

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 2553

By: Seikel of the House

and

Douglass of the Senate

(insurance - amending 11 sections in Title 36 - Agents
Licensing Act - Insurance Adjusters Licensing Act -
codification - effective date -
emergency)

AUTHOR: Add the following Senate Coauthor: Robinson

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting
clause and entire bill and insert

[insurance - amending sections in Title 36 - Agents
Licensing Act - Insurance Adjusters Licensing Act -
codification - effective date - emergency
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SECTION 1. AMENDATORY 36 O.S. 1991, Section 1423, as
amended by Section 2, Chapter 261, O.S.L. 1992 (36 O.S. Supp. 1995,
Section 1423), is amended to read as follows:

Section 1423. A. Every agent, customer service representative,
or limited insurance representative who solicits or negotiates an
application for insurance of any kind shall, in any controversy
between the insured or ~~his~~ the insured's beneficiary and the
insurer, be regarded as representing the insurer and not the insured

or ~~his~~ the insured's beneficiary. This provision shall not affect the apparent authority of an agent.

B. Every surplus lines insurance broker who solicits an application for insurance of any kind shall, in any controversy between the insured or ~~his~~ the insured's beneficiary and the insurer issuing any policy upon such application, be regarded as representing the insured or ~~his~~ the insured's beneficiary and not the insurer. Any company which directly or through its agents delivers in this state to any insurance broker, a policy of insurance pursuant to the application or request of such broker, acting for an insured other than himself or herself, shall be deemed to have authorized such broker to receive on its behalf, payment of any premium which is due on such policy of insurance at the time of its issuance or delivery.

C. Every licensed agent shall be entitled to commissions on all premiums collected for group insurance policies negotiated by said agent on behalf of an insurer and an insurer shall be required to pay such commissions to the agent, except entitlement to commissions shall automatically terminate without notice, effective on the date of the occurrence of any of the following events:

1. The agent's license to engage in accident and health insurance business is terminated or revoked by the State of Oklahoma or any other public authority for cause. As used in this paragraph, "cause" shall be defined as perpetration by the agent of fraud or embezzlement;

2. Material breach of the agent's contract with the account or insurer, excluding production requirements;

3. Termination of the agent's "Agent of Record" relationship with the employer or account; or

4. Death of the agent, unless the contract between the insurer states otherwise or the right to the commission has vested.

Recovery of such commissions shall be through civil action. In any action brought pursuant to this subsection, the court may award reasonable attorneys fees to the prevailing party.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1424, as amended by Section 1, Chapter 35, O.S.L. 1993 (36 O.S. Supp. 1995, Section 1424), is amended to read as follows:

Section 1424. A. 1. No person shall act as or hold himself or herself out to be an insurance agent, surplus lines insurance broker, limited insurance representative, managing general agent, or consultant unless duly licensed.

2. No insurance agent, surplus lines insurance broker, or limited insurance representative shall make application for, procure, negotiate for, or place for others any policies for any lines of insurance as to which he or she is not then qualified and duly licensed.

a. An insurance agent ~~or surplus lines insurance broker~~ may receive qualification for a license in one or more of the following categories or lines of insurance:

(1) life insurance, including fraternal agents licensed pursuant to Section 2733.1 of this title,

(2) accident and health insurance, including fraternal agents licensed pursuant to Section 2733.1 of this title,

(3) property and casualty insurance,

(4) ~~vehicle insurance~~

~~(5) casualty insurance~~

~~(6)~~ variable annuity contracts, including fraternal agents licensed pursuant to Section 2733.1 of this title, and

~~(7) Bail bonds~~

~~(8)~~ (5) title insurance.

- b. A limited insurance representative may receive qualification for a license in one or more of the following categories:
- (1) as a ticket-selling agent of a common carrier who acts only with reference to the issuance of insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier~~—L~~
 - (2) to engage in the sale of only limited travel accident insurance~~—L~~
 - (3) to engage in the sale of credit life insurance or credit accident and health insurance or both credit life insurance and credit accident and health insurance in connection with a credit transaction by which satisfaction of a debt in whole or in part is a benefit provided~~—L~~
 - (4) to engage in the sale of personal property floater insurance upon personal effects against loss or damage from any cause in connection with a credit transaction of not more than Five Thousand Dollars (\$5,000.00) by which satisfaction of the credit transaction debt in whole or in part is a benefit provided, and such personal effects are used as collateral on the debt~~—L~~
 - (5) to engage in the sale of nonfiling insurance relating to mortgages and security interests arising under the Uniform Commercial Code, Section 1-101 et seq. of Title 12A of the Oklahoma Statutes~~—L~~
 - (6) prepaid legal liability insurance, which means the assumption of an enforceable contractual

obligation to provide specified legal services or to reimburse policyholders for specified legal expenses, pursuant to the provisions of a group or individual policy~~.,~~

