

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2911

By: Adkins of the House

and

Henry of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2001, Sections 311, 311.2, 321, 348.1, 361 and 362, which relate to the Insurance Commissioner and Insurance Department; modifying criteria for preparation and filing of annual statements; authorizing the Insurance Commissioner to request financial information and other information from insurers more frequently than quarterly under certain circumstances; modifying certain fees; adding fees; authorizing the Anti-Fraud Unit to refer certain matters to the Attorney General; modifying who pays the annual fee for the Anti-Fraud Unit; amending 36 O.S. 2001, Sections 610 and 617, which relate to requirements for insurers; modifying the amount of surplus insurers must maintain; requiring applicants requesting to be admitted to transact insurance to follow certain instructions; making certificates of authority perpetual, with exception; providing a premium tax credit for certain insurers; amending 36 O.S. 2001, Section 1112, which relates to surplus line brokers; defining what constitutes financial soundness; amending 36 O.S. 2001, Section 1219.4, which relates to discount cards for health-related purchases; modifying definition; modifying prohibited act; amending 36 O.S. 2001, Sections 1435.6, 1435.7, 1435.8, 1435.9, 1435.15, 1435.22, 1435.23 and 1435.29, which relate to the Oklahoma Producer Licensing Act; providing examination procedures; authorizing use of testing services; providing for subsequent examinations; prohibiting certain subsequent examinations within certain times; requiring applicants for licensure to demonstrate certain qualities; modifying lines for which an insurance producer may receive qualification for a license; designating Insurance Commissioner as agent of nonresident licensee for service of process; authorizing authorized representatives to perform certain acts for insurers; defining term; authorizing the Insurance Commissioner to waive bonding requirements for surplus lines insurance brokers; modifying certain fees; authorizing continuing education credit for membership in certain

organizations or associations; prohibiting certain persons from being licensed; providing an exception; amending 36 O.S. 2001, Section 1452, which relates to the Third-party Administrator Act; clarifying time period to be covered by annual report; amending 36 O.S. 2001, Section 1474, which relates to the Managing General Agents Act; correcting statutory reference; amending 36 O.S. 2001, Section 1612, which relates to investments; authorizing domestic insurers to make purchases used in connection with data processing of transactions; amending 36 O.S. 2001, Section 1803, which relates to supervision and conservatorship of insurers; providing exceptions to time period allowed for compliance with certain requirements; amending 36 O.S. 2001, Section 3106, which relates to motor service clubs; modifying date for filing certain statements; modifying period to be covered by statements; amending 36 O.S. 2001, Sections 3623.1 and 3624, which relate to insurance contracts; clarifying authorization to change fees; requiring full disclosure of fees; making minimum premium charges subject to premium tax; defining terms; requiring fees passed on to consumers to be actual expense of the insurer; prohibiting certain persons from charging duplicate fees or minimum premium charges; providing for refunds of certain premiums; correcting statutory cite; amending 36 O.S. 2001, Section 4030.5, which relates to the Standard Nonforfeiture Law for Individual Deferred Annuities; modifying certain minimum nonforfeiture amounts; amending 36 O.S. 2001, Section 4430, which relates to renewal premium rates; modifying scope of application; amending 36 O.S. 2001, Section 4511, which relates to employer health care programs; modifying restrictions on providing pharmacy services; amending 36 O.S. 2001, Section 5123, which relates to the Credit for Reinsurance Act; clarifying forms of security; providing for certain ambulance service membership subscriptions; providing direct assignment of insurance benefits; amending 59 O.S. 2001, Section 1306, which relates to bail bondsmen; modifying requirements for annuities; repealing 36 O.S. 2001, Section 615, which relates to the application for certificate of authority to transact insurance; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 311, is amended to read as follows:

Section 311. A. Each insurer authorized to do business under the provisions of this Code shall, annually, on or before the first

day of March, file in the office of the Insurance Commissioner and with the National Association of Insurance Commissioners (NAIC), statements which shall exhibit its financial condition on the thirty-first day of December of the previous year and its business of that year. Annual statements shall be filed with the NAIC by diskette or electronically as approved by the NAIC, along with applicable fees. For good cause shown, the Insurance Commissioner may extend the time within which such statements may be filed. The statements shall be in such general form and context as approved by the National Association of Insurance Commissioners for the kinds of insurance to be reported upon, and as supplemented for additional information required by the Insurance Commissioner by rule. In addition, the statements shall be prepared in accordance with the NAIC annual statement instruction handbooks, including any supplemental filings described in the NAIC annual instruction handbook, and follow the accounting procedures and practices prescribed by the NAIC accounting practices and procedure manuals as supplemented by the Insurance Commissioner by rule. The assets and liabilities shall be computed pursuant to the most conservative method allowed by the laws of this state. Such statements shall be subscribed and sworn to by the president and secretary and other proper officers. And if the Insurance Commissioner finds that the facts warrant, and that all laws applicable to the insurer are fully complied with, the Commissioner shall issue to the company a license, or certificate of authority, subject to all requirements and conditions of the law, to transact business in this state, specifying in the certificate the particular kind or kinds of insurance it is authorized to transact, and the certificate shall expire on the first day of March next after its issue. If a new certificate of authority is neither issued nor denied by the first day of March, the insurer shall be deemed to possess a temporary certificate of authority for a period not to exceed six (6) months,

until the new certificate is issued or specifically refused. The annual statement of an insurer of a foreign country shall embrace only its business and condition in the United States, and shall be subscribed and sworn to by its resident manager or principal representative in charge of its United States business, or other officer duly authorized. Any amendments and addendums to the annual statement subsequently filed with the Commissioner shall also be filed with the National Association of Insurance Commissioners, and the insurer shall pay the applicable filing fees.

