

ENROLLED SENATE
BILL NO. 772

By: Brown of the Senate

and

Bass and Boyd (Laura) of
the House

An Act relating to insurance; amending 36 O.S. 1991, Sections 321.1, 1425, as amended by Section 38, Chapter 270, O.S.L. 1993, 2024, 2616, 3636, 4003.1, 4030.1, 4426, as amended by Section 2, Chapter 136, O.S.L. 1993, 4501, as amended by Section 1, Chapter 304, O.S.L. 1992, and 6060, as amended by Section 1, Chapter 165, O.S.L. 1993 (36 O.S. Supp. 1993, Sections 1425, 4426, 4501 and 6060), which relate to reports, insurance agents, guaranty association, exemption from Code, uninsured motorist coverage, policies, payment of proceeds, group insurance, and coverage for mammography screening; limiting certain fees; clarifying statutory references; prohibiting agents from receiving ownership interest in policies unless certain condition is met; deleting obsolete and inconsistent language; including certain entities as members of certain Guaranty Association; making additional provisions of Insurance Code applicable to certain entities; providing exception to requirement for providing new form for uninsured motorist coverage; stating time period for returning premiums and moneys if certain policies are canceled; setting interest rate and time of accrual for certain premiums and moneys not returned and certain proceeds held in non-interest bearing accounts; modifying scope of certain mandate; modifying definition of groups eligible for certain insurance; exempting certain coverage from deductibles, co-payments and co-insurance limits; stating purpose; defining terms; stating venue of certain acts; defining certain acts as insurance business with certain exceptions; prohibiting doing insurance business unless authorized with certain exception; requiring certain information be submitted to Insurance Commissioner; providing civil penalty; authorizing Commissioner to take certain actions for certain violations; requiring district court grant injunctive relief without bond under certain conditions; providing for hearing and related procedures for issuance of cease and desist order; providing for appeal and promulgation of rules; allowing Commissioner to proceed under certain provisions without regard to prior proceedings; stating conditions for issuing cease and desist order, ex parte;

providing for emergency cease and desist order and related hearing, procedures, judicial review and recovery of attorney fees; authorizing Commissioner to take certain action for violation of cease and desist order and providing for related hearing, penalties and judicial review; authorizing Commissioner to take certain action for failure to pay penalties; providing for service of process; providing for promulgation of rules; granting discretion for proceeding under certain provisions; stating short title; defining terms; requiring certain health benefit plans to offer coverage for certain child health supervision services; describing coverage; construing effect of certain provisions; repealing 36 O.S. 1991, Section 6103, which relates to unauthorized insurance business; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 321.1, is amended to read as follows:

Section 321.1 A. There shall be collected at the time of filing of a report, a fee payable by each insurer required to file a report under Section 101 et seq. of this act title, provided the insurer's total written premium per liability category exceeds the requisite filing fees which are as follows:

- To file each periodic claims report required by Section 7 1223 of this ~~act~~ title \$400.00
- To file each loss and expense experience report required by Section ~~13~~ 310.1 of this ~~act~~ title . . . \$400.00
- To file reports required by Section ~~14~~ 310.1 of this ~~act~~ title \$400.00

B. All public requests for information provided by this act shall be in writing. All requests for copying such data shall be in writing and may be provided to the requestor after such reasonable time to process such copying and shall be at such costs as provided in Section 321 of Title 36 of the Oklahoma Statutes or, if computerized printouts are necessary, at such reasonable costs as established by the Commissioner, or if such items cannot be reproduced by the Commissioner, then such information may, after notification to the requestor, be sent to a private contractor, and such costs shall be payable by the requestor.

C. All amounts received herein by the Insurance Commissioner shall be paid into the State Treasury to the credit of the State Insurance Commissioner's Revolving Fund for the purpose of fulfilling and accomplishing the conditions and purposes of this act.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1425, as amended by Section 38, Chapter 270, O.S.L. 1993 (36 O.S. Supp. 1993, Section 1425), is amended to read as follows:

Section 1425. The Commissioner shall not issue, continue, or permit to continue any license of an insurance agent, surplus lines insurance broker, or limited insurance representative except in compliance with the following:

A. Application shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner.

B. 1. The application for an insurance agent, managing general agent, or limited insurance representative license shall be accompanied by a written appointment. The appointment shall be made by an officer of the insurer designating the applicant as an insurance agent, managing general agent, or limited insurance representative for such lines of insurance as the applicant will be authorized to write for said insurer. All appointments for any licensee shall be submitted on behalf of the appointing insurer on a form prescribed by the Commissioner and shall remain in force until the renewal date. The renewal dates may be staggered throughout the year for appointments of agents, managing general agents, and limited insurance representatives by notifying the various companies in writing of the expiration and renewal date being assigned to agents and limited insurance representatives of said companies by the Commissioner and by making appropriate adjustment in said annual appointment fee.

2. For the renewal licensure of an applicant, the applicant shall submit either a letter from the appointing insurer verifying acceptance of responsibility for the actions of the applicant in the scope of that person's employment, or submit an errors and omissions policy acceptable to the Commissioner, or, if errors and omissions coverage is provided by the insurer for agents by utilizing a blanket errors and omissions policy for coverage, a copy of the policy providing the errors and omissions coverage shall be on file with the Commissioner of insurance. The insurer providing coverage shall submit a list of all agents covered by such policy when renewal applications are to be submitted. Provided, however, in the case of title insurance, scope of employment shall be limited to the issuance of commitments and policies and other duties only as specifically expressed in the agency contract.

C. Every applicant for licensing as an insurance agent, managing general agent, or limited insurance representative pursuant to the provisions of the Insurance Agents Licensing Act, except a partnership or corporation, shall be eighteen (18) years of age or older.

D. An applicant shall not be a full-time employee of the government of the United States or of the executive or administrative branches of the government of this state or any county or municipality in this state. The provisions of this subsection shall not apply to applicants for life or accident and health insurance agents' licenses or limited representatives. For the purpose of this subsection, a teacher shall not be considered a full-time employee of the executive or administrative branches of the government of the state or of any county or municipality in the state.

E. All applications shall be accompanied by the applicable fees. An appointment shall terminate upon failure to pay the prescribed annual renewal fee.