(7) job loss insurance, which means the sale of involuntary unemployment insurance in connection with a credit transaction by which satisfaction of a debt in whole or in part is a benefit provided~~.,~~

(8) to provide insurance coverage for pawned merchandise; provided~~.,~~ no test shall be required of applicants for licensure in this category.

3. An insurance agent or limited insurance representative may solicit applications for and issue travel accident policies or baggage insurance by means of mechanical vending machines supervised by ~~him~~ the agent or representative, as follows:

- a. The Insurance Commissioner shall determine that the form of policy to be sold is reasonably suited for sale and issuance through vending machines, that use of vending machines for the sale of said policies would be of convenience to the public, and that the type of vending machine to be used is reasonably suitable and practical for the sale and issuance of said policies. Policies so sold do not have to be countersigned.
- b. The Commissioner shall issue to the insurance agent or limited insurance representative a special vending machine license for each such machine to be used. The license shall specify the name and address of the insurer and licensee, the kind of insurance and type of policy to be sold, and the place where the machine is to be in operation. The license shall expire, be

renewable, and be suspended or revoked coincidentally with the insurance agent license or limited representative license of the licensee. The license fee ~~for each year or part thereof~~ for each vending machine shall be that stated in the provisions of Section 1425 of this title. Proof of existence of the license shall be displayed on or about each machine in such manner as the Commissioner may reasonably require.

4. a. An insurance agent may place only a kind or kinds of insurance for which ~~he~~ the agent is licensed and appointed by an insurer. An insurance agent may place a kind or kinds of insurance for which ~~he~~ the agent is not appointed by an insurer, only by placing the insurance through a licensed agent holding an appointment for that kind or kinds of insurance from an insurer. This subparagraph shall not be interpreted to permit an agent to solicit insurance in a line for which the agent is not licensed or solicit insurance on behalf of a company for which ~~he~~ the agent is not appointed.
- b. A limited insurance representative may place only a kind or kinds of insurance for which ~~he~~ the representative is licensed and appointed by an insurer. A limited insurance representative may place a kind or kinds of insurance for which he or she is not appointed as a limited insurance representative only by placing the insurance through a licensed limited insurance representative holding an appointment for that kind or kinds of insurance from an insurer.

B. 1. A partnership or corporation may be licensed as an insurance agent, surplus lines insurance broker, or limited insurance representative or insurance consultant.

2. In the case of a partnership which has been licensed each general partner and each other individual acting for the partnership, and in the case of a corporation which has been licensed each individual acting for the corporation as an agent, surplus lines insurance broker, limited insurance representative or consultant, shall be named in the license and shall qualify therefor as though an individual licensee. The Commissioner shall charge a full additional license fee and a separate license shall be issued for each individual so named in such license.

3. A nonresident of this state shall not be named in a license for a partnership or corporation, except one licensed as a nonresident, and shall not have the right to exercise the license powers.

4. A license shall not be issued to a corporation, except one licensed as a nonresident, unless said corporation is organized pursuant to the provisions of the laws of this state and maintains its principal place of business in this state.

5. A license shall not be issued in a trade name except upon proof satisfactory to the Commissioner that the trade name has been lawfully registered.

6. No partnership or corporation shall be licensed unless the business to be transacted pursuant to the license is the sole purpose of the partnership agreement or articles of incorporation. No corporation or partnership shall own any stock in or be a partner in any corporation or partnership licensed as an insurance agent pursuant to the provisions of this section except a corporation or partnership which is also licensed as an insurance agent pursuant to the provisions of this section, or which was primarily engaged in insurance agency activities on or before January 1, 1985, and was

composed of five or more incorporated insurance agencies licensed in this state or any state with which the Commissioner has executed a reciprocal licensing agreement or which was principally engaged in the business of insurance on January 1, 1989, and whose principal officers reside within the State of Oklahoma. Notwithstanding any other provisions of this section, any person, partnership or corporation may own stock in or be a partner in any corporation or partnership licensed pursuant to the provisions of this section as a limited insurance representative. The provisions of this paragraph shall not apply to any person licensed as a title insurance agent.

