

ENROLLED HOUSE  
BILL NO. 2553

By: Seikel of the House

and

Robinson of the Senate

An Act relating to insurance; amending 36 O.S. 1991, Section 1202, which relates to unfair practices and frauds; modifying certain definition; adding definitions; amending 36 O.S. 1991, Sections 1423, as amended by Section 2, Chapter 261, O.S.L. 1992, 1424, as amended by Section 1, Chapter 35, O.S.L. 1993, 1425, as last amended by Section 11, Chapter 1, O.S.L. 1995 and 1425.1, as amended by Section 39, Chapter 270, O.S.L. 1993 (36 O.S. Supp. 1995, Sections 1423, 1424, 1425 and 1425.1), which relate to the Agents Licensing Act; adding certain category of persons subject to act; exempting certain salaried employees from licensing requirements; deleting certain person and categories from licensing requirements; adding certain category of agent; modifying license fee period for vending machine licenses; modifying stock ownership prohibition; changing address information requirement; expanding time period licenses are valid; expanding time period for license fees; modifying license exemption; requiring certain verification of responsibility; modifying fee amounts for certain licenses; modifying conditions necessary to qualify for certain nonresident agent license; modifying examination requirements for nonresidents; modifying certain examination requirement for certain applicants; increasing continuing insurance education hours; requiring certain continuing insurance education for customer service representatives; allowing certain agents to earn credit upon completion of certain courses or programs; defining certain terms; providing for employment of customer service representatives; limiting employment; providing for certain supervision of customer service representatives; providing for housing and advertisement for a customer service representative; providing for coverage of customer service representative license; establishing condition for conducting business for a customer service representative; providing for compensation of a customer service representative; establishing the priority for distribution of claims of an insurers estate; providing order of distribution; providing a description of each class; providing for distribution of dividend on claim; providing certain credit upon payment of a dividend; amending 36 O.S. 1991, Sections 1928 and 1930, which relate

to liquidation of an insurer; requiring certain filing of a mutual debt or credit; establishing time period for certain notification; amending 36 O.S. 1991, Section 4403, which relates to accident and health insurance; modifying definition of policy of accident and health insurance; defining limited benefit insurance; providing for jurisdiction of the Insurance Commissioner; amending 36 O.S. 1991, Sections 6204, 6205, 6206, as amended by Section 3, Chapter 261, O.S.L. 1992, 6210, 6211, 6212 and 6215 (36 O.S. Supp. 1995, Section 6206), which relate to the Insurance Adjusters Licensing Act; limiting number of trainee licenses; providing for termination of trainee license; modifying examination provision for states with reciprocal agreements; providing for disclosure of certain address information; modifying examination provisions; modifying information contained on license; deleting certain fee requirements; deleting license period; requiring certain notification upon change of address; amending Sections 2, 4, 6, 7, 8 and 12, Chapter 250, O.S.L. 1995 (36 O.S. Supp. 1995, Sections 6532, 6534, 6536, 6537, 6538 and 6542), which relate to the Health Insurance High Risk Pool Act; modifying certain definitions; modifying residence requirements; modifying eligibility requirements; adding category of entities subject to assessment; changing powers of the Board of Directors of the Health Insurance High Risk Pool; authorizing the Board to terminate services of the administering insurer under certain circumstances; deleting agents referral fee; deleting prohibitions relating to policies issued to persons eligible for Medicare; modifying criteria for reimbursement rate; modifying rate structure for plan; providing for recognizing certain claims; repealing 36 O.S. 1991, Section 1927, which relates to liquidation of insurers; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1202, is amended to read as follows:

Section 1202. When used in this article:

1. "Person" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, Lloyd's Name, Lloyd's Syndicate Name, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters-;

2. "Commissioner" shall mean the Insurance Commissioner of this state; and

3. "Name" shall mean any individual or corporate entity underwriting insurance for their own account through the Lloyd's of London market and any agents or employees of any such individual or corporate entity.

SECTION 2. 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 3. 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, or customer service representative unless duly licensed. Salaried employees in the office of an insurance agent, surplus line insurance broker, limited insurance representative, managing general agent or consultant, to which the employee devotes full time to clerical and administrative services, with incidental receiving of insurance applications and premiums in the office of the employer/agent, if the employee does not receive any commissions for the applications and the compensation of the employee is not varied by the volume of applications or premiums taken or received shall be exempt from any licensing requirement.