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

1. For filing appointment of Insurance

- Commissioner as agent for service
of process \$10.00
- 2. Miscellaneous:
 - a. Certificate of Commissioner,
under seal \$3.00
 - b. Agent's study manual:
 - Life, Accident & Health not to exceed
\$30.00
 - Property and Casualty not to exceed
\$30.00
 - c. for filing Agency Articles of
Incorporation \$20.00
- 3. Examination for license:
 - a. For each examination covering
laws and one line of insurance \$30.00
 - b. For each examination covering
laws and two or more lines
of insurance \$40.00
- 4. Licenses:
 - a. Agent's license,
each year, regardless of number
of companies represented \$30.00
 - b. Agent's license for sale or
solicitation of separate
accounts or agreements, as
provided for in Section 6061
of this title \$30.00
 - c. Limited insurance
representative license, each year.. \$20.00
 - d. Temporary license as agent \$20.00
 - e. Managing general agent's
license, each year \$30.00
 - f. Surplus lines broker's license,
each year \$50.00
 - g. Insurance vending machine,
each machine, each year \$50.00
 - h. Insurance consultant's license,
resident or nonresident,
each year..... \$50.00
- 5. Filing notice of appointment of agent,
managing general agent, or limited
insurance representative by insurer,

each license of each agent
or representative, each year \$20.00

6. Renewal fee for all licenses shall be the same as the initial license fee.
7. The fee for a duplicate license shall be one-half (1/2) the fee of an original license.
8. Late application for the renewal of a license shall require a fee of double the original license fee.

F. The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 1 and 2 of subsection E of this section shall be deposited with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund for the purpose of fulfilling and accomplishing the conditions and purposes of this act.

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

G. There is hereby created in the State Treasury the State Insurance Commissioner Revolving Fund which shall be a continuing fund not subject to fiscal year limitations. The revolving fund shall consist of fees and monies received by the Insurance Commissioner as required by law to be deposited in said fund and any other funds not dedicated in the Oklahoma Insurance Code. The revolving fund shall be used to fund the general operations of the Insurance Commissioner's Office for the purpose of fulfilling and accomplishing the conditions and purposes of this act. All expenditures from said revolving fund shall be on claims approved by the Insurance Commissioner and filed with the Director of State Finance for payment.

H. At the close of the fiscal year ending June 30, 1988, and at the close of each fiscal year thereafter any unencumbered and unexpended monies in the State Insurance Commissioner Revolving Fund in excess of Five Hundred Thousand Dollars (\$500,000.00) shall be transferred to the General Revenue Fund of the state.

I. All fees, fines, monies, and license fees authorized by the provisions of this section and not dedicated by the provisions of subsection F of this section to the State Insurance Commissioner Revolving Fund shall be paid into the State Treasury to the credit of the General Revenue Fund of this state.

J. Prior to issuance of a license as an insurance consultant or surplus lines insurance broker, the applicant shall file with the Commissioner and thereafter, for as long as the license remains in effect, shall keep in force a bond in an amount of not less than Five Thousand Dollars (\$5,000.00) and not more than Forty Thousand Dollars (\$40,000.00) with an authorized corporate surety approved by the Commissioner. The exact amount of the bond shall be determined pursuant to the rules and regulations of the Commissioner and shall be based upon the actual or reasonably estimated premium for policies issued in connection with the services of the licensee. The surety shall notify the Commissioner of any changes in the bond of any licensee. The aggregate liability of the surety for any and all claims on a bond required by the provisions of this subsection shall in no event exceed the amount of the bond. No such bond shall be terminated unless at least thirty (30) days' prior written notice of the termination is given by the surety to the licensee and the

Commissioner. Upon termination of the license for which the bond was in effect, the licensee shall notify the surety within ten (10) working days.

All surety protection required by the provisions of this section is to inure to the benefit of any party aggrieved by the acts of a consultant or broker arising pursuant to his conduct as a licensed insurance consultant or surplus lines insurance broker.

K. The Commissioner shall issue an insurance agent's license, managing general agent's license, insurance consultant's license, or a limited insurance representative's license to any duly qualified resident or nonresident of this state, whether an individual, partnership, or corporation, as follows:

1. An applicant may qualify as a resident if he resides in this state. Any license issued pursuant to any such application claiming residency in this state for licensing in this state shall constitute an election of residency in this state and shall be void if the licensee, while holding a resident license in this state, also holds or makes application for a license in or thereafter claims to be a resident of any other state or other jurisdiction or ceases to be a resident of this state. However, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify as a resident in such other state and may hold a license from each state;

2. a. An applicant may qualify for a license pursuant to the provisions of the Insurance Agents Licensing Act as a nonresident only if he holds a resident agent's license in any state of the United States, a province of Canada, or any other foreign country, in which he claims residency and with which the Commissioner has executed a reciprocal licensing agreement. The applicant shall provide to the Commissioner an original certification of licensure status from the resident state of the applicant. A license issued to a nonresident of this state shall grant the same rights and privileges afforded a resident licensee, except as otherwise provided for by law. A corporation or partnership otherwise qualified to hold a license as a nonresident agent shall be licensed pursuant to the provisions of this section:

- (1) if the principal purpose of the corporation or partnership is the transacting of insurance business,
- (2) if said corporation or partnership is not a subsidiary or affiliate of a corporation or partnership not so qualified, and
- (3) if such corporation or partnership does not own stock in or is not a partner in any corporation or partnership licensed as a resident pursuant to Section 1424 of this title.

b. The Commissioner shall not issue a license to any nonresident applicant until said applicant files with the Commissioner his designation of the Commissioner as the person upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the insurance business of the applicant in this state. This designation shall constitute an agreement that said service of process is of the same legal force and validity as personal service of process in this state upon the nonresident licensee. Service of

process upon any such licensee in any such action or proceeding in any court of competent jurisdiction of this state may be made by serving the Commissioner with three copies thereof and by paying to the Commissioner a fee of Ten Dollars (\$10.00). The Commissioner shall forward a copy of the process by mail with return receipt requested to the licensee at his last-known address of record or principal place of business, and the Commissioner shall keep a record of all process so served upon him.

- c. Service of process upon any such licensee in any action or proceeding instituted by the Commissioner pursuant to the provisions of this Code shall be made by the Commissioner by mailing the process by mail with return receipt requested to the licensee at his last-known address of record or principal place of business.

Service of process upon any nonresident licensee is sufficient, provided notice of the service and a copy of the process are sent within ten (10) days thereafter to the licensee at his last-known address of record or principal place of business by mail with return receipt requested.

If the Commissioner revokes or suspends any nonresident's license through a formal proceeding pursuant to the provisions of this Code, the Commissioner shall promptly notify the appropriate Commissioner of the licensee's state of residence of the action and of the particulars thereof.