7. The licensee shall notify the Commissioner of all changes among its members, directors, and officers, and all other individuals designated in the license within ten (10) working days after said change.

8. No person whose license as an insurance agent has been revoked by order of the Commissioner or any partnership or corporation in which such person shall have a majority interest, whether direct or indirect, shall own any stock in or be a partner in any corporation or partnership licensed pursuant to the provisions of this section.

C. 1. The Commissioner shall not grant, renew, continue, or permit to continue any license if ~~he~~ the Commissioner finds that the license is being or will be used by the applicant or licensee for the purpose of writing controlled business. "Controlled business" means:

- a. insurance written on the interests of the licensee or those of his or her relatives to the second degree or of his or her employer, or
- b. insurance covering the licensee or his or her relatives to the second degree or a corporation, association, or partnership of which ~~he~~ the licensee or a member of his or her immediate family is an

officer, director, substantial stockholder, partner, associate, or employee, or the officers, directors, substantial stockholders, partners, or employees of such a corporation, association, or partnership. A vendor's or lender's interest in property sold or being sold pursuant to contract or which is security for any loan shall not be deemed for the purpose of this provision to constitute property or an interest of the vendor or lender.

2. A license shall be deemed to have been or intended to be used for the purpose of writing controlled business if the Commissioner finds that during any twelve-month period the aggregate commissions earned from controlled business has exceeded twenty-five percent (25%) of the aggregate commissions earned on all business written by the applicant or licensee during the same period.

3. The prohibitions contained in this subsection concerning licensing for the writing of controlled business shall not apply to title insurance agents and limited insurance representatives.

D. No insurer, insurance agent, surplus lines insurance broker, or limited insurance representative shall pay, directly or indirectly, any commission, brokerage, or other valuable consideration to any person for services as an insurance agent, surplus lines insurance broker, or limited insurance representative within this state unless the person performing services held at the time said services were performed a valid license for such services as required by the laws of this state. No person other than a person duly licensed by this state as an insurance agent, surplus lines insurance broker, or limited insurance representative at the time said services were performed shall accept any commission, brokerage, or other valuable consideration. Any person duly licensed as an insurance agent pursuant to the provisions of the Insurance Agents Licensing Act, Section 1421 et seq. of this title,

may pay or assign his or her commissions or direct that his or her commissions be paid to a partnership licensed as an insurance agent pursuant to the provisions of this section of which ~~he~~ the licensee is a member, employee, or agent, or to a corporation licensed as an insurance agent pursuant to the provisions of this section of which ~~he~~ the licensee is an officer, employee, or agent, or to a corporation composed only of duly licensed insurance agents of which ~~he~~ the licensee is a member. The provisions of this section shall not prevent payment or receipt of renewal or other deferred commissions to or by any person entitled thereto pursuant to the provisions of this section. Any person duly licensed as a limited insurance representative may pay or assign his or her commissions or direct that his or her commissions be paid to a financial institution or supervised lender licensed and regulated pursuant to the laws of this state or of any state or of the United States, or to any principal, corporation, partnership or other entity which is the credit granting party in any credit transaction involved, its parent, affiliate, successor or assign, or to a partnership or corporation licensed as a limited insurance representative of which ~~he~~ the licensee is a member, officer, employee or agent.

E. 1. The name, ~~resident~~ mailing address of the licensee, expiration date, the line or lines of insurance covered by the license, and such other information as the Commissioner deems proper for inclusion in the license shall be indicated on the license.

2. An insurance agent or limited insurance representative may represent as many insurers as may appoint ~~him~~ the agent or representative in accordance with the provisions of the Insurance Agents Licensing Act.

F. All licenses issued pursuant to the provisions of the Insurance Agents Licensing Act shall continue in force not longer than ~~twelve (12)~~ twenty-four (24) months. The renewal dates for ~~said~~ the licenses may be staggered throughout the year by notifying

licensees in writing of the expiration and renewal date being assigned to ~~said~~ the licensees by the Commissioner and by making appropriate adjustment in ~~said annual~~ the biennial licensing fee.