B. In the absence of actual malice, or gross negligence, members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees and task forces, their delegates, National Association of Insurance Commissioners' employees, and all others charged with the responsibility of collecting, reviewing, analyzing and disseminating the information developed from the filing of the annual statement shall be acting as agents of the Commissioner under the authority of this section and shall not be subject to civil liability for libel, slander or any other cause of action by virtue of their collection, review and analysis or disseminating of the data and information collected from the filings required under this section.

C. All financial analysis ratios and examination synopses pertaining to insurance companies, which are submitted to the Commissioner by the National Association of Insurance Commissioners' Insurance Regulatory Information System, are confidential records which shall not be available for public inspection and shall not be disclosed by the Commissioner except in receivership proceedings.

SECTION 2. AMENDATORY 36 O.S. 2001, Section 311.2, is amended to read as follows:

Section 311.2 A. The Insurance Commissioner may request financial information more frequently than quarterly if it appears an insurer is having financial difficulty, if erratic changes are

occurring in the financial data of the company, if a considerable number of consumer complaints have been received, or if one or more transactions have occurred which appear to jeopardize the welfare of the policyholders. The insurer also may be requested to furnish a plan of action to improve its underwriting performance.

B. Any insurer upon request of the Commissioner shall furnish to the Insurance Commissioner within forty-five (45) days following the close of any calendar quarter, except the fourth quarter, on blank forms prescribed by the Insurance Commissioner, a statement which shall exhibit the financial condition of the company as of the last date of the month immediately preceding reporting date. Such reports for information purposes shall contain a complete listing of all written commitments to loan, guaranties of loans, or contractual obligations concerning loans or conditional liabilities to borrowers or lenders made during the quarter reported. Such reports may require the inclusion of an exhibit of the operating results of the company for the three (3) months' period immediately preceding the date for which the financial condition is shown. A completed blank form prescribed by the Commissioner for said statement shall be furnished by each insurer for each such reporting date. Such statements shall be subscribed and sworn to by the president and the secretary and other proper officers of the company. Failure of any insurer to execute and file such statements or exhibits as required herein shall constitute cause, after notice and hearing, for censure, suspension, or revocation of certificate of authority to transact an insurance business in this state or a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence, or both censure, suspension, or revocation, and fine. The Commissioner shall set such cause for hearing and if he finds that the facts warrant, he shall order said censure, suspension, or revocation of the certificate of authority of the insurer found to be in default or

said fine, or both said censure, suspension, or revocation, and fine. Willful violations, after notice and hearing, may subject the insurer to both censure, suspension or revocation of certificate and a fine of not less than One Hundred Dollars (\$100.00) or not more than Five Thousand Dollars (\$5,000.00) for each violation. The Insurance Commissioner may establish rules or regulations to carry out the purposes of this section.

SECTION 3. AMENDATORY 36 O.S. 2001, Section 321, is amended to read as follows:

Section 321. A. The Insurance Commissioner shall collect in advance the following fees and licenses:

1. For filing charter documents:

Original charter documents, articles of incorporation, bylaws, or record of organization of alien or foreign insurers, or certified copies thereof..... \$50.00

2. Certificate of Authority:

(a) Issuance:

Fraternal benefit societies, alien or foreign..... \$150.00
Hospital service and medical indemnity corporations, alien or foreign..... \$150.00
All other alien or foreign insurers..... \$150.00

(b) Renewal:

Fraternal benefit societies, alien or foreign..... \$150.00
Hospital service and medical indemnity corporations, alien or foreign..... \$150.00
All other alien or foreign insurers..... \$150.00

3. For filing appointment of Insurance

Commissioner as agent for service of process..... \$10.00

4. Miscellaneous:

- (a) Copies of records, per page \$0.40
- (b) Amended charter documents, articles
of incorporation or bylaws of domestic,
alien or foreign insurers \$50.00
- (c) Certificate of Commissioner, under seal \$5.00
- (d) For filing Merger and Acquisition
Forms.....~~\$500.00~~ \$1,000.00
- (e) For filing Variable Product Forms..... \$200.00
- (f) For filing a Life, Accident and Health
Policy..... \$50.00
- (g) For filing an advertisement or rider
application to a Life, Accident and
Health Policy..... \$25.00
- (h) Pending Company Review \$1,000.00
- (i) Pending Company Admission Packet..... \$50.00
- (j) For filing a Viatical Settlement
Contract or Life Settlement\$50.00
- (k) For filing an advertisement for
Viatical Settlement or Life
Settlement...\$25.00
- (l) For filing application for Viatical Settlement or
Life Settlement Contract.....\$25.00
- (m) Miscellaneous form filing.....\$25.00

B. All fees and licenses not above dedicated, nor dedicated by Section 628 of this title, collected by the Insurance Commissioner as provided by this Code, shall be paid into the State Treasury weekly. The State Treasury is authorized and directed to deduct from said amount so paid a sum equal to one-tenth (1/10) of such payment and place the same to the credit of the General Revenue Fund of the state. The remainder of said amount so paid is hereby allocated and appropriated to the State Insurance Commissioner

Revolving Fund and shall by the State Treasurer be placed to the credit of the State Insurance Commissioner Revolving Fund.