- d. A nonresident of this state may be licensed without taking a written examination if the Commissioner of the state of residence of the applicant certifies by facsimile signature and seal that the applicant has passed a similar written examination, or has been a continuous holder, prior to the time said written examination was required, of a license similar to the license for which application is being made in this state.
- e. When, by the laws or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of this state who are nonresident applicants or licensees of the other state or jurisdiction in addition to or in excess of those imposed on nonresidents pursuant to the provisions of the Insurance Agents Licensing Act, the same requirements shall be imposed upon such residents of the other state or jurisdiction;

3. An applicant for a surplus lines insurance broker's license shall be licensed in this state as a resident insurance agent qualified as to the line or lines of insurance to be written;

4. An applicant for any license required by the provisions of the Insurance Agents Licensing Act shall be deemed by the Commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation;

5. a. It shall be unlawful for any person whose license to act as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker has been suspended, revoked, surrendered, or refused to do or perform any of the acts of an insurance agent, limited insurance representative, managing general agent,

insurance consultant, or surplus lines insurance broker. Any person convicted of violating the provisions of this section shall be guilty of a felony and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or shall be committed to the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or be punished by both said fine and commitment to custody.

- b. It shall be unlawful for any insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker to assist, aid, or conspire with a person whose license as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker has been suspended, revoked, surrendered, or refused to engage in any acts as an insurance agent, limited insurance representative, managing general agent, insurance consultant, or surplus lines insurance broker. Any person convicted of violating the provisions of this section shall be guilty of a felony and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00) or shall be committed to the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or be punished by both said fine and commitment to custody;

6. It shall be unlawful for any person to do or perform any of the acts of an insurance agent, limited insurance representative, managing general agent, surplus lines insurance broker, or insurance consultant without being duly licensed, or for any partnership or corporation, or any person acting on behalf of a partnership or corporation, to violate any of the provisions of subsection B of Section 1424 of this title. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or be punished by both said fine and imprisonment;

- 7.
 - a. After completion and filing of the application with the Commissioner, except as provided in Section 1426 of this title, the Commissioner shall subject each applicant for license as an insurance agent, surplus lines insurance broker, insurance consultant, or limited insurance representative to a written examination as to his competence to act as a licensee, which each applicant shall personally take and pass to the satisfaction of the Commissioner.
 - b. If the applicant is a partnership or corporation, the examination shall be taken by each individual who is to act for the corporation or partnership as an agent, surplus lines insurance broker, limited insurance representative, or insurance consultant.
 - c. Each examination for a license shall be approved for use by the Commissioner and shall reasonably test the knowledge of the applicant as to the lines of insurance, policies, and transactions to be handled pursuant to the license applied for, the duties and

responsibilities of the licensee, and the pertinent insurance laws of this state.

- d. Examination for licensing shall be at such reasonable times and places as are designated by the Commissioner.
 - e. The Commissioner shall give, conduct, and grade all examinations in a fair and impartial manner and without discrimination among individuals examined.
 - f. The applicant shall pass the examination with a grade determined by the Commissioner to indicate satisfactory knowledge and understanding of the line or lines of insurance for which the applicant seeks qualification. Within ten (10) days after the examination, the Commissioner shall inform the applicant and the appointing insurer, when applicable, as to whether or not the applicant has passed. Formal evidence of said licensing shall be issued by the Commissioner to the licensee within a reasonable time.
 - g. An applicant who has failed to pass the first examination for the license applied for may take a second examination within thirty (30) days following the first examination. Examination fees for subsequent examinations shall not be waived.
 - h. An applicant who has failed to pass the first two examinations for the license applied for shall not be permitted to take a subsequent examination until the expiration of six (6) months after the last previous examination. A current application, company appointments, and applicable fees shall be submitted with each request to take a subsequent examination;
8. a. If the Commissioner finds that the applicant has not fully met the requirements for licensing, he shall refuse to issue the license and promptly notify the applicant and the appointing insurer, when applicable, in writing, of the denial, stating the grounds therefor.
- b. If for any reason a license is not issued by the Commissioner, all fees accompanying the application for the license as insurance agent, surplus lines insurance broker, insurance consultant, and limited insurance representative shall be deemed earned and shall not be refundable;

9. Every licensed agent shall notify the Commissioner of any change in his address as shown on the license as issued within ten (10) days after the change; and

10. Every licensed agent shall provide a place of business which is accessible to the public. The provisions of this section shall not prohibit the business of insurance in the residence of a licensed agent.

L. If an agent or agents choose to use a facsimile signature stamp in his or their business, then such stamp shall be proof that the agent or agents have authorized the signing of any documents relating to the business of insurance.

M. It shall be unlawful for any insurer to discriminate among or between the agents it has appointed. Any person or company convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or be punished by both said fine and imprisonment.

N. It shall be unlawful for any insurance agent to receive an ownership interest in any policy, by assignment or otherwise, unless the agent has an insurable interest in the life of the insured.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 2024, is amended to read as follows:

Section 2024. As used in ~~this act~~ Section 2021 et seq. of this title:

1. "Account" means any of the three accounts created under Section 2023 of the Insurance Code;

2. "Association" means the Oklahoma Life and Health Insurance Guaranty Association created in Section 2023 of the Insurance Code;

3. "Board" means Board of Directors of the Oklahoma Life and Health Insurance Guaranty Association;

4. "Contractual obligation" means any obligation under a policy or contract or certificate under a group policy or contract, or portion thereof for which coverage is provided under Section 2025 of the Insurance Code;

5. "Covered policy" means any policy or contract specified in Section 2025 of the Insurance Code;

6. "Impaired insurer" means a member insurer which, ~~after the effective date of this act,~~ is not an insolvent insurer and:

- a. is deemed by the Commissioner to be potentially unable to fulfill its contractual obligations; or
- b. is placed under an order of rehabilitation or conservation by a court of competent jurisdiction;

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

8. "Member insurer" means any nonprofit hospital service and medical indemnity corporation and any insurer licensed or which holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under Section 2025 of the Insurance Code, and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed or voluntarily withdrawn, but does not include:

- ~~a. A nonprofit hospital or medical service organization;~~
- ~~b. A health maintenance organization;~~
- ~~c. b. A fraternal benefit society;~~
- ~~d. c. A mandatory state-pooling plan;~~
- ~~e. d. A mutual assessment company or any entity that operates on an assessment basis;~~
- ~~f. e. An insurance exchange; or~~
- ~~g. f. Any entity similar to any of the above;~~

9. "Moody's Corporate Bond Yield Average" means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto;

10. "Person" means any individual, corporation, partnership, association or voluntary organization;

11. "Premium" means amounts received on covered policies or contracts less premiums, considerations and deposits returned thereon, and less dividends and experience credits thereon.