G. No license as an insurance agent, surplus lines insurance broker, or limited insurance representative shall be required of the following:

1. Any regular-salaried officer or employee of an insurance company, or of a licensed insurance agent, surplus lines insurance broker, or limited insurance representative, if the duties and responsibilities of said officer or employee do not include the negotiation or solicitation of insurance; ~~or~~

2. Persons who secure and furnish information for the purpose of group or wholesale life insurance, or annuities, or group, blanket, or franchise health insurance, or for enrolling individuals in such plans or issuing certificates thereunder, or otherwise assisting in administering such plans, if no commission is paid for said service; ~~or~~

3. A licensed customer service representative; or

4. Employers or their officers or employees, or the trustees of any employee trust plan, to the extent that said employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for their own employees or the employees of their subsidiaries or affiliates which involves the use of insurance issued by a licensed insurance company if said employers, officers, employees, or trustees are not in any manner compensated, directly or indirectly, by the insurance company issuing the insurance.

H. Any person or agent who receives exclusive agency contract overrides upon business written in this state shall be licensed as an insurance agent in this state and shall file with ~~his~~ the application a copy of each exclusive agency contract which is used to obtain commission on business in this state.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 1425, as last amended by Section 11, Chapter 1, O.S.L. 1995 (36 O.S. Supp. 1995, 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, or customer service 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~~ the 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.

3. Application for a customer service representative license or license renewal shall be accompanied by a written appointment, signed by the insurance agent or broker who will supervise the customer service representative, on forms provided by the Commissioner.

C. Every applicant for licensing as an insurance agent, managing general agent, ~~or~~ limited insurance representative, or customer service 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. 1. Except as provided in paragraph 2 of this subsection, 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.

2. a. The provisions of this subsection shall not apply to applicants for life or accident and health insurance agents' licenses or limited representatives.
- b. The provisions of this subsection shall not apply to persons who hold an elective office except the office of Insurance Commissioner.
- c. 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 and Clearance of Commissioner, under seal \$3.00
 - b. Agent's study manual:
 - Life, Accident & Health not to exceed
\$30.00 \$40.00
 - Property and Casualty not to exceed
\$30.00 \$40.00
 - c. For filing Agency Articles of Incorporation \$20.00
3. Examination for license:
 - ~~a.~~ For each examination covering laws and one ~~line~~ or more lines of insurance ~~\$30.00~~ \$50.00
 - ~~b.~~ ~~For each examination covering laws and two or more lines of insurance —\$40.00~~
4. Licenses:
 - a. Agent's biennial license, ~~each year~~, regardless of number of companies represented ~~\$30.00~~ \$60.00
 - b. Agent's biennial license for sale or solicitation of separate accounts or agreements, as provided for in Section 6061 of this title ~~\$30.00~~ \$60.00
 - c. Limited insurance representative biennial license, ~~each year~~ ~~\$20.00~~ \$40.00
 - d. Temporary license as agent \$20.00

- e. Managing general agent's biennial license, ~~each year~~
~~\$30.00~~ \$60.00
- f. Surplus lines broker's biennial license, ~~each year~~
~~\$50.00~~ \$100.00
- g. Insurance vending machine, each machine, ~~each year~~
biennial fee ~~\$50.00~~ \$100.00
- h. Insurance consultant's biennial license, resident or
nonresident, ~~each year~~ ~~\$50.00~~ \$100.00
- i. Customer service representative biennial
license..... \$40.00

5. Filing notice of biennial appointment of agent, managing
general agent, or limited insurance representative by
insurer, each license of each agent or representative, ~~each~~
~~year~~ ~~\$20.00~~ \$40.00

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. 1. 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
Insurance Agents Licensing Act.

2. 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~~ the Insurance Agents Licensing 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. 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.

I. 1. 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.

2. 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.

J. The Commissioner shall issue an insurance agent's license, managing general agent's license, insurance consultant's license, ~~or~~ a limited insurance representative's or a customer service 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~~ the applicant 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~~ the applicant 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 or she 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 or her 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 or her last-known address of record or principal place of business, and the Commissioner shall keep a record of all process so served upon ~~him~~ the licensee.

- 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 or her 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 or her last-known address of record or principal place of business by mail with return receipt requested.

- d. 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.~~ e. A nonresident of this state may be licensed without taking ~~a written~~ an examination, as prescribed by the Commissioner, 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~~ the examination was required, of a license similar to the license for which application is being made in this state.