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~~;~~
- (2) to engage in the sale of only limited travel accident insurance~~;~~
- (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~~;~~
- (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~~;~~
- (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~~;~~
- (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~~ 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, provided a corporation licensed as a limited insurance representative shall not own stock in a corporation licensed as an insurance agent. 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~~ licenses 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 4. 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 unless the parent corporation is also qualified as a nonprofit corporation under the provisions of Section 501(c)(6) of the Internal Revenue Code on or before January 1, 1985, and the subsidiary corporation of the nonprofit parent corporation writes only group insurance for members of the parent corporation, 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~~ Except for those persons exempt from licensure as provided for in Section 1424 of this title, 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 5. 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 6. 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 whose salary may vary based on the production or volume of applications or premiums as provided for in this section; 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.

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 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1927.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. Once such funds are retained by the liquidator and approved by the court, the insurer's estate shall have no further liability to members of that class except to the extent of the retained funds and any other undistributed funds. No subclasses shall be established within any class except as otherwise provided by law. No claim by a shareholder, policyholder or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies. The order of distribution of claims shall be:

1. Class 1. The costs and expenses of administration expressly approved by the receiver, including but not limited to the following:

- a. the actual and necessary costs of preserving or recovering the assets of the insurer,
- b. compensation for all authorized services rendered in the conservation, rehabilitation or liquidation,
- c. any necessary filing fees,
- d. the fees and mileage payable to witnesses, and
- e. authorized reasonable attorney's fees and other professional services rendered in the conservation, rehabilitation or liquidation;

2. Class 2. The administrative expenses of guaranty associations. For purposes of this section these expenses shall be the reasonable expenses incurred by guaranty associations where the expenses are not payments or expenses which are required to be incurred as direct policy benefits in fulfillment of the terms of the insurance contract or policy, and that are of the type and nature that, but for the activities of the guaranty association otherwise would have been incurred by the receiver, including but not limited to evaluations of policy coverage, activities involved in the adjustment and settlement of claims under policies, including those of in-house or outside adjusters, and the reasonable expenses incurred in connection with the arrangements for ongoing coverage through transfer to other insurers, policy exchanges or maintaining policies in force. The receiver may in his or her sole discretion approve as an administrative expense under this section any other reasonable expenses of the guaranty association if the receiver finds:

- a. the expenses are not expenses required to be paid or incurred as direct policy benefits by the terms of the policy, and
- b. the expenses were incurred in furtherance of activities that provided a material economic benefit to the estate as a whole, irrespective of whether the activities resulted in additional benefits to covered claimants.

The court shall approve such expenses unless it finds the receiver abused his or her discretion in approving the expenses.

If the receiver determines that the assets of the estate will be sufficient to pay all Class 1 claims in full, Class 2 claims shall be paid currently, provided that the liquidator shall secure from each of the associations receiving disbursements pursuant to this section an agreement to return to the liquidator such disbursements, together with investment income actually earned on such disbursements, as may be required to pay Class 1 claims. No bond shall be required of any such association;

3. Class 3. All claims under policies including claims of the federal or any state or local government for losses incurred ("loss claims") including third party claims, claims for unearned premiums, all claims of a guaranty association for payment of covered claims or covered obligations of the insurer and all claims of a guaranty association for reasonable expenses other than those included in Class 2. All claims under life and health insurance and annuity policies, whether for death proceeds, health benefits, annuity proceeds, or investment values shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligation of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to his employee shall be treated as a gratuity.

Notwithstanding the foregoing, the following claims shall be excluded from Class 3 priority:

- a. obligations of the insolvent insurer arising out of reinsurance contracts,
- b. obligations incurred after the expiration date of the insurance policy or after the policy has been replaced by the insured or canceled at the insured's request or after the policy has been canceled as provided in this act. Notwithstanding the provisions of this paragraph, earned premium claims on policies, other than reinsurance agreements, shall not be excluded,
- c. obligations to insurers, insurance pools or underwriting associations and their claims for contribution, indemnity or subrogation, equitable or otherwise,
- d. any claim which is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer,
- e. any amount accrued as punitive or exemplary damages unless expressly covered under the terms of the policy, and
- f. tort claims of any kind against the insurer, and claims against the insurer for bad faith or wrongful settlement practices;