C. There shall be assessed an annual fee of ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred Dollars (\$500.00) payable by each insurer, fraternal benefit society, hospital service and medical indemnity corporation, charitable and benevolent corporation, or United States surplus lines insurance companies licensed to do business in this state, to pay for the filing, processing, and reviewing of annual and quarterly financial statements by personnel of the Office of the State Insurance Commissioner.

SECTION 4. AMENDATORY 36 O.S. 2001, Section 348.1, is amended to read as follows:

Section 348.1 A. The Insurance Commissioner shall collect the following fees and licenses for the Board and the Property and Casualty Division:

1. Rating organizations, application fee
for issuance of license..... ~~\$100.00~~ \$200.00
2. Miscellaneous:
 - a. Certificate of Insurance Commissioner,
under seal..... ~~\$10.00~~ \$20.00
 - b. Upon each transaction of filing of
documents required pursuant to the
provisions of Section 3610
of this title.....~~\$40.00~~ :
 - (1) For an individual insurer..... \$50.00
 - (2) For an approved rating or advisory
organization:
 - (a) Basic fee \$50.00
 - (b) Additional fee for each
member or subscriber insurer \$10.00,
not to exceed\$500.00

3. For each rate, loss cost and rule filing request pursuant to the provisions of Sections 902.1, 903 et seq., and 981 et seq. of this title:

- a. For an individual insurer..... ~~\$80.00~~ \$100.00
- b. For an approved rating or advisory organization:
 - (1) Basic fee..... ~~\$80.00~~ \$100.00
 - (2) Additional fee for each member or subscriber insurer..... \$10.00, not to exceed..... ~~\$1,000.00~~ \$500.00.

B. All fees and licenses collected by the Insurance Commissioner as provided in this section shall be paid into the State Treasury on a weekly basis to the credit of the Insurance Commissioner's Revolving Fund for the purpose of carrying out and enforcing the provisions of Article 9 of the Insurance Code.

C. The fees, licenses, and taxes imposed by the Board upon persons, firms, associations, or corporations licensed pursuant to this section shall be payment in full with respect thereto of and in lieu of all demands for any and all state, county, district, and municipal license fees, license taxes, business privilege taxes, business privilege fees, and charges of every kind now or hereafter imposed upon all such persons, firms, associations, or corporations. This subsection shall not affect other fees, licenses and taxes imposed by the Insurance Code.

D. Any costs incurred by the Board or the Commissioner in the process of review and analysis of a filing shall be assessed against the company or organization making the filing.

SECTION 5. AMENDATORY 36 O.S. 2001, Section 361, is amended to read as follows:

Section 361. A. There is hereby created within the Insurance Department, under the control and direction of the Insurance

Commissioner, an "Anti-Fraud Unit" within the Division of the General Counsel of the Insurance Department.

B. The Anti-Fraud Unit, upon inquiry, complaint, or referral shall investigate the extent, if any, to which a violation has occurred of any statute or administrative rule of this state pertaining to insurance fraud and may initiate any necessary investigation. Whenever the Unit determines that a violation of any criminal law of this state may have occurred, it shall refer the matter to the Oklahoma State Bureau of Investigation for further investigation pursuant to Section 150.5 of Title 74 of the Oklahoma Statutes or the Attorney General pursuant to Section 18b of Title 74 of the Oklahoma Statutes. The Insurance Department shall retain the authority to initiate and prosecute any civil action it deems necessary or advisable.

C. Records, documents, reports and evidence obtained or created by the Anti-Fraud Division as a result of an inquiry or investigation of suspected insurance fraud shall be confidential and shall not be subject to the Oklahoma Open Records Act or to outside review or release by any individual, but shall be subject to court order. Information and records shall be disclosed upon request to officers and agents of federal, state, county, or municipal law enforcement agencies, to the Oklahoma State Bureau of Investigation, to the Attorney General's office and to district attorneys, in the furtherance of criminal investigations.

SECTION 6. AMENDATORY 36 O.S. 2001, Section 362, is amended to read as follows:

Section 362. A. There is hereby created in the State Treasury a revolving fund for the Insurance Commissioner to be designated the "Insurance Department Anti-Fraud Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received and collected by the Insurance Department pursuant to subsection B of this section and all other

monies designated to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Insurance Commissioner for the purposes of investigation of suspected insurance fraud and civil or administrative action in cases involving suspected insurance fraud. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The following shall pay an annual fee of Six Hundred Dollars (\$600.00) to the Insurance Department which shall be payable quarterly in the amount of One Hundred Fifty Dollars (\$150.00): Life, accident and health insurers; property and casualty insurers; county mutual fire insurers; mutual benefit associations; fraternal benefit societies; reciprocal insurers; motor service clubs; title insurers; nonprofit insurers; health maintenance organizations (HMOs); ~~risk retention groups~~ service warranty associations; surplus lines carriers; multiple employer welfare arrangements (MEWAs); trusts which write surety policies; prepaid dental plan organizations; ~~third-party administrators~~; and accredited reinsurers. The payments shall be due on or before the last day of the month following each calendar quarter. Within sixty (60) days after each calendar quarter, the Commissioner shall transfer:

1. Twenty-five percent (25%) of all monies collected by the Insurance Department pursuant to this section to the Attorney General's Insurance Fraud Unit Revolving Fund created in Section 19.3 of Title 74 of the Oklahoma Statutes, for use by the Attorney General in the investigation and prosecution of insurance fraud; and

2. Fifteen percent (15%) of all monies collected by the Insurance Department pursuant to this section to the OSBI Revolving Fund created in Section 150.19a of Title 74 of the Oklahoma Statutes, for use by the Oklahoma State Bureau of Investigation in the investigation of insurance fraud.