~~e.~~ f. 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, or customer service representative 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, or

customer service representative. 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, or customer service representative 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, or customer service representative 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, or customer service representative. 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, or customer service representative 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, or customer service representative to ~~a written~~ an examination approved by the Commissioner 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~~ the Commissioner 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.

K. 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.

L. 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.

M. 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 4. AMENDATORY 36 O.S. 1991, Section 1425.1, as amended by Section 39, Chapter 270, O.S.L. 1993 (36 O.S. Supp. 1995, Section 1425.1), is amended to read as follows:

Section 1425.1 A. 1. Each insurance agent shall, ~~annually~~ biennially, complete not less than ~~six (6)~~ sixteen (16) clock hours of continuing insurance education which shall cover subjects in the lines for which the agent is licensed. Such education may include a written or oral examination.

2. Each customer service representative shall, biennially, complete not less than twelve (12) clock hours of continuing insurance education which shall cover subjects in the lines for which the licensee is authorized to conduct insurance-related business on behalf of the appointing agent, broker, or agency. In addition, the licensee shall complete two (2) clock hours of ethics course work in this same period.

B. 1. The Insurance Commissioner shall approve courses and providers of continuing education.

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

3. An agent who, during the time period prior to renewal, successfully completes any one of the following courses or programs of instruction and equivalent classroom hours approved by the Insurance Commissioner shall be deemed to have met the biennial requirement for continuing education:

a. any part of a life course curriculum totaling fifty (50) classroom hours, or a health course totaling twenty-six (26) classroom hours offered by the Life Underwriter Training Council,

b. any part of the American College of Life Underwriters (CLU) diploma curriculum totaling thirty (30) classroom hours,

- c. any part of the Accredited Advisor in Insurance (AAI) program totaling twenty-five (25) classroom hours offered by the Insurance Institute of America,
- d. any part of the Chartered Property and Casualty Underwriter (CPCU) professional designation program totaling thirty (30) classroom hours offered by the American Institute of Property and Liability Underwriters, or
- e. any part of the Certified Insurance Counselor Program totaling twenty (20) classroom hours.

C. Each provider of continuing education shall, after approval by the Commissioner, submit an annual fee of Two Hundred Dollars (\$200.00) payable to the Insurance Commissioner which shall be deposited in the State Insurance Commissioner Revolving Fund, created in subsection G of Section 1425 of this title, for the purposes of fulfilling and accomplishing the conditions and purposes of ~~this act~~ the Insurance Agents Licensing Act. Provided, public funded educational institutions shall be exempt from this subsection.

D. Failure of an insurance agent or customer service representative 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 this title shall be exempt from the provisions of this ~~act~~ section.

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

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1427.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Customer service representative" means an individual appointed by an insurance agent, surplus lines insurance broker, managing general agent, or insurance agency to assist the agent, broker, or agency in transacting the business of insurance from the office of the agent, broker, or agency; and

2. a. "Insurance-related business" means taking applications, giving quotes, interpreting policies, explaining procedures, giving insurance advice, soliciting new customers at the appointing agent's, broker's, or agency's office or by telephone from that office, binding new or additional coverages, signing applications and binders in the customer service representative's own name, preliminary claims adjusting work, and such other transactions as authorized by rule of the Insurance Commissioner.

b. "Preliminary claims adjusting work" shall be limited to assisting in processing the claim which may include taking claims statements, getting estimates, advising claimants as to procedures, preparing claims paperwork, taking photos, and assembling and ordering claims files.

B. 1. Any person licensed and appointed as an insurance agent, broker, or managing general agent, except a limited insurance representative, and any insurance agency may appoint and employ as

customer service representatives any persons who hold or have qualified for a customer service representative's license.

2. No person shall be appointed and employed as a customer service representative by more than one appointing agent, broker, or agency at any one time. The agent or broker designated to supervise the work of the customer service representative shall sign the appointment form and shall thereby obligate himself or herself to supervise the customer service representative's conduct of insurance-related business and review such work.

3. A customer service representative shall be housed within the office of the agent, broker, or agency by which he or she is employed and shall not conduct insurance-related business as authorized herein from any other location. No advertising, letterhead, or telephone listing of the customer service representative shall indicate any business address other than that of the agent, broker, or agency by which he or she is employed. No customer service representative may be employed from any location except where an agent or broker, who is licensed to write insurance, is in charge of the location on a full-time basis.