4. Class 4. Claims of the federal government other than those claims included in Class 3;

5. Class 5. Debts due employees for services, benefits, contractual or otherwise due arising out of such reasonable compensation to employees for services performed to the extent that they do not exceed two (2) months of monetary compensation and represent payment for services performed within six (6) months before the filing of the petition for liquidation or, if rehabilitation preceded liquidation, within one (1) year before the filing of the petition for rehabilitation. Principal officers and directors shall not be entitled to the benefit of this priority except as otherwise approved by the liquidator and the court. This priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees;

6. Class 6. Claims of any person, including claims of state or local governments, except those specifically classified elsewhere in this section and claims of attorneys for fees and expenses owed them by a person for services rendered in opposing a formal delinquency proceeding. In order to prove the claim, the claimant must show that the insurer which is the subject of the delinquency proceeding

incurred such fees and expenses based on its best knowledge, information and belief, formed after reasonable inquiry indicating opposition was in the best interests of the person, was well grounded in fact and was warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and that opposition was not pursued for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the litigation;

7. Class 7. Claims of any state or local government for a penalty or forfeiture, but only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph 8 of this section;

8. Class 8. Surplus or contribution notes or similar obligations, premium refunds on assessable policies, interest on claims of Classes 1 through 7 and any other claims specifically subordinated to this class; and

9. Class 9. Claims of shareholders or other owners arising out of their capacity as shareholders or other owners, or arising in any other capacity or facts except as they may be qualified in Class 3 or 4 above.

B. If any claimant of this state, another state or foreign country shall be entitled to or shall receive a dividend upon his or her claim out of a statutory deposit or the proceeds of any bond or other asset located in another state or foreign country, unless such deposit or proceeds shall have been delivered to the domiciliary liquidator, then the claimants shall not be entitled to any further dividend from the receiver until and unless all other claimants of the same class, irrespective of residence or place of the acts or contracts upon which their claims are based, shall have received an equal dividend upon their claims, and after such equalization, such claimants shall be entitled to share in the distribution of further dividends by the receiver, along with and like all other creditors of the same class, wheresoever residing.

C. Upon the declaration of a dividend, the receiver shall apply the amount of the dividend against any indebtedness owed to the insurer by the person entitled to the dividend. There shall be no claim allowed for any deductible charged by a guaranty association or entity performing a similar function.

SECTION 8. AMENDATORY 36 O.S. 1991, Section 1928, is amended to read as follows:

Section 1928. A. 1. In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this article, such credits and debts shall be ~~set-off~~ offset and the balance only shall be allowed or paid, except as provided in subsection B of this section.

2. Any mutual debt or mutual credit to be offset shall be filed and approved as a claim against the insurer in accordance with Sections 1918 and 1930 of this title. Any debt or credit not filed in accordance with this paragraph shall be deemed to have been waived.

B. No offset shall be allowed ~~in favor of any such person where~~ if:

1. The obligation of the insurer ~~to such person~~ would not, at the date of the entry of any liquidation order or otherwise, as provided in Section 1925 of this ~~article~~ title, entitle ~~him to share~~ as a the claimant to share in the assets of the insurer; ~~or~~

2. The obligation of the insurer ~~to such person~~ was purchased by or transferred to ~~such person with a view of its being the claimant to be~~ used as an offset; ~~or~~

3. The obligation ~~of such person~~ is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or ~~is~~ to pay a balance upon the subscription to the capital stock of a stock insurer; or

4. The obligation of the insurer ~~to such person~~ was the result of a life or accident and health reinsurance agreement that contains terms or conditions structured to avoid reasonable risk transfer and indemnification criteria, including, but not limited to:

- a. a reinsurance agreement the primary effect of which is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for mortality, morbidity, or surrender benefit participation by the reinsurer consistent with its participation in the deficiency or excess interest portion of the policies reinsured,
- b. allowing the reserve credit taken by the ceding insurer to be in excess of the actuarial reserve necessary, under the Oklahoma Insurance Code, and applicable rules or regulations, including actuarial interpretations or standards adopted by the Insurance Department, to support the policy obligations transferred under the reinsurance agreement,
- c. requiring the ceding insurer to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience,
- d. depriving the ceding insurer of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums shall not be considered to be such a deprivation of surplus,
- e. requiring the ceding insurer at specific points in time scheduled in the agreement to terminate or automatically recapture all or part of the reinsurance ceded,
- f. a provision that no cash payment is due from the reinsurer, throughout the lifetime of the reinsurance agreement, with all settlements prior to the termination date of the agreement made only in a "reinsurance account", and no funds in ~~such the~~ account are available for the payment of claims, or
- g. a reinsurance agreement involving the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