"Premiums" does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under subsection B of Section 2025 of the Insurance Code except that assessable premium shall not be reduced on account of subparagraph (c) of paragraph 2 of subsection B of Section 2025 relating to interest limitations and paragraph 2 of subsection C of Section 2025 relating to limitations with respect to any one life;

12. "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom a contractual obligation is owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business; and

13. "Supplemental contract" means any agreement entered into for the distribution of policy or contract proceeds.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 2616, is amended to read as follows:

Section 2616. The provisions of this article apply only to not-for-profit hospital service and indemnity and medical service and indemnity corporations and such corporations shall be governed by this article to the extent provided herein. Such corporations shall be exempt from all other provisions of the insurance laws of this state except that the provisions of Articles 1 (Scope of Title), 3 (Insurance Department; Insurance Commissioner; Insurance Board), 12 (Unfair Practices and Frauds), 15 (Assets and Liabilities), 16 (Investments), 16A (Subsidiaries of Insurers), 17 (Administration of Deposits), ~~and~~ 18 (Supervision and Conservatorship of Insurers), 19 (Rehabilitation and Liquidation) and the provisions of Sections 624 through 626 of this title and 628 through 631 of this title shall apply to such corporations to the extent that such provisions are not in conflict with the provisions of this article. No law relating to insurance hereafter enacted shall apply to such corporations unless they be expressly designated therein.

SECTION 5. AMENDATORY 36 O.S. 1991, Section 3636, is amended to read as follows:

Section 3636. A. No policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be issued, delivered, renewed, or extended in this state with respect to a motor vehicle registered or principally garaged in this state unless the policy includes the coverage described in subsection B of this section.

B. The policy referred to in subsection A of this section shall provide coverage therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles and hit-and-run motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom. Coverage shall be not less than the amounts or limits prescribed for bodily injury or death for a policy meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes, as the same may be hereafter amended; provided, however, that increased limits of liability shall be offered and purchased if desired, not to exceed the limits provided in the policy of bodily injury liability of the insured. The uninsured motorist coverage shall be upon a form approved by the Insurance Commissioner as otherwise provided in the Insurance Code and may provide that the parties to the contract shall, upon demand of either, submit their differences to arbitration; provided, that if agreement by arbitration is not reached within three (3) months from date of demand, the insured may sue the tort-feasor.

C. For the purposes of this coverage the term "uninsured motor vehicle" shall include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. For the purposes of this coverage the term "uninsured motor vehicle" shall also include an insured motor

vehicle, the liability limits of which are less than the amount of the claim of the person or persons making such claim, regardless of the amount of coverage of either of the parties in relation to each other.

D. An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tort-feasor becomes insolvent within one (1) year after such an accident. Nothing herein contained shall be construed to prevent any insurer from according insolvency protection under terms and conditions more favorable to its insured than is provided hereunder.

E. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer. Provided, however, with respect to payments made by reason of the coverage described in subsection C of this section, the insurer making such payment shall not be entitled to any right of recovery against such tort-feasor in excess of the proceeds recovered from the assets of the insolvent insurer of said tort-feasor. Provided further, that any payment made by the insured tort-feasor shall not reduce or be a credit against the total liability limits as provided in the insured's own uninsured motorist coverage. Provided further, that if a tentative agreement to settle for liability limits has been reached with an insured tort-feasor, written notice shall be given by certified mail to the uninsured motorist coverage insurer by its insured. Such written notice shall include:

1. Written documentation of pecuniary losses incurred, including copies of all medical bills; and
2. Written authorization or a court order to obtain reports from all employers and medical providers. Within sixty (60) days of receipt of this written notice, the uninsured motorist coverage insurer may substitute its payment to the insured for the tentative settlement amount. The uninsured motorist coverage insurer shall then be entitled to the insured's right of recovery to the extent of such payment and any settlement under the uninsured motorist coverage. If the uninsured motorist coverage insurer fails to pay the insured the amount of the tentative tort settlement within sixty (60) days, the uninsured motorist coverage insurer has no right to the proceeds of any settlement or judgment, as provided herein, for any amount paid under the uninsured motorist coverage.

F. A named insured or applicant shall have the right to reject uninsured motorist coverage in writing, and except that unless a named insured or applicant requests such coverage in writing, such coverage need not be provided in or supplemental to any renewal, reinstatement, substitute, amended or replacement policy where a named insured or applicant had rejected the coverage in connection with a policy previously issued to him by the same insurer.

G. Notwithstanding the provisions of this section, the following are the only instances in which a new form affecting uninsured motorist coverage shall be required:

1. When an insurer is notified of a change in or an additional named insured;
2. When there is an additional vehicle that is not a replacement vehicle; provided, a new form shall not be required for the addition, substitution or deletion of a vehicle from a

commercial automobile liability policy covering a fleet of five (5) or more vehicles; or

3. When the amount of bodily injury liability coverage is amended. Provided, any change in premium alone shall not require the issuance of a new form.

After selection of limits, rejection, or exercise of the option not to purchase uninsured motorist coverage by a named insured or applicant for insurance, the insurer shall not be required to notify any insured in any renewal, reinstatement, substitute, amended or replacement policy as to the availability of such uninsured motorist coverage or such optional limits. Such selection, rejection, or exercise of the option not to purchase uninsured motorist coverage by a named insured or an applicant shall be valid for all insureds under the policy and shall continue until a named insured requests in writing that the uninsured motorist coverage be added to an existing or future policy of insurance.

H. The offer of the coverage required by subsection B of this section shall be in the following form which shall be filed with and approved by the Insurance Commissioner. The form shall be provided to the proposed insured in writing separately from the application and shall read as follows:

OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

Oklahoma law gives you the right to buy Uninsured Motorist coverage in the same amount as your bodily injury liability coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR LIABILITY INSURANCE COVERAGE LIMIT.

Uninsured Motorist coverage, unless otherwise provided in your policy, pays for bodily injury damages to you, members of your family who live with you, and other people riding in your car who are injured by: (1) an uninsured motorist, (2) a hit-and-run motorist, or (3) an insured motorist who does not have enough liability insurance to pay for bodily injury damages to any insured person. Uninsured Motorist coverage, unless otherwise provided in your policy, protects you and family members who live with you while riding in any vehicle or while a pedestrian. THE COST OF THIS COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

You may make one of four choices about Uninsured Motorist Coverage:

1. You may buy Uninsured Motorist coverage equal to your bodily injury liability coverage for \$_____ for _____ months.

2. You may buy Uninsured Motorist coverage in the amount of \$10,000.00 for each person injured, not to exceed \$20,000.00 for two or more persons injured in one occurrence (the smallest coverage which Oklahoma law allows) for \$_____ for _____ months.