C. 1. A customer service representative's license shall not cover any kind of insurance for which the appointing agent, broker, or agency is not licensed or otherwise authorized to transact.

2. A customer service representative may conduct insurance-related business with customers who have been solicited by any agent, broker, or customer service representative in the appointing agency, and may conduct insurance-related business with customers who have not been so solicited to the extent and under conditions that are otherwise consistent with this section and with the insurer's contract with the agent or broker. In all such transactions the customer service representative must always identify himself or herself as a customer service representative of the appointing agent, broker, or agency.

3. A customer service representative shall be a salaried employee of the appointing agent, broker, or agency. Compensation shall not include commissions; however, up to forty-nine percent (49%) of such compensation may be based on production or volume of business.

4. All insurance-related business conducted by a customer service representative shall be in the name of the appointing agent, broker, or agency. The agent, broker, or agency shall be responsible and accountable for all acts of the customer service representative within the scope of such appointment.

SECTION 6. AMENDATORY 36 O.S. 1991, Section 6204, is amended to read as follows:

Section 6204. A. No person shall act or hold himself or herself out as an adjuster in this state unless ~~he~~ the person is a licensed adjuster in this state. However, one who is undergoing training as an adjuster pursuant to the direction and supervision of a licensed adjuster may act as an adjuster without having an adjuster's license for a period not exceeding twelve (12) months for classes of business set forth in the provisions of Section 6209 of this title, if at the beginning of such training period the name of said trainee has been registered as a trainee with the Insurance Commissioner. No person shall be allowed to obtain more than one trainee license per class of business as set forth in Section 6209 of this title. If an applicant fails to pass the examination for a license as an adjuster, the trainee license shall automatically terminate.

B. Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by confinement in the county jail for not more than six (6) months, or by both said fine and confinement.

SECTION 7. AMENDATORY 36 O.S. 1991, Section 6205, is amended to read as follows:

Section 6205. A. Application for a license as an adjuster shall be made to the Insurance Commissioner upon forms prescribed and furnished by the Commissioner. As a part of and in connection with the application, the applicant shall furnish such information concerning ~~his~~ the applicant's identity, personal history, business experience, business record and such other pertinent information which the Commissioner shall reasonably require.

B. Application for a license as a nonresident adjuster shall be made to the Commissioner upon forms prescribed and furnished by the Commissioner. This license shall be issued to an applicant only if the state in which the applicant resides will accord the same privilege to a resident adjuster of this state. The Commissioner is authorized to enter into reciprocal agreements with the appropriate official of any state requiring a nonresident applicant for license as an adjuster to take an examination. Any such reciprocal agreement shall provide that:

1. An applicant for a license as an adjuster in such other state shall take ~~a written~~ an examination as prescribed by that state; and

2. The applicant for a license as a nonresident adjuster in this state holds a valid license as an adjuster in such other state as certified by the appropriate official of that state; ~~and~~

3. A resident of this state is privileged to procure an adjuster's license in such other state upon the conditions provided in paragraphs 1 and 2 of this subsection without discrimination in favor of the residents of such other state as to fees or other licensing requirements; and

4. The nonresident applicant shall pay the fee required for a license as a resident adjuster in this state.

SECTION 8. AMENDATORY 36 O.S. 1991, Section 6206, as amended by Section 3, Chapter 261, O.S.L. 1992 (36 O.S. Supp. 1995, Section 6206), is amended to read as follows:

Section 6206. A. The Insurance Commissioner shall license as an adjuster only an individual who has fully complied with the provisions of the Insurance Adjusters Licensing Act, including the furnishing of evidence satisfactory to the Commissioner that the applicant:

1. ~~He is~~ Is at least eighteen (18) years of age; ~~and~~
2. ~~He is~~ Is a bona fide resident of this state or is a resident of a state or country which permits adjusters who are residents of this state to act as adjusters in such other state or country; ~~and~~
3. If ~~he is~~ a nonresident of the United States, ~~he~~ has complied with all federal laws pertaining to employment and the transaction of business in the United States; ~~and~~
4. ~~He is~~ Is a trustworthy person; ~~and~~
5. ~~He has~~ Has had experience or special education or training of sufficient duration and extent with reference to the handling of loss claims pursuant to insurance contracts to make ~~him~~ the applicant competent to fulfill the responsibilities of an adjuster; ~~and~~
6. ~~He has~~ Has successfully passed an examination as required by the Commissioner or has been exempted from examination, in accordance with the provisions of Section 6208 of this title; and
7. If the application is for a public adjuster's license, the applicant has filed the bond required by Section 6214 of this title.