SECTION 9. AMENDATORY 36 O.S. 1991, Section 1930, is amended to read as follows:

Section 1930. A. If upon ~~the granting of an order of liquidation~~ commencement of delinquency proceedings under this

article or at any time ~~thereafter~~ during the liquidation proceedings, the insurer shall not be clearly solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon, regardless of any prior notice which may have been given to creditors, the Insurance Commissioner shall notify all persons who may have claims against ~~such~~ the insurer and who have not filed proper proofs thereof to present the same to ~~him~~ the Commissioner, at a place specified in ~~such~~ the notice, within four (4) months from the date of entry of ~~such~~ the order, or ~~if the Insurance Commissioner shall certify that it is necessary,~~ within ~~such a longer time as prescribed by the court shall prescribe.~~ The last day for filing of proofs of claims not to exceed one hundred eighty (180) days which shall be specified in the notice, and. The notice shall be given in a manner ~~to be~~ determined by the court.

~~B.~~ Proofs of claim may be filed ~~subsequent to~~ after the date specified in the notice, but no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before ~~said~~ that date, have been paid in full with interest.

SECTION 10. AMENDATORY 36 O.S. 1991, Section 4403, is amended to read as follows:

Section 4403. The term "policy of accident and health insurance" as used herein includes any policy or contract insuring against loss resulting from sickness, or from bodily injury or death by accident or both. Provided, however, the term does not include coverage provided under a limited benefit insurance policy or contract as defined in Section 4403.1 of this title.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4403.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. "Limited benefit insurance" means a policy or contract designed to be purchased individually or to supplement major medical accident and health insurance and which only provides coverage that is less than the minimum standard for benefits required under basic hospital expense coverage or basic medical-surgical expense coverage.

2. A limited benefit insurance policy or contract may specify a waiting period for coverage, maximum benefits, maximum length of coverage, and an exact definition of the disease covered.

B. Nothing in this section shall increase, limit, or remove jurisdiction of the Insurance Commissioner over limited benefit insurance.

SECTION 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. AMENDATORY Section 2, Chapter 250, O.S.L. 1995 (36 O.S. Supp. 1995, Section 6532), is amended to read as follows:

Section 6532. As used in ~~Sections 1 through 14 of~~ the Health Insurance High Risk Pool Act:

1. "Agent" means any person who is licensed to sell health insurance in this state;

2. "Board" means the Board of Directors of the Health Insurance High Risk Pool;

3. "Health insurance" means any individual or group hospital or medical expense-incurred policy or health care benefits plan or contract. The term does not include any policy governing short-term accidents only, a fixed-indemnity policy, a limited benefit policy, a specified accident policy, a specified disease policy, a Medicare supplement policy, a long-term care policy, ~~a limited benefit expense policy,~~ medical payment or personal injury coverage in a motor vehicle policy, coverage issued as a supplement to liability insurance, a disability policy, or workers' compensation;

4. "Insurer" means any individual, corporation, association, partnership, fraternal benefit society, or any other entity engaged

in the health insurance business, except insurance agents and brokers. This term shall also include health risk assuming entities, not-for-profit hospital service and medical indemnity plans, health maintenance organizations, preferred provider organizations, prepaid health plans, the State and Education Employees Group Health Insurance Plan, and any reinsurer reinsuring health insurance in this state, which shall be designated as engaged in the business of insurance for the purposes of this act;

5. "Medicare" means coverage under Parts A and B of Title XVIII of the Social Security Act (Public Law 74-271, 42 U.S.C., Section 1395 et seq., as amended);

6. "Pool" means the Health Insurance High Risk Pool;

7. "Physician" means a doctor of medicine and surgery, doctor of osteopathic medicine, doctor of chiropractic, doctor of podiatric medicine, doctor of optometry, and, for purposes of oral and maxiofacial surgery only, a doctor of dentistry, each duly licensed by this state;

8. "Plan" means the comprehensive health insurance benefit plan as adopted by the Board of Directors of the Health Insurance High Risk Pool, or by rule; and

9. "Reinsurer" means any insurer as defined in Section 103 of this title from whom any person providing health insurance to Oklahoma insureds procures insurance for itself as the insurer, with respect to all or part of the health insurance risk of the person.