SECTION 7. AMENDATORY 36 O.S. 2001, Section 610, is amended to read as follows:

Section 610. A. To qualify for authority to incorporate an insurance company or to transact any one or more kinds of insurance an insurer shall possess and maintain, after the effective date of this act, surplus in regard to policyholders, which is defined as the aggregate of the capital and surplus ~~(if a stock insurer) or surplus (if a mutual or reciprocal insurer)~~, in an amount not less than ~~as shown by the applicable portion of the following schedule:~~

KINDS OF	MINIMUM
INSURANCE	SURPLUS IN REGARD TO
	POLICYHOLDERS REQUIRED
Life and/or accident and health	\$500,000.00
Mutual benefit association converting	
to legal reserve life or limited	
stock life.....	500,000.00
Domestic fraternal converting to	
legal reserve life.....	500,000.00
Property.....	500,000.00
Marine	500,000.00
Casualty	500,000.00
Vehicle	500,000.00
Surety (except alien)	500,000.00
Alien surety	500,000.00
Title	500,000.00
All insurance except life, surety and	
title.....	500,000.00
All insurance except life and title.....	500,000.00
<u>One Million Five Hundred Thousand Dollars (\$1,500,000.00).</u>	

B. Any domestic insurer lawfully authorized to transact the business of insurance in Oklahoma immediately prior to the effective date of this act shall not be required to increase its capital or

surplus to meet increased requirements of this act, provided, however, that in no event shall such insurer reduce its capital or surplus below the figure required of ~~insurers on January 1, 1979~~ such insurer on October 31, 2002.

C. Wherever the language paid-in capital, capital, capital stock or a similar term (if a stock company) or surplus, expendable surplus or a similar term (if a mutual or reciprocal insurer) is used elsewhere in this code, the term surplus in regard to policyholders may be used interchangeably when applicable.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 615.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

Unless otherwise instructed by the Insurance Commissioner, an applicant requesting to be admitted to transact insurance in this state shall follow the instructions outlined in the National Association of Insurance Commissioners (NAIC) Uniform Certificate of Authority Application (UCAA) instructions.

SECTION 9. AMENDATORY 36 O.S. 2001, Section 617, is amended to read as follows:

Section 617. A. All certificates of authority shall ~~expire at midnight on the last day of February next following date of issuance or renewal. If the insurer qualifies therefor its certificate shall be renewed annually. Provided, however, that any certificate of authority shall continue in full force and effect until the new certificate be issued or specifically refused; however, the continuance shall not exceed a period of six (6) months, beginning~~ November 1, 2002, be perpetual and automatically renewed as of March 1 of each year, unless the insurer fails to qualify for renewal pursuant to the requirements of the Insurance Code.

B. The Insurance Commissioner may amend a certificate of authority at any time to accord with changes in the insurer's charter or insuring powers.

SECTION 10. AMENDATORY 36 O.S. 2001, Section 1112, is amended to read as follows:

Section 1112. A. A surplus line broker shall not knowingly place any such coverage in an insurer which is in an unsound financial condition. To be considered financially sound, a surplus line company shall have a minimum capital and surplus of not less than Fifteen Million Dollars (\$15,000,000.00). A surplus line broker shall not place any such coverage in an insurer unless the insurer has been approved in writing by the Commissioner as a surplus line insurer and such approval has not been withdrawn. A surplus line broker shall not place any surplus line insurance in an insurer that has been disapproved by the Commissioner as a surplus line insurer.

B. For violation of this section, in addition to any other penalty provided by law, the broker's license shall be revoked, and the broker shall not again be so licensed within a period of two (2) years thereafter. In addition, any surplus line broker who violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished for each offense, by a fine of not more than One Thousand Dollars (\$1,000.00) or by confinement in jail for not more than ninety (90) days, or by both such fine and imprisonment.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 625.4 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. One hundred percent (100%) of any assessment paid by an insurer under the Oklahoma Property and Casualty Insurance Guaranty Association Act shall be allowed to that insurer as a credit against its premium tax levied under Section 624 of Title 36 of the Oklahoma Statutes. The tax credit referred to in this section shall be allowed at a rate of ten percent (10%) per year for ten (10) successive years following the date of assessment and, at the option

of the insurer, may be taken over an additional number of years. The balance of any tax credit not claimed in a particular year may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes.

B. Available credit against premium tax allowed under subsection A of this section may be transferred or assigned among or between insurers if:

1. A merger, acquisition, or total assumption of reinsurance among or between the insurers occurs; or

2. The Insurance Commissioner by order approves the transfer or assignment.

SECTION 12. AMENDATORY 36 O.S. 2001, Section 1219.4, is amended to read as follows:

Section 1219.4 A. As used in this section:

1. "Direct contract" means a ~~written agreement between the health care provider and the person directly~~ contractual arrangement tying the ultimate seller purporting to offer discounts through the discount card to the health care provider, which expressly states the intent of this agreement to be used for the purpose of offering discounts on health-related purchases to uninsured or noncovered persons~~;~~;

2. "Discount card" means a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers;

3. "Health care provider" means any person or entity licensed by this state to provide health care services including, but not limited to, physicians, hospitals, home health agencies, pharmacies, and dentists; and

4. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, or any other government or commercial entity~~;~~.