B. Residence addresses and telephone listings for insurance adjusters and public adjusters on file with the Insurance Department are exempt from disclosure as public records. A separate business or mailing address as provided by the adjuster shall be considered a public record and upon request shall be disclosed.

SECTION 9. AMENDATORY 36 O.S. 1991, Section 6210, is amended to read as follows:

Section 6210. A. The answers of the applicant to any examination for licensing as an adjuster shall be written by the applicant under supervision of the Insurance Commissioner. ~~Any such written examination may be supplemented by oral examination at the discretion of the Commissioner.~~

B. The examination shall be given at such times and places within this state as the Commissioner deems necessary to reasonably serve the convenience of both the Commissioner and the applicants.

C. ~~The Commissioner may require a waiting period of at least thirty (30) days' duration before giving a new examination to an~~ An applicant who has failed to pass a previous similar the first examination for the license for which applied may take a second examination within thirty (30) days following the first examination. An applicant who has failed to pass the first two examinations for the license for which 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 and applicable fees shall be submitted with each request to take a subsequent examination.

SECTION 10. AMENDATORY 36 O.S. 1991, Section 6211, is amended to read as follows:

Section 6211. The license of an adjuster shall be in a form prescribed by the Insurance Commissioner. The license shall contain:

1. The name and mailing address of the adjuster ~~and the address of his place of business; and~~

2. Indication as to whether ~~he~~ the adjuster is licensed as an insurance adjuster or as a public adjuster; ~~and~~

3. The date of issuance and the date of expiration of the license; ~~and~~

~~4. the name of the firm or insurer, if applicable, with whom the adjuster is employed at the time the license is issued or renewed; and~~

~~5. The classes of business the license is to cover; and~~

~~6. 5. Other information which the Commissioner deems necessary.~~

SECTION 11. AMENDATORY 36 O.S. 1991, Section 6212, is amended to read as follows:

Section 6212. A. The Insurance Commissioner shall collect a fee of Twenty Dollars (\$20.00) for an examination for an adjuster's license in any of the following classes of business. The fee for any combination of two or more examinations shall not exceed Forty Dollars (\$40.00). The classes of business are:

1. Motor vehicle physical damage;
2. Fire and allied lines;
3. Casualty;
4. Workers' compensation;
5. Crime and fidelity bonds; and
6. Crop/hail.

B. The Commissioner shall collect the following fees for an adjuster's license:

1. For a license in any single class of business, each year, Fifteen Dollars (\$15.00);
2. For a license in any combination of two or more classes of business, each year, Twenty-five Dollars (\$25.00);
3. Public adjuster, each year, Fifteen Dollars (\$15.00); and
4. Emergency adjuster, as provided for in Section 6218 of this title, each year, Fifteen Dollars (\$15.00).

C. The fees prescribed in this section for examinations shall accompany the application for an original license or a renewal of a license.

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

shall require a fee of double the amount of the original license fee.

~~E. The fee for the original license shall be issued after notification of the successful passing of the examinations or fulfillment of other requirements administered by the Insurance Commissioner.~~

~~F.~~ The Commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to the provisions of the Insurance Adjusters Licensing Act if an affidavit is submitted by the licensee to the Commissioner concerning the facts of such loss, theft, or destruction. Said affidavit shall be in a form prescribed by the Commissioner. The fee for a duplicate license shall be Five Dollars (\$5.00).

~~G. A license shall be issued for a period of one (1) year and shall expire on the anniversary date of the issuance. Each renewal of a license shall be for a period of one (1) year and shall expire on the anniversary date of the issuance of the original license.~~

SECTION 12. AMENDATORY 36 O.S. 1991, Section 6215, is amended to read as follows:

Section 6215. Every licensed adjuster residing in this state shall have and maintain in this state a place of business accessible to the public. Said place of business shall be located where the adjuster principally conducts transactions in accordance with his or her license. The mailing address ~~of this place of business~~ shall appear on all licenses of the licensee, and the licensee shall promptly notify the Insurance Commissioner within ten (10) days of any change ~~of said~~ in the mailing, business or residence address of the licensee.

SECTION 13. This act shall become effective July 1, 1996.

SECTION 14. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 2nd day of April, 1996.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1996.

Speaker of the House of Representatives