SECTION 20. AMENDATORY Section 4, Chapter 250, O.S.L. 1995 (36 O.S. Supp. 1995, Section 6534), is amended to read as follows:

Section 6534. A. Except as otherwise provided in this section, any ~~resident of~~ person who maintains a primary residence in this state for at least two (2) years shall be eligible for coverage under the plan of the Health Insurance High Risk Pool including:

1. The spouse of the insured; and

2. Any dependent unmarried child of the insured, from the moment of birth. Such coverage shall terminate at the end of the premium period in which the child marries, ceases to be a dependent of the insured, or attains the age of nineteen (19) years, whichever occurs first. However, if the child is a full-time student at an accredited institution of higher learning, the coverage may continue while the child remains unmarried and a full-time student, but not beyond the premium period in which the child reaches the age of twenty-three (23) years.

B. 1. No person is eligible for coverage under the Pool plan unless such person has been rejected by at least two insurers for coverage substantially similar to the plan coverage. As used in this paragraph, rejection includes an offer of coverage with a material underwriting restriction or an offer of coverage at a rate equal to or greater than the Pool plan rate. No person is eligible for coverage under the plan if such person has, on the date of issue of coverage under the plan, equivalent coverage under another health insurance contract or policy.

2. No person who is currently receiving, or is entitled to receive, health care benefits under any federal or state program providing financial assistance or preventive and rehabilitative social services, ~~except for Medicare~~, is eligible for coverage under the plan.

3. No person who is covered under the plan and who terminates coverage is again eligible for coverage unless twelve (12) months has elapsed since the coverage was terminated. ~~The Board may waive the twelve-month waiting period under circumstances to be determined by the Board.~~

4. No person on whose behalf the plan has paid out Five Hundred Thousand Dollars (\$500,000.00) in covered benefits is eligible for coverage under the plan.

5. No inmate incarcerated in any state penal institution or confined to any narcotic detention, treatment, and rehabilitation facility shall be eligible for coverage under the plan.

C. The Board may establish an annual enrollment cap if the Board determines it is necessary to limit costs to the plan.

D. The coverage of any person who ceases to meet the eligibility requirements of this section may be terminated at the end of the ~~policy period~~ month in which an individual no longer meets the eligibility requirements.

SECTION 21. AMENDATORY Section 6, Chapter 250, O.S.L. 1995 (36 O.S. Supp. 1995, Section 6536), is amended to read as follows:

Section 6536. The Board of Directors of the Health Insurance High Risk Pool shall:

1. Establish administrative and accounting procedures for the operation of the Pool;

2. Establish procedures under which applicants and participants in the plan may have grievances reviewed by an impartial body and reported to the Board;

3. Select an administering insurer in accordance with Section ~~6~~ 6538 of this ~~act~~ title;

4. Levy and collect assessments from all insurers, health risk assuming entities, and reinsurers to provide for claims paid under the plan and for administrative expenses incurred or estimated to be incurred during the period for which assessment is made. The level of assessments shall be established by the Board in accordance with Section ~~9~~ 6539 of this ~~act~~ title. Assessment of the insurers shall occur at the end of each calendar year and shall be due and payable within thirty (30) days of receipt of the assessment notice by the insurer;

5. In addition to assessments required pursuant to paragraph 4 of this subsection, collect an organizational assessment or assessments from all insurers, health risk assuming entities, and reinsurers as necessary to provide for expenses which have been incurred or are estimated to be incurred prior to the receipt of the first calendar year assessments. Organizational assessments shall be equal for all insurers and reinsurers, but shall not exceed One Hundred Dollars (\$100.00) per insurer for all such assessments. Such assessments are due and payable within thirty (30) days of receipt of the assessment notice by the insurer;

6. Require that all policy forms issued by the Board conform to standard forms as approved by the Insurance Commissioner;

7. Develop a program to publicize the existence of the plan, the eligibility requirements of the plan, and the procedures for enrollment in the plan, and to maintain public awareness of the plan; and

8. Design and employ cost-containment measures and requirements which may include preadmission certification, home health care, hospice care, negotiated purchase of medical and pharmaceutical supplies and individual case management. The Board may employ a plan case manager or managers to supervise and manage the medical care or coordinate the supervision and management of the medical care with the administering insurer. The Board may employ other persons if the positions have been outlined in the Board's plan and approved by the Insurance Commissioner and are necessary to fulfill the duties and responsibilities of the Board.