B. It shall be unlawful for any person to sell, market, promote, advertise or otherwise distribute any discount card ~~where~~ if:

1. Any discount offered by such discount card is not specifically authorized by ~~a separate direct contract between each health care provider and the person selling the discount card~~ contractual arrangements tying the ultimate seller of the discount card to the health care providers;

2. The discount card does not expressly state in bold and prominent type that such discount is not insurance; and

3. The discount or range of discounts offered by such discount card are misleading, deceptive or fraudulent, regardless of the literal wording used on such discount card.

C. The penalty for a person who violates the provisions of this section may include:

1. A full repayment of all funds collected from individuals which purchased or incurred expenses as a result of buying or using the discount card;

2. Payment to health care providers for services provided to any person who defaulted on payment of claims related to their use of the discount card;

3. An amount equal to One Hundred Dollars (\$100.00) per discount card sold, marketed, promoted, advertised or otherwise distributed within the State of Oklahoma, or Ten Thousand Dollars (\$10,000.00), whichever is greater;

4. Three times the amount of the actual damages, if any, sustained;

5. Reasonable attorney's fees;

6. Costs; and

7. Any other relief which the court deems proper.

SECTION 13. AMENDATORY 36 O.S. 2001, Section 1435.6, is amended to read as follows:

Section 1435.6 A. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to Section ~~10~~ 1435.10 of this ~~act~~ title. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and regulations of this state. Examinations required by this section shall be developed and conducted under rules and regulations prescribed by the Insurance Commissioner.

B. The Insurance Commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in Section ~~23~~ 1435.23 of this ~~act~~ title.

C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the Insurance Commissioner as set forth in Section ~~23~~ 1435.23 of this ~~act~~ title.

~~D. An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.~~ After completion and filing of the application with the Insurance Commissioner, except as provided in Section 1435.10 of this title, the Commissioner shall subject each applicant for license as an insurance agent, insurance consultant, limited insurance representative, or customer service representative to an examination approved by the Commissioner as to competence to act as a licensee, which each applicant shall personally take and pass to the satisfaction of the Commissioner. The Commissioner may accept examinations administered by a testing service as satisfying the examination requirements of persons seeking license as agents, solicitors, counselors, or adjusters under this Code. The Commissioner may negotiate agreements with such testing services to include performance of examination

development, test scheduling, examination site arrangements, test administration, grading, reporting, and analysis. The Commissioner may require such testing services to correspond directly with the applicants with regard to the administration of such examinations and that such testing services collect fees for administering such examinations directly from the applicants. The Commissioner may stipulate that any agreements with such testing services provide for the administration of examinations in specific locales and at specified frequencies. The Commissioner shall retain the authority to establish the scope and type of all examinations.

E. If the applicant is a legal entity, the examination shall be taken by each individual who is to act for the entity as a licensee.

F. 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.

G. Examination for licensing shall be at such reasonable times and places as are designated by the Commissioner.

H. The Commissioner or testing service shall give, conduct, and grade all examinations in a fair and impartial manner and without discrimination among individuals examined.

I. 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 licensing shall be issued by the Commissioner to the licensee within a reasonable time.

J. 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.

K. 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.

SECTION 14. AMENDATORY 36 O.S. 2001, Section 1435.7, is amended to read as follows:

Section 1435.7 A. A person applying for a resident insurance producer license shall make application to the Insurance Commissioner on the Uniform Application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the Insurance Commissioner shall find that the individual:

1. Is at least eighteen (18) years of age;
2. Has not committed any act that is a ground for denial, suspension or revocation set forth in Section ~~13~~ 1435.13 of this ~~act~~ title;
3. Where required by the Insurance Commissioner, has completed a prelicensing course of study for the lines of authority for which the person has applied;
4. Has paid the fees set forth in Section ~~23~~ 1435.23 of this ~~act~~ title; and
5. Has successfully passed the examinations for the lines of authority for which the person has applied.

B. In connection with the licensure of an applicant for a resident insurance producer license, 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 appointment, or submit and maintain 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. The insurer providing coverage shall maintain an accurate list of all agents covered by such policy.

C. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the Insurance Commissioner shall find that:

1. The business entity has paid the fees set forth in Section ~~23~~ 1435.23 of this ~~act~~ title;

2. The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws, rules and regulations of this state;

3. A domestic business entity is organized pursuant to the provisions of the laws of this state and maintains its principal place of business in this state;

4. No person whose license as an insurance producer has been revoked by order of the Commissioner, nor any business entity in which such person has a majority ownership interest, whether direct or indirect, owns any interest in the business entity licensed as an insurance producer; and

5. The business entity has provided proof satisfactory to the Commissioner that a trade name has been lawfully registered for an insurance producer license to be issued in a trade name.

D. A business entity acting as an insurance producer shall notify the Commissioner of all changes among its members, directors and officers and all other individuals designated in the license within fifteen (15) days after the change.

E. An applicant for any license required by the provisions of the Oklahoma Producer Licensing Act shall demonstrate to the Insurance Commissioner that the applicant is competent, trustworthy, financially responsible, and of good personal and business reputation.

F. The Insurance Commissioner may require any documents reasonably necessary to verify the information contained in an application.

