars (\$500.00) or by both such penalty and fine. Said fine may be enforced in the same manner in which civil judgments may be enforced. Any fines collected under this act shall be deposited in the State Insurance Commissioner Revolving Fund.

E. Limited insurance representatives as set out in subparagraph b of paragraph 2 of subsection A of Section 1424 of ~~Title 36 of the Oklahoma Statutes~~ this title shall be exempt from the provisions of this act.

F. The Commissioner shall adopt and promulgate such rules and regulations as are necessary for effective administration of this act.

SECTION 13. AMENDATORY 36 O.S. 1981, Section 3611.1, as amended by Section 8, Chapter 181, O.S.L. 1989 (36 O.S. Supp. 1990, Section 3611.1), is amended to read as follows:

Section 3611.1 A. As used in this ~~act~~ section:

1. "Commissioner" means the Commissioner of Insurance;
2. "Medicare supplement policy" means a group or individual policy of accident and health insurance, or a subscriber contract of a nonprofit hospital service and medical indemnity corporation or a health maintenance organization which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare

for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age. Such term does not include:

- a. a policy or contract of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations, or
- b. a policy or contract of any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:
 - (1) is composed of individuals all of whom are actively engaged in the same profession, trade or occupation,
 - (2) has been maintained in good faith for purposes other than obtaining insurance, and
 - (3) has been in existence for at least two (2) years prior to the date of its initial offering of such policy or plan to its members, or
- c. individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of group or individual insurance; and

3. "Direct response Medicare supplement policy" means a policy of insurance which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age issued as a result of solicitation of individual insureds by mail or by mass media advertising.

B. The Commissioner shall issue reasonable regulations to establish ~~specific minimum~~ standards for benefit claims payment, marketing practices, compensation arrangements, and reporting practices for Medicare supplement policy provisions in accordance with this act policies.

C. A Medicare supplement policy may not deny a claim for losses incurred more than six (6) months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than "a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage."

D. A Medicare supplement policy shall be expected to return to the policyholder benefits which are reasonable in relation to the premium charged. The Commissioner shall issue regulations to establish minimum standards for loss ratios of Medicare supplement policies on the basis of incurred claims and earned premiums for the period of coverage for which rates are computed and in accordance with accepted actuarial principles and practices.

E. 1. No Medicare supplement policy or certificate issued pursuant to a group Medicare supplement policy shall be delivered or issued for delivery in this state unless an outline of coverage is provided to the applicant at the time application is made.

2. The Commissioner shall prescribe by regulation the contents and a standard form of an informational brochure for persons eligible for Medicare by reason of age which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. The Commissioner may require by regulation that the informational brochure be provided with the outline of coverage to any prospective insureds eligible

for Medicare by reason of age. With respect to direct response policies, the Commissioner may require that the prescribed brochure and outline of coverage be provided upon request to any prospective insureds eligible for Medicare by reason of age, but in no event later than the time of policy delivery.

3. The Commissioner may require notice provisions, designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for Medicare by reason of age, other than:

- a. Medicare supplement policies,
- b. disability income policies,
- c. basic, catastrophic, or major medical expense policies,
- d. single premium, nonrenewable policies, or
- e. other policies defined by regulation of the Commissioner.

4. The Commissioner may promulgate regulations requiring full and fair disclosure of information concerning the replacement of accident and health policies, certificates, or subscriber contracts for persons eligible for Medicare by reason of age.

F. Medicare supplement policies or certificates shall have a notice prominently printed on the first page of the policy or certificate, or attached thereto, stating that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. A direct response policy issued to persons eligible for Medicare by reason of age shall have a notice prominently printed on the first page, or attached thereto, stating that the applicant shall have the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason.

SECTION 14. REPEALER 36 O.S. 1981, Sections 308 and 309, as amended by Sections 1 and 2, Chapter 149, O.S.L. 1984, and 310 (36 O.S. Supp. 1990, Sections 308 and 309), are hereby repealed.

SECTION 15. This act shall become effective September 1, 1991.
Passed the Senate the 6th day of May, 1991.

President of the Senate

Passed the House of Representatives the 9th day of May, 1991.

Speaker of the House of Representatives