SECTION 22. AMENDATORY Section 7, Chapter 250, O.S.L. 1995 (36 O.S. Supp. 1995, Section 6537), is amended to read as follows:

Section 6537. The ~~Board of Directors of the~~ Health Insurance High Risk Pool may:

1. Exercise powers granted to insurers under the laws of this state;
2. Sue or be sued;
3. In addition to imposing assessments under Section ~~6~~ 6536 of this ~~act~~ title, levy interim assessments against insurers, health risk assuming entities, and reinsurers to ensure the financial ability of the plan to cover claims, expenses and administrative expenses incurred or estimated to be incurred in the operation of the plan prior to the end of a calendar year. Any interim assessment shall be due and payable within thirty (30) days of the receipt of the assessment notice by the insurer. Interim assessments shall be credited against the insurer's and reinsurer's annual assessment; and
4. Request the Insurance Commissioner to check the reports, records, books and papers of the Insurance Department to determine the financial condition of an insurer for purposes of Section ~~40~~ 6540 of this ~~act~~ title.

SECTION 23. AMENDATORY Section 8, Chapter 250, O.S.L. 1995 (36 O.S. Supp. 1995, Section 6538), is amended to read as follows:

Section 6538. A. The Board of Directors of the Health Insurance High Risk Pool shall select an administering insurer who shall be an insurer as defined in this act, through a competitive bidding process, to administer the plan. The Board shall evaluate the bids submitted under this subsection based on criteria established by the Board, which criteria shall include, but not be limited to, the following:

1. The administering insurer's proven ability to handle large group accident and health insurance policies and claims;
2. The efficiency of the administering insurer's claims-paying procedures; and
3. An estimate of total charges for administering the plan.

B. The administering insurer shall serve for a period of two (2) years. At least one (1) year prior to the expiration of each two-year period of service by an administering insurer, the Board shall invite all reasonably interested potential administering insurers, including the current administering insurer, to submit bids to serve as the administering insurer for the succeeding two-year period. The selection of the administering insurer for the succeeding two-year period shall be made at least six (6) months prior to the end of the current two-year period. The Board may terminate the service of the administering insurer at any time if the Board determines that the administering insurer has failed to perform their duties effectively according to the contract established. In this case, the Board will accept bids from other potential administering insurers to serve the remainder of the vacated term.

C. The Board may select more than one administering insurer to perform the different functions involved in administering the plan.

D. The administering insurer shall:

1. Perform all eligibility and administrative claims-payment functions relating to the plan;
2. ~~Pay an agent's referral fee as established by the Board to each agent who refers an applicant to the plan, if the applicant is accepted. The selling or marketing of the plan shall not be limited~~

~~to the administering insurer or its agents. The referral fees shall be paid by the administering insurer from moneys received as premiums for the plan;~~

~~3.~~ Establish a premium billing procedure for collection of premiums from persons insured under the plan;

~~4.~~ ~~3.~~ Perform all necessary functions to assure timely payment of benefits to covered persons under the plan, including, but not limited to, the following:

- a. making available information relating to the proper manner of submitting a claim for benefits under the plan and distributing forms upon which submissions shall be made,
- b. evaluating the eligibility of each claim for payment under the plan, and
- c. notifying each claimant within thirty (30) days after receiving a properly completed and executed proof of loss, whether the claim is accepted, rejected, or compromised;

~~5.~~ ~~4.~~ Submit regular reports to the Board regarding the operation of the plan. The frequency, content, and form of the reports shall be determined by the Board;

~~6.~~ ~~5.~~ Following the close of each calendar year, determine net premiums, reinsurance premiums less administrative expenses allowance, the expense of administration pertaining to the reinsurance operations of the Pool, and the incurred losses for the year, and report this information to the Board and to the Insurance Commissioner; and

~~7.~~ ~~6.~~ Pay claims expenses from the premium payments received from, or on behalf of, covered persons under the plan. If the payments by the administering insurer for claims expenses exceed the portion of premiums allocated by the Board for the payment of claims expenses, the Board shall provide through assessment the additional funds necessary for payment of claims expenses.