SECTION 15. AMENDATORY 36 O.S. 2001, Section 1435.8, is amended to read as follows:

Section 1435.8 A. Unless denied licensure pursuant to Section ~~13~~ 1435.13 of this ~~act~~ title, persons who have met the requirements of Sections ~~6~~ 1435.6 and ~~7~~ 1435.7 of this ~~act~~ title shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

1. Life - insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

2. Accident and health or sickness - insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income;

3. Property - insurance coverage for the direct or consequential loss or damage to property of every kind;

4. Casualty - insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property;

5. Variable life and variable annuity products - insurance coverage provided under variable life insurance contracts and variable annuities;

6. Personal lines - property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

7. Commercial lines - property and casualty insurance coverage sold to businesses for primarily commercial purposes;

8. Credit - limited line credit insurance;

~~8.~~ 9. Title insurance; and

~~9.~~ 10. Any other line of insurance permitted under state laws or regulations.

B. An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in Section ~~23~~ 1435.23 of this ~~act~~ title is paid and education requirements for resident individual producers are met by the due date.

C. An individual insurance producer who allows the license to lapse may, within twenty-four (24) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination unless the license was revoked, suspended, or continuation thereof was refused by the Commissioner. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date. Continuing education requirements must be kept current.

D. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

E. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines

of authority, the expiration date and any other information the Insurance Commissioner deems necessary.

F. Licensees shall inform the Insurance Commissioner by any means acceptable to the Insurance Commissioner of a change of address within thirty (30) days of the change. Failure to timely inform the Insurance Commissioner of a change in legal name or address shall result in a penalty pursuant to Section ~~13~~ 1435.13 of this ~~act~~ title.

G. In order to assist in the performance of the Insurance Commissioner's duties, the Insurance Commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the Insurance Commissioner and the nongovernmental entity may deem appropriate.

H. The Commissioner may participate, in whole or in part, with the National Association of Insurance Commissioners, or any affiliates or subsidiaries the National Association of Insurance Commissioners oversees, in a centralized producer license registry where insurance producer licenses and appointments may be centrally or simultaneously effected for all states that require an insurance producer license and participate in such centralized producer license registry. If the Commissioner finds that participation in such a centralized producer license registry is in the public interest, the Commissioner may adopt by rule any uniform standards or procedures as are necessary to participate in the registry. This includes the central collection of all fees for licenses or appointments that are processed through the registry.

SECTION 16. AMENDATORY 36 O.S. 2001, Section 1435.9, is amended to read as follows:

Section 1435.9 A. Unless denied licensure pursuant to Section ~~13~~ 1435.13 of this ~~act~~ title, a nonresident person shall receive a nonresident producer license if:

1. The person is currently licensed as a resident and in good standing in that person's home state;

2. The person has submitted the proper request for licensure and has paid the fees required by Section ~~23~~ 1435.23 of this ~~act~~ title;

3. The person has submitted or transmitted to the Insurance Commissioner the application for licensure that the person submitted to the person's home state, or in lieu of the same, a completed Uniform Application; and

4. The person's home state awards nonresident producer licenses to residents of this state on the same basis.

B. Any nonresident application submitted pursuant to this section shall constitute the applicant's designation of the Insurance 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 constitutes 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.

C. The Insurance Commissioner may verify the producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries.

~~C.~~ D. A nonresident producer who moves from one state to another state or a resident producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty (30) days of

the change of legal residence. No fee or license application is required.

~~D.~~ E. Notwithstanding any other provision of the Oklahoma Producer Licensing Act or of the Oklahoma Insurance Code, a person licensed as a surplus lines producer in that person's home state shall receive a nonresident surplus lines producer license pursuant to ~~subsection~~ subsections A and B of this section.

~~E.~~ F. Notwithstanding any other provision of the Oklahoma Producer Licensing Act, a person licensed as a limited line credit insurance or other type of limited lines producer in that person's home state shall receive a nonresident limited lines producer license, pursuant to ~~subsection~~ subsections A and B of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purpose of this subsection, limited line insurance is any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to subsection A of Section ~~&~~ 1435.8 of this ~~act~~ title.

SECTION 17. AMENDATORY 36 O.S. 2001, Section 1435.15, is amended to read as follows:

Section 1435.15 A. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

B. To appoint a producer as its agent, the appointing insurer, or an authorized representative of the insurer, shall file, in a format approved by the Insurance Commissioner, a notice of appointment within forty-five (45) days from the date the agency contract is executed or the first insurance application is submitted. For purposes of this section, an "authorized representative of the insurer" means a person or entity licensed by

the Insurance Commissioner pursuant to the laws of this state who is authorized in writing by the appointing insurer to file appointments for the appointing insurer. A copy of said written authorization shall accompany each notice of appointment filed by an authorized representative of the insurer. An insurer or authorized representative of an insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

C. Upon receipt of the notice of appointment, the Insurance Commissioner shall verify within a reasonable time not to exceed thirty (30) days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the Insurance Commissioner shall notify the insurer and the authorized representative of the insurer within five (5) days of its determination.

D. An insurer or authorized representative of an insurer shall pay a biennial appointment fee, in the amount and method of payment set forth in Section ~~23~~ 1435.23 of this ~~act~~ title, for each insurance producer appointed by the insurer for each insurer for which the insurance producer is appointed.

E. It shall be unlawful for any insurer to discriminate among or between the insurance producers 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.