3. You may buy Uninsured Motorist coverage in an amount less than your bodily injury liability coverage but more than the minimum levels.

4. You may reject Uninsured Motorist coverage.

Please indicate below what Uninsured Motorist coverage you want:

_____ I want the same amount of Uninsured Motorist coverage as my bodily injury liability coverage.

_____ I want minimum Uninsured Motorist coverage (\$10,000.00 per person/\$20,000.00 per occurrence).

_____ I want Uninsured Motorist coverage in the following amount: \$_____ per person/\$_____ per occurrence.

_____ I want to reject Uninsured Motorist coverage.

THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE COVERAGE.

I. To account for individual insurance company operational differences, for a one-year phase-in period beginning September 1, 1990, insurers may file for a deviation from the form described in subsection H of this section, to be used only for the insurer's policyholders as of September 1, 1990. The Insurance Commissioner shall approve the deviation only if the form includes substantially the same information as is included in subsection H of this section. In the deviated form, insurers may provide existing policyholders the option to maintain their current level of Uninsured Motorist coverage. Each existing policyholder shall receive the notice provided in subsection H of this section no later than the next policy renewal following the phase-in period.

SECTION 6. AMENDATORY 36 O.S. 1991, Section 4003.1, is amended to read as follows:

Section 4003.1 A. No policy of individual life insurance or any annuity shall be delivered or issued for delivery in this state unless it shall have printed thereon or attached thereto a notice stating in substance that, during a period of ten (10) days from the date the policy or annuity is delivered to the insured, it may be surrendered to the insurer together with a written request for cancellation of the policy or annuity and, in such event, the policy or annuity shall be void from the beginning and the insurer will refund any premium or moneys paid therefor within thirty (30) days from the date of cancellation. If the insurer does not return any premiums or moneys paid therefor within thirty (30) days from the date of cancellation, the insurer shall pay interest on the proceeds which shall be the same rate of interest as the average United States Treasury Bill rate of the preceding calendar year, as certified to the Insurance Commissioner by the State Treasurer on the first regular business day in January of each year, plus two (2) percentage points, which shall accrue from the date of cancellation until the premiums or moneys are returned. In such event, the policy or annuity shall be deemed to have been canceled on the date the policy was placed in the U.S. mails in a properly addressed, postpaid envelope; or, if not so posted, on the date of delivery of such policy or annuity to the insurer.

B. This section shall not apply to life insurance policies issued in connection with a credit transaction or issued under a contractual policy change or conversion privilege provision contained in the policy.

SECTION 7. AMENDATORY 36 O.S. 1991, Section 4030.1, is amended to read as follows:

Section 4030.1 A. Within ten (10) days after an insurer receives written notification of the death of a person covered by a policy of life insurance, the insurer shall provide to the claimant the necessary forms to be completed to establish proof of the death of the insured and, if required by the policy, the interest of the claimant. If the policy contains a provision requiring surrender of the policy prior to settlement, the insurer shall include a written statement to that effect with the forms to be completed. Forms to establish proof of death and proof of the interest of the claimant shall be approved by the Insurance Commissioner.

B. An insurer shall pay the proceeds of any benefits under a policy of life insurance not more than thirty (30) days after the insurer has received proof of death of the insured. If the proceeds are not paid within this period, the insurer shall pay interest on the proceeds, at a rate which is not less than the current rate of interest on death proceeds on deposit with the insurer, from the

date of death of the insured to the date when the proceeds are paid. Should the insurer hold its deposits in a noninterest bearing account, the rate of interest to be paid shall be the same rate of interest as the average United States Treasury Bill rate of the preceding calendar year, as certified to the Insurance Commissioner by the State Treasurer on the first regular business day in January of each year, plus two (2) percentage points, which shall accrue from the thirty-first day after receipt of proof of loss until the proceeds are paid. Payment shall be deemed to have been made on the date a check, draft or other valid instrument which is equivalent to payment was placed in the U.S. mails in a properly addressed, postpaid envelope; or, if not so posted, on the date of delivery of such instrument to the beneficiary.

C. Subsection B of this section shall not apply to any life insurance policy issued before October 1, 1978, which contains specific provisions to the contrary.

SECTION 8. AMENDATORY 36 O.S. 1991, Section 4426, as amended by Section 2, Chapter 136, O.S.L. 1993 (36 O.S. Supp. 1993, Section 4426), is amended to read as follows:

Section 4426. A. No long-term care insurance policy shall:

1. Be canceled, nonrenewed, or otherwise terminated on the grounds of age or the deterioration of the mental or physical health of the insured individual or certificate holder;

2. Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder; or

3. Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

B. 1. No long-term care insurance policy or certificate shall use a definition of "preexisting condition" which is more restrictive than the following: Preexisting condition means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within six (6) months preceding the effective date of coverage of an insured person.

2. No long-term care insurance policy or certificate shall exclude coverage for a loss or confinement which is the result of a preexisting condition unless such loss or confinement begins within six (6) months following the effective date of coverage of an insured person.

3. The definition of "preexisting condition" does not prohibit an insurer:

- a. from using an application form designed to elicit the complete health history of an applicant, and
- b. from underwriting, on the basis of the answers on that application, in accordance with that insurer's established underwriting standards.

4. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, need not be covered until the waiting period described in paragraph 2 of subsection B of this section expires. No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in paragraph 2 of subsection B of this section.

C. Prior hospitalization/institutionalization:

1. No long-term care insurance policy may be delivered or issued in this state if such policy:

- a. conditions eligibility for any benefits on a prior hospitalization requirement,
 - b. conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care, or
 - c. conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care or recuperative benefits on a prior institutionalization requirement.
2. a. A long-term care insurance policy containing post-confinement, post-acute care or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement.
- b. A long-term care insurance policy or rider which conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty (30) days.

D. No law, rule or regulation shall establish loss ratio standards for long-term care insurance policies unless a specific reference to long-term care insurance policies is contained in such law, rule or regulation.