E. 1. The administering insurer shall be paid, as provided in the contract of the Pool, for direct and indirect expenses incurred in administering the Pool.

2. As used in this subsection, the term "direct and indirect expenses" includes the portion of the audited administrative costs, printing expenses, claims administration expenses, management expenses, building overhead expenses and other actual operating and administrative expenses of the administering insurer which are approved by the Board as allocable to the administration of the plan and included in the bid specifications.

SECTION 24. AMENDATORY Section 12, Chapter 250, O.S.L. 1995 (36 O.S. Supp. 1995, Section 6542), is amended to read as follows:

Section 6542. A. 1. The plan shall offer as one basic option an annually renewable policy with coverage as specified in this section for each eligible person, except, that if an eligible person is also eligible for Medicare coverage, the plan shall not pay or reimburse any person for expenses paid by Medicare.

2. Any person whose health insurance is involuntarily terminated for any reason other than nonpayment of premium may apply for coverage under the plan. If such coverage is applied for within sixty (60) days after the involuntary termination and if premiums are paid for the entire period of coverage, the effective date of the coverage shall be the date of termination of the previous coverage.

3. The plan shall provide that, upon the death, annulment of marriage or divorce of the individual in whose name the contract was

issued, every other person covered in the contract may elect within sixty (60) days to continue coverage under a continuation or conversion policy.

~~4. No coverage provided to a person who is eligible for Medicare benefits shall be issued as a Medicare supplement policy.~~

B. ~~1.~~ The plan shall offer as a minimum major medical expense coverage to every eligible person who is not eligible for Medicare. Major medical expense coverage offered under the plan shall pay an eligible person's covered expenses, subject to the limits on the deductible and coinsurance payments authorized under subsection E of this section up to a lifetime limit of Five Hundred Thousand Dollars (\$500,000.00) per covered individual. The maximum limit under this paragraph shall not be altered by the Board of Directors of the Health Insurance High Risk Pool, and no actuarially equivalent benefit may be substituted by the Board.

~~2. The plan shall provide that any policy issued to a person eligible for Medicare shall be separately rated to reflect differences in experiences reasonably expected to occur as a result of Medicare payments.~~

C. Except for a health maintenance organization and prepaid health plan or preferred provider organization utilized by the Board or a covered person, the usual customary charges for the following services and articles, when prescribed by a physician, shall be covered expenses:

1. Hospital services;
2. Professional services for the diagnosis or treatment of injuries, illness, or conditions, other than dental, which are rendered by a physician or by others at the direction of a physician;
3. Drugs requiring a physician's prescription;
4. Services of a licensed skilled nursing facility for eligible individuals, ineligible for Medicare, for not more than one hundred eighty (180) calendar days during a policy year, if the services are the type which would qualify as reimbursable services under Medicare;
5. Services of a home health agency, if the services are of a type which would qualify as reimbursable services under Medicare;
6. Use of radium or other radioactive materials;
7. Oxygen;
8. Anesthetics;
9. Prosthesis, other than dental prosthesis;
10. Rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids;
11. Diagnostic x-rays and laboratory tests;
12. Oral surgery for partially or completely erupted, impacted teeth and oral surgery with respect to the tissues of the mouth when not performed in connection with the extraction or repair of teeth;
13. Services of a physical therapist;
14. Transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition;
15. Processing of blood, including, but not limited to, collecting, testing, fractioning, and distributing blood; and
16. Services for the treatment of alcohol and drug abuse, but the plan shall be required to make a fifty percent (50%) co-payment and the payment of the plan shall not exceed Four Thousand Dollars (\$4,000.00).

Usual and customary charges shall not exceed the reimbursement rate for charges as set by ~~the State and Education Employees Group Insurance Board~~ Medicare.