SECTION 18. AMENDATORY 36 O.S. 2001, Section 1435.22, is amended to read as follows:

Section 1435.22 A. Application for a customer service representative license or license renewal shall be accompanied by a

written appointment, which shall remain in effect until expressly terminated in writing, signed by the insurance agent or broker who will supervise the customer service representative, on forms prescribed by the Insurance Commissioner.

B. 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 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. The Commissioner may waive bonding requirements for nonresident surplus lines insurance brokers.

3. 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 conduct as a licensed insurance consultant or surplus lines insurance broker.

SECTION 19. AMENDATORY 36 O.S. 2001, Section 1435.23, is amended to read as follows:

Section 1435.23 A. All applications shall be accompanied by the applicable fees. An appointment may be deemed by the Commissioner to have terminated upon failure by the insurer to pay the prescribed renewal fee. The Commissioner may also by order impose a civil penalty equal to double the amount of the unpaid 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~~ \$ 20.00
2. Miscellaneous:
 - a. Certificate and Clearance of Commissioner, ~~under seal~~ \$ 3.00
 - b. Insurance producer's study manual:
 - Life, Accident & Healthnot to exceed \$ 40.00
 - Property and Casualtynot to exceed \$ 40.00
 - c. For filing organizational documents of an entity applying for a license as an insurance producer \$ 20.00
3. Examination for license:
 - For each examination covering laws and one or more lines of insurance ~~\$ 50.00~~
 - not to exceed \$100.00
4. Licenses:
 - a. Insurance producer's biennial license, regardless of number of companies represented \$ 60.00
 - b. Insurance producer's biennial license for sale or solicitation of separate accounts or agreements, as provided for

- in Section 6061 of this title..... \$ 60.00
- c. Limited lines producer biennial license.. \$ 40.00
- d. Temporary license as agent..... \$ 20.00
- e. Managing general agent's biennial
license..... \$ 60.00
- f. Surplus lines broker's biennial license . \$100.00
- g. Insurance vending machine, each machine,
biennial fee \$100.00
- h. Insurance consultant's biennial license,
resident or nonresident..... \$100.00
- i. Customer service representative biennial
license.....\$ 40.00
- 5. Biennial fee for each appointed insurance producer,
managing general agent, or limited lines producer by
insurer, each license of each insurance producer or
representative. \$ 40.00
- 6. Renewal fee for all licenses shall be the same as the
current initial license fee.
- 7. The fee for a duplicate license shall be one-half (1/2) the
fee of an original license.
- 8. The renewal of a license shall require a fee of double the
current original license fee if the application for renewal
is late, or incomplete on the renewal deadline.

B. 1. The fees and monies received by the Insurance
Commissioner pursuant to the provisions of paragraphs 1, 2, 7 and 8
of subsection A 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 the Oklahoma
Producer Licensing Act, including the use of postal mail facilities
for the Department.

2. The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 3 through 6 of subsection A of this section shall be paid into the State Treasury to the credit of the General Revenue Fund of the state.

C. 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 the Oklahoma Producer 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.

D. All fees, fines, monies, and license fees authorized by the provisions of this section and not dedicated by the provisions of subsection B 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.

E. If for any reason an insurance producer license or appointment is not issued or renewed by the Commissioner, all fees accompanying the appointment or application for the license shall be deemed earned and shall not be refundable except as provided in Section 352 of this title.

SECTION 20. AMENDATORY 36 O.S. 2001, Section 1435.29, is amended to read as follows:

Section 1435.29 A. 1. Each insurance producer shall, biennially, complete not less than fourteen (14) clock hours of continuing insurance education which shall cover subjects in the

lines for which the insurance producer is licensed. Such education may include a written or oral examination.

2. Each customer service representative shall, biennially, complete not less than ten (10) 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.

3. Licensees shall complete, in addition to the foregoing, 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. The Insurance Department may use one or more of the following to review and provide a nonbinding recommendation to the Insurance Commissioner on approval or disapproval of courses and providers of continuing education:

- a. employees of the Insurance Commissioner,
- b. a continuing education advisory committee, or
- c. an independent service whose normal business activities include the review and approval of continuing education courses and providers. The Commissioner may negotiate agreements with such independent service to review documents and other materials submitted for approval of courses and providers and provide the Commissioner with its nonbinding recommendation. The Commissioner may require such independent service to collect the fee charged by the independent service for reviewing materials provided for review directly from the course providers.

The Insurance Commissioner has sole authority to approve courses and providers of continuing education. If the Insurance Commissioner uses one of the entities listed above to provide a nonbinding recommendation, the Commissioner shall adopt or decline

to adopt the recommendation within thirty (30) days of receipt of the recommendation. In the event the Insurance Commissioner takes no action within said thirty-day period, the recommendation made to the Commissioner will be deemed to have been adopted by the Commissioner.

2. Each insurance company shall be allowed to provide continuing education to insurance producers 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 Commissioner.

3. An insurance producer 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 diploma curriculum for Chartered Life Underwriters (CLU), Registered Health Underwriters (RHU), Chartered Financial Consultants (ChFC), or Registered Employee Benefits Consultants (REBC), 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.

4. Subject to approval by the Commissioner, the active membership of the licensed agent or broker in local, regional, state, or national professional insurance organizations or associations may be approved for up to two (2) annual hours of instruction. These hours shall be credited upon timely filing with the Commissioner, or designee of the Commissioner, and appropriate written evidence acceptable to the Commissioner of such active membership in the organization or association.