E. Long-term care insurance applicants shall have the right to return the policy or certificate within thirty (30) days after its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied with the policy, for any reason. Long-term care insurance policies and certificates shall have a notice prominently printed on the first page of the policy or attached thereto, stating in substance, that the applicant shall have the right to return the policy or certificate within thirty (30) days after its delivery and to have the premium refunded if, after examination of the policy, or certificate, the applicant is not satisfied with the policy, for any reason. If the insurer does not return any premiums or moneys paid therefor within thirty (30) days from the date of cancellation, the insurer shall pay interest on the proceeds which shall be the same rate of interest as the average United States Treasury Bill rate of the preceding calendar year, as certified to the Insurance Commissioner by the State Treasurer on the first regular business day in January of each year, plus two (2) percentage points, which shall accrue from the date of cancellation until the premiums or moneys are returned. In such event, the long-term care policy shall be deemed to have been canceled on the date the policy was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery of such policy or annuity to the insurer.

F. An outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of initial solicitation through means which prominently direct the attention of the recipient to the document and its purpose. The Insurance Commissioner shall prescribe a standard format, including style, arrangement and overall appearance, and the content of an outline of coverage. In the case of agent solicitations, an agent must deliver the outline of coverage prior to the presentation of an application or enrollment form. In the case of direct response solicitations,

the outline of coverage must be presented in conjunction with any application or enrollment form. Such outline of coverage shall include, but not be limited to:

1. A description of the principal benefits and coverage provided in the policy;

2. A statement of the principal exclusions, reductions and limitations contained in the policy;

3. A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change premiums. Continuation or conversion provisions of group coverage shall be specifically described;

4. A statement that the outline of coverage is a summary only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions;

5. A description of the terms under which the policy or certificate may be returned and premium refunded; and

6. A brief description of the relationship of cost of care and benefits.

G. At the time of policy delivery, a policy summary shall be delivered for an individual life insurance policy which provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver the policy summary upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. In addition to complying with all applicable requirements, the summary shall also include:

1. An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

2. An illustration of the amount of benefits, the length of benefit, and the guaranteed lifetime benefits if any, for each covered person;

3. Any exclusions, reductions and limitations on benefits of long-term care; and

4. If applicable to the policy type, the summary shall also include:

a. a disclosure of the effects of exercising other rights under the policy,

b. a disclosure of guarantees related to long-term care costs of insurance charges, and

c. current and projected maximum lifetime benefit.

H. Any time a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. Such report shall include:

1. Any long-term care benefits paid out during the month;

2. An explanation of any changes in the policy, e.g. death benefits or cash values, due to long-term care benefits being paid out; and

3. The amount of long-term care benefits existing or remaining.

I. No policy shall be advertised, marketed or offered as long-term care insurance unless it complies with the provisions of the Long-Term Care Insurance Act.

J. Policies or contracts issued by life care communities which are not licensed insurers in this state shall contain the following statement in conspicuous bold-face type on the front of the policy or contract: "The financial condition of the entity issuing this contract is not subject to review by or the jurisdiction of the

Oklahoma Insurance Commissioner. This contract is not subject to the protection of any guaranty association."

SECTION 9. AMENDATORY 36 O.S. 1991, Section 4501, as amended by Section 1, Chapter 304, O.S.L. 1992 (36 O.S. Supp. 1993, Section 4501), is amended to read as follows:

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

~~1. Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring at least ten employees of such employer for the benefit of persons other than the employer. The term "employees" as used herein shall be deemed to include the officers, managers, and employees of the employer, the individual proprietor or partners if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term "employees" as used herein shall be deemed to include retired employees. A policy issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officials.~~

~~2. Under a policy issued to an association, including a labor union, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least ten members, employees, or employees of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employees" as used herein shall be deemed to include retired employees;~~

~~3. 2. Under a policy issued to the trustees of a fund established by two or more employers or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions. The term "employees" as used herein shall be deemed to include the officers, managers and employees of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employees" as used herein shall be deemed to include retired employees. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;~~

~~4. 3. Under a policy issued to any persons or organizations to which a policy of group life insurance may be delivered in this state, to insure any class or classes of individuals that could be insured under such group life policy;~~

~~5. 4. Under a health insurance policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder insuring at least one employee of such employer for the benefit of persons other than the employer. The term "employee" as used herein shall be deemed to include the officers, managers, and employees of the employer, the individual proprietor or partners if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated~~

corporations, the individual proprietors, partners and employees of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term "employee" as used herein shall be deemed to include retired employees and their dependents and the dependents of employees eligible for Medicare. A policy issued to insure employees of a public body may provide that the term "employees" shall include elected or appointed officials;

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

~~7.~~ 6. Nothing in this article validates any charge or practice illegal under any rule of law or regulation governing usury, small loans, retail installment sales, or the like, or extends the application of any such rule of law or regulation to any transaction not otherwise subject thereto.

SECTION 10. AMENDATORY 36 O.S. 1991, Section 6060, as amended by Section 1, Chapter 165, O.S.L. 1993 (36 O.S. Supp. 1993, Section 6060), is amended to read as follows:

Section 6060. A. All individual and group health insurance policies providing coverage on an expense incurred basis, and all individual and group service or indemnity type contracts issued by a nonprofit corporation ~~and all self-insurers~~ which provide coverage for a female thirty-five (35) years old or older in this state, except for policies that provide coverage for specified disease or other limited benefit coverage, shall include the coverage specified by this section for a routine low-dose mammography screening in a reimbursement amount not to exceed Seventy-five Dollars (\$75.00) for the presence of occult breast cancer, ~~within the provisions of the policy and shall not be subject to the policy deductible, co-payments and co-insurance limits of the plan.~~

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

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

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

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The purpose of Sections 11 through 21 of this act is to subject certain persons and insurers to the jurisdiction of:

1. The Insurance Commissioner, including proceedings before the Commissioner; and

2. The courts of this state in suits by or on behalf of this state and insureds or beneficiaries under insurance contracts.

B. The Legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued by persons and insurers not authorized to do insurance business in this state, thus presenting to such residents the often insuperable obstacle of asserting their legal rights under such policies in forums foreign to them under laws and rules of practice with which they are not familiar. The Legislature declares that it is also

concerned with the protection of residents of this state against acts by persons and insurers not authorized to do an insurance business in this state by:

1. The maintenance of fair and honest insurance markets;
2. Protecting the premium tax revenues of this state;
3. Protecting authorized persons and insurers which are subject to strict regulation from unfair competition by unauthorized persons and insurers; and
4. Protecting against the evasion of the insurance regulatory laws of this state.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise indicated, the term "insurer" as used in Sections 11 through 21 of this act includes all corporations, associations, partnerships and individuals engaged as principals in the business of insurance and also includes interinsurance exchanges, mutual benefit societies and insurance exchanges and syndicates.