- D. 1. Covered expenses shall not include the following:

- a. any charge for treatment for cosmetic purposes, other than for repair or treatment of an injury or congenital bodily defect to restore normal bodily functions,
- b. any charge for care which is primarily for custodial or domiciliary purposes which do not qualify as eligible services under Medicaid,
- c. any charge for confinement in a private room to the extent that such charge is in excess of the charge by the institution for its most common semiprivate room, unless a private room is prescribed as medically necessary by a physician,
- d. that part of any charge for services or articles rendered or provided by a physician or other health care personnel which exceeds the prevailing charge in the locality where the service is provided, or any charge for services or articles not medically necessary,
- e. any charge for services or articles the provision of which is not within the authorized scope of practice of the institution or individual providing the service or articles,
- f. any expense incurred prior to the effective date of the coverage under the plan for the person on whose behalf the expense was incurred,
- g. any charge for routine physical examinations in excess of one every twenty-four (24) months,
- h. any charge for the services of blood donors and any fee for the failure to replace the first three (3) pints of blood provided to an eligible person annually, and
- i. any charge for personal services or supplies provided by a hospital or nursing home, or any other nonmedical or nonprescribed services or supplies.

2. The plan may provide an option for a person to have coverage for the expenses set out in paragraph 1 of this subsection or any benefits payable under any other health insurance policy or plan, commensurate with the deductible and coinsurance selected.

E. 1. The plan shall provide for a choice of annual deductibles per person covered for major medical expenses in the amounts of Five Hundred Dollars (\$500.00), One Thousand Dollars (\$1,000.00), One Thousand Five Hundred Dollars (\$1,500.00), Two Thousand Dollars (\$2,000.00), Five Thousand Dollars (\$5,000.00) and Seven Thousand Five Hundred Dollars (\$7,500.00), plus the additional benefits payable at each level of deductible; provided, if two individual members of a family satisfy the applicable deductible, no other members of the family shall be required to meet deductibles for the remainder of that calendar year.

2. The schedule of premiums and deductibles shall be established by the Board.

3. Rates for coverage issued by the Pool may not be unreasonable in relation to the benefits provided, the risk experience and the reasonable expenses of providing coverage.

4. Separate schedules of premium rates based on age may apply for individual risks.

5. Rates are subject to approval by the Insurance Commissioner.

6. Standard risk rates for coverages issued by the Pool shall be established by the Board, subject to the approval of the Insurance Commissioner, using reasonable actuarial techniques, and

shall reflect anticipated experiences and expenses of such coverage for standard risks.

7. a. The rating plan established by the Board shall initially provide for rates equal to ~~one hundred twenty-five percent (125%)~~ one hundred fifty percent (150%) of the average standard risk rates of the five largest insurers doing business in the state.
- b. Any change to the initial rates shall be based on experience of the plan and shall reflect reasonably anticipated losses and expenses. The rates shall not increase more than ~~five percent (5%)~~ ten percent (10%) annually with a maximum rate not to exceed ~~one hundred fifty percent (150%)~~ two hundred percent (200%) of the average standard risk rates.
8. a. A Pool policy may contain provisions under which coverage is excluded during a period of twelve (12) months following the effective date of coverage with respect to a given covered person's preexisting condition, as long as:
  - (1) the condition manifested itself within a period of six (6) months before the effective date of coverage, or
  - (2) medical advice or treatment for the condition was recommended or received within a period of six (6) months before the effective date of coverage.
- b. The Board shall waive the twelve-month period if the person had continuous coverage under another policy with respect to the given condition within a period of six (6) months before the effective date of coverage under the Pool plan.
9. a. No amounts paid or payable by Medicare or any other governmental program or any other insurance, or self-insurance maintained in lieu of otherwise statutorily required insurance, may be made or recognized as claims under such policy, or be recognized as or towards satisfaction of applicable deductibles or out-of-pocket maximums, or to reduce the limits of benefits available, and
- b. The Board shall have a cause of action against a covered person for any benefits paid to a covered person which should not have been claimed or recognized as claims because of the provisions of this paragraph, or because otherwise not covered.

SECTION 25. REPEALER 36 O.S. 1991, Section 1927, is hereby repealed.

SECTION 26. This act shall become effective July 1, 1996.

SECTION 27. 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 House of Representatives the 2nd day of May, 1996.

Speaker of the House of Representatives

Passed the Senate the 21st day of May, 1996.

President of the Senate