B. The venue of any act listed in this section shall be Oklahoma County.

C. Any one of the following acts in this state effected by mail or otherwise is defined to be doing an insurance business in this state:

1. The making of or proposing to make, as an insurer, an insurance contract;
2. The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;
3. The taking or receiving of any application for insurance;
4. Maintaining any agency or office where any acts in furtherance of an insurance business are transacted, including but not limited to:
 - a. the execution of contracts of insurance with citizens of this or any other state,
 - b. maintaining files or records of contracts of insurance,
 - c. the processing of claims, and
 - d. the receiving or collection of any premiums, commissions, membership fees, assessments, dues or other consideration for any insurance or any part thereof;
5. The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;
6. Directly or indirectly acting as an agent for, or otherwise representing or aiding on behalf of another, any person or insurer in:
 - a. the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof,
 - b. the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts,
 - c. inspection of risks,
 - d. fixing of rates or investigation or adjustment of claims or losses,
 - e. the transaction of matters subsequent to effectuation of the contract and arising out of it, or

- f. in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state;

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

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

- a. any program otherwise authorized by law that is established by any political subdivision of this state or under the provisions of Sections 1001 through 1008 of Title 74 of the Oklahoma Statutes, or
- b. a multiple employer welfare arrangement as defined in Section 3 of the Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1002(40)(A), as amended, that holds a valid license issued by the Insurance Commissioner or is exempt from state regulation pursuant to subsection B of Section 634 of Title 36 of the Oklahoma Statutes;

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

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

10. Any other transactions of business in this state by an insurer.

D. The provisions of this section do not apply to:

1. The lawful transaction of surplus lines insurance;
2. Life, accident and health insurance or annuities provided to educational or scientific institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions or individuals engaged in the service of such institutions;
3. The lawful transaction of reinsurance by insurers; or
4. Transactions in this state involving a policy lawfully solicited, written and delivered outside of this state covering only subjects of insurance not resident, located or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. For the purposes of Sections 11 through 21 of this act, "person" shall include an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

B. No person or insurer shall directly or indirectly do any of the acts of an insurance business set forth in Sections 11 through 21 of this act, except as provided by and in accordance with the

specific authorization of statute. In respect to the insurance of subjects resident, located or to be performed within this state, this section shall not prohibit the collection of premium or other acts performed outside of this state by persons or insurers authorized to do business in this state provided such transactions and insurance contracts otherwise comply with statute.

C. Any person which the Insurance Commissioner has reason to believe is doing any of the acts specified in Section 12 of this act, upon written request by the Commissioner, shall immediately provide to the Commissioner such information as requested in relation to such acts.

D. A person or entity who violates any provision of Sections 11 through 21 of this act is subject to a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) for each act of violation and for each day of violation to be recovered as provided in this section.

E. Whenever the Commissioner has reason to believe or it appears that any person or insurer has violated or is threatening to violate any provision of Sections 11 through 21 of this act or any rule promulgated pursuant thereto, or that any person or insurer acting in violation of Sections 11 through 21 of this act has engaged in or is threatening to engage in any unfair method of competition or any unfair or deceptive act or practice as defined by Section 1201 et seq. of Title 36 of the Oklahoma Statutes or any rule promulgated pursuant thereto, the Commissioner may:

1. Issue an ex parte cease and desist order under the procedures provided by Section 14 of this act;

2. Institute in the district court of Oklahoma County a civil suit for injunctive relief to restrain the person from continuing the violation or threat of violation;

3. Institute in the district court of Oklahoma County a civil suit to recover a civil penalty as provided for in this section; or

4. Exercise any combination of the acts provided for in this subsection.

F. On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of Sections 11 through 21 of this act, the district court shall grant the injunctive relief and the injunction shall be issued without bond.

G. This section shall not be construed to limit the Insurance Commissioner to the remedies specified herein. It is the intent of the Legislature that persons engaging in the business of insurance without statutory authorization constitute an imminent peril to the public welfare and should immediately be stopped and enjoined from doing so, provided, the Insurance Commissioner and the State of Oklahoma should be able to choose at any time any available remedy or action to bring about such a result without regard to prior proceedings under this section.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.4 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. If the Insurance Commissioner has reason to believe or it appears that a person or insurer has violated or is threatening to violate the provisions of Sections 11 through 21 of this act or a rule promulgated pursuant thereto, or that a person or insurer acting in violation of Sections 11 through 21 of this act has engaged in or is threatening to engage in an unfair method of competition or an unfair or deceptive act or practice as defined in Section 1201 et seq. of Title 36 of the Oklahoma Statutes or a rule promulgated pursuant thereto, the Commissioner may set a hearing and

shall serve on that person or insurer allegations of fact and a notice of hearing, in conformance with the Administrative Procedures Act and the Oklahoma Insurance Code, and the applicable rules thereof.

2. The hearing must be held not earlier than the 5th day or later than the 30th day after the date of service of the statement and notice unless the parties, with prior written approval of the Commissioner, mutually agree to some other arrangements. Process may be served by registered mail, return receipt requested, to the person's last-known address.

3. The hearing shall be conducted in the manner provided for contested cases under the Administrative Procedures Act and the Oklahoma Insurance Code, and the applicable rules thereof.

B. 1. After the hearing, the Commissioner may issue an order against the person or insurer charged with a violation requiring that the person or insurer immediately cease and desist from the violation.

2. A person aggrieved by a final order or decision of the Insurance Commissioner pursuant to Sections 11 through 21 of this act may seek judicial review pursuant to Section 318 of Title 75 of the Oklahoma Statutes.

C. The Insurance Commissioner may promulgate reasonable rules necessary to carry out this section.

D. The Insurance Commissioner may proceed under Sections 11 through 21 of this act or under any other applicable law without regard to prior proceedings.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.5 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Commissioner may issue a cease and desist order, ex parte, if:

1. The Commissioner believes:

- a. an unauthorized person is engaging in the business of insurance in violation of Section 12 of this act or in violation of a rule promulgated pursuant to Sections 11 through 21 of this act, or
- b. an unauthorized person engaged in the business of insurance acting in violation of Section 13 of this act is committing an unfair method of competition or an unfair or deceptive act or practice in violation of Section 1201 et seq. of Title 36 of the Oklahoma Statutes or in violation of any rule promulgated pursuant thereto; or

2. It appears to the Commissioner that the alleged conduct is fraudulent or hazardous or creates an immediate danger to the public safety or is causing or can be reasonably expected to cause significant, imminent and irreparable public injury.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.6 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. On issuance of an emergency cease and desist order under Section 14 of this act, the Insurance Commissioner shall serve on the person affected by the order, by registered or certified mail, return receipt requested, to the person's last-known address, an order that contains a statement of the charges and require the person immediately to cease and desist from the acts, methods or practices stated.

B. 1. If a person affected by an emergency cease and desist order seeks to contest that order, the person may request a hearing before the Commissioner. The person affected must request the

hearing not later than the 30th day after the date on which the person receives the order. A request to contest an order must be in writing and directed to the Commissioner and must state the grounds for the request to set aside or modify the order.

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

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

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

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

C. A person aggrieved by a final order and decision of the Commissioner pursuant to Sections 11 through 21 of this act may seek judicial review pursuant to Section 318 of Title 75 of the Oklahoma Statutes.

D. The Commissioner may recover reasonable attorney's fees if judicial action is necessary for enforcement of the order.

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

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.7 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. If the Insurance Commissioner reasonably believes that a person has violated a cease and desist order issued under Sections 11 through 21 of this act, the Commissioner may:

- a. initiate individual proceedings under this section pursuant to the Administrative Procedures Act,
- b. initiate proceedings to revoke the certificate of authority of the person affected by a ruling or action issued under Sections 11 through 21 of this act, or
- c. pursue any other action the Commissioner deems appropriate under applicable law.

2. In determining whether a cease and desist order has been violated, the Commissioner shall consider the maintenance of procedures reasonably adopted to ensure compliance with the order. The hearing shall be conducted according to the procedure for contested cases under the Administrative Procedures Act.

B. After a hearing, if the Commissioner determines that a cease and desist order has been violated, the Commissioner may:

1. Impose a civil penalty of Twenty-five Thousand Dollars (\$25,000.00) for each act of violation;

2. Direct the person against whom the order was issued to make complete restitution, in the form and amount and within the period determined by the Commissioner, to all Oklahoma residents, Oklahoma insureds, and entities operating in Oklahoma damaged by the violation or failure to comply; or

3. Both impose the penalty and direct restitution.

C. A person aggrieved by a final order or decision of the Commissioner pursuant to Sections 11 through 21 of this act may seek judicial review pursuant to Section 318 of Title 75 of the Oklahoma

Statutes. The Commissioner may recover reasonable attorney's fees if judicial action is necessary to enforce an order.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.8 of Title 36, unless there is created a duplication in numbering, reads as follows:

If a person fails to pay a penalty assessed under the provisions of Sections 11 through 21 of this act, the Insurance Commissioner may:

1. Institute in the district court of Oklahoma County a civil suit to recover the civil penalty; or
2. Pursuant to the Administrative Procedures Act, cancel or revoke any permit, license, certificate of authority, certificate of registration or other authorization issued pursuant to the Oklahoma Insurance Code.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.9 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. Service of process on a person as defined in Section 13 of this act in a civil suit for injunctive relief under Section 13 of this act or to recover a civil penalty under Section 17 of this act shall be made by serving the Secretary of State as agent of the person.

2. Service of process shall be made pursuant to Section 2004 of Title 12 of the Oklahoma Statutes. The Insurance Commissioner shall not pay a fee. Persons served under the provisions of Sections 11 through 21 of this act shall not be considered foreign insurance companies.

B. Nothing contained in this section shall limit or abridge the right to serve any process upon any person in any other manner now or hereafter permitted by law.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.10 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Insurance Commissioner may promulgate reasonable rules necessary to carry out the provisions of Sections 11 through 21 of this act.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103.11 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Insurance Commissioner may proceed solely under the provisions of Sections 11 through 21 of this act or under said provisions in conjunction with other applicable law.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3201 of Title 36, unless there is created a duplication in numbering, reads as follows:

Sections 22 through 24 of this act shall be known and may be cited as the "Oklahoma Child Health Insurance Reform Act".

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3202 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Child Health Insurance Reform Act:

1. "Child health supervision services" means the periodic review of a child's physical and emotional status by a physician or other primary health care provider or pursuant to a physician's supervision;

2. "Review" shall include but not be limited to a history, complete physical examination, developmental assessment, anticipatory guidance, appropriate immunizations and laboratory tests in keeping with prevailing medical standards;

3. "Health care insurer" means any entity that provides health insurance in this state. For the purposes of the Oklahoma Child Health Insurance Reform Act, insurer includes but is not limited to a licensed insurance company, not-for-profit hospital service or medical indemnity corporation, a fraternal benefit society, a health maintenance organization, a prepaid health plan, a multiple employer welfare arrangement or any other entity providing a plan of health insurance or health benefits subject to state regulation; and

4. "Health benefit plan" means any group hospital or medical policy or certificate, contract of insurance provided by a not-for-profit hospital service or medical indemnity plan, prepaid health plan, or health maintenance organization subscriber contract. Health benefit plan does not include accident-only, credit, dental, vision, Medicare supplement, long-term care, specified disease, hospital indemnity, or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, any plan, or automobile medical payment insurance.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3203 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. All health benefit plans which provide coverage for a family member of the insured or subscriber shall offer coverage for child health supervision services. Such services shall include coverage from the moment of birth through the age of eighteen years. Each such plan or contract shall, at a minimum, provide benefits for child health supervision services at approximately the following age intervals: birth, two months, four months, six months, nine months, twelve months, eighteen months, two years, three years, four years, five years, six years, eight years, ten years, twelve years, fourteen years, sixteen years and eighteen years. A health benefit plan may provide that child health supervision services which are rendered during a periodic review shall only be covered to the extent that services are provided by or under the supervision of a single physician or other primary health care provider during the course of one visit. Benefits for such services shall be subject to the same durational limits, dollar limits, deductibles and coinsurance factors as other covered services in such health insurance policies. All Oklahoma health benefit plans delivered, issued for delivery, modified or renewed on or after January 1, 1995, shall be subject to the provisions of this section.

B. Nothing in the Oklahoma Child Health Insurance Reform Act shall prohibit the health care insurer from including any or all coverage for child health supervision services as standard coverage in their policies or contracts.

SECTION 25. REPEALER 36 O.S. 1991, Section 6103, is hereby repealed.

SECTION 26. This act shall become effective September 1, 1994.
Passed the Senate the 24th day of May, 1994.

President of the Senate

Passed the House of Representatives the 25th day of May, 1994.

Speaker of the House of
Representatives