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 C of Section ~~23~~ 1435.23 of this ~~act~~ title, for the purposes of fulfilling and accomplishing the conditions and purposes of the Oklahoma Producer Licensing Act and the Insurance Adjusters Licensing Act. Provided, public-funded educational institutions shall be exempt from this subsection.

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

E. Limited lines producers and nonresident agents who have successfully completed an equivalent or greater requirement shall be exempt from the provisions of this section.

F. Insurance producers and limited lines producers who are sixty-five (65) years of age or older and who have at least thirty (30) years of experience as insurance producers or limited lines producers, and who do not write new business, shall be exempt from the provisions of this section.

G. Members of the Legislature shall be exempt from this section.

H. The Commissioner shall adopt and promulgate such rules as are necessary for effective administration of this section.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.40 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsections B and C of this section, an applicant for licensure 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 of this state.

B. The provisions of subsection A of this section shall not apply to:

1. Applicants for life or accident and health insurance producer licenses or limited lines producers; or

2. Persons who hold an elective office, except the office of Insurance Commissioner.

C. For the purpose of this section, 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 of the state.

SECTION 22. AMENDATORY 36 O.S. 2001, Section 1452, is amended to read as follows:

Section 1452. On or before June 1 of each year, all licensed administrators shall file an annual report for the previous calendar year prepared by a certified public accountant and which shall be subscribed and sworn to by the president and attested to by the secretary or other proper officers substantiating that the information contained in the report is true and factual concerning each of the plans they administer which are governed pursuant to the provisions of the Third-party Administrator Act. The report shall include the name and address of each fund and a statement of fund equity, paid claims by the covered unit, the accumulated year-to-date paid claims, and the year-to-date reserve status. Failure of any third-party administrator to execute and file such annual reports as required by this section shall constitute cause, after notice and opportunity for hearing, for censure, suspension, or revocation of administrator licensure to transact business in this state, or a civil penalty of not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00) for each occurrence, or both censure, suspension, or revocation and civil penalty.

SECTION 23. AMENDATORY 36 O.S. 2001, Section 1474, is amended to read as follows:

Section 1474. No person acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties which sets forth the responsibilities of each party, and where both parties share responsibility for a particular function, specifies the division of such responsibilities, and which contains the following minimum provisions:

1. The insurer may terminate the contract for cause upon thirty (30) days' written notice to the managing general agent and the Insurance Commissioner. The insurer may suspend the underwriting

authority of the managing general agent during the pendency of any dispute regarding the cause for termination;

2. The managing general agent shall render accounts to the insurer detailing all transactions and shall remit all funds due under the contract to the insurer on not less than a monthly basis;

3. All funds collected for the account of an insurer shall be held by the managing general agent in a fiduciary capacity in a bank which is a member of the Federal Reserve System. This account shall be used for all payments on behalf of the insurer. The managing general agent may retain no more than three (3) months' estimated claims payment and allocated loss adjustment expenses;

4. Separate records of business written by the managing general agent shall be maintained. The insurer shall have access to and the right to copy all accounts and records related to its business in a form usable by the insurer. The Insurance Commissioner shall have access to all books, bank accounts and records of the managing general agent in a form usable to the Commissioner. Such records shall be retained according to the provisions of ~~paragraph 5 of subsection A E of Section 1428 of Title 36 of the Oklahoma Statutes~~ 1435.13 of this title;

5. The contract may not be assigned in whole or part by the managing general agent;

6. The contract shall contain appropriate underwriting guidelines including:

- a. the maximum annual premium volume,
- b. the basis of the rates to be charged,
- c. the types of risks which may be written,
- d. maximum limits of liability,
- e. applicable exclusions,
- f. territorial limitations,
- g. policy cancellation provisions, and
- h. the maximum policy period;

7. The insurer shall have the right to cancel or not renew any policy of insurance subject to applicable laws and regulations;

8. If the contract permits the managing general agent to settle claims on behalf of the insurer:

- a. all claims must be reported to the company in a timely manner,
- b. a copy of the claim file shall be sent to the insurer at its request or as soon as it becomes known that the claim:
 - (1) has the potential to exceed a threshold determined by the Insurance Commissioner or exceeds the limit set by the company, whichever is less,
 - (2) involves a coverage dispute,
 - (3) may exceed the managing general agent's claims settlement authority,
 - (4) is open for more than six (6) months, or
 - (5) is closed by payment of an amount set by the Insurance Commissioner or an amount set by the company, whichever is less,
- c. all claim files will be the joint property of the insurer and managing general agent. However, upon an order of liquidation of the insurer, such files shall become the sole property of the insurer or its estate and the managing general agent shall have reasonable access to and the right to copy the files on a timely basis,
- d. any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the

pendency of any dispute regarding the cause for termination, and

- e. nothing in this section shall be construed to give the Insurance Commissioner authority to settle or adjust claims on behalf of the insurer;

9. Where electronic claim files are in existence, the contract shall address the timely transmission of the data;

10. If the contract provides for a sharing of interim profits by the managing general agent, and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves or controlling claim payments, or in any other manner, interim profits will not be paid to the managing general agent on the lines of business written by the managing general agent until at least ninety-seven percent (97%) of the ultimate loss has been developed for those lines of business, based on an opinion of the actuary who certifies the adequacy of the loss reserves for the insurer;

11. The managing general agent shall not:

- a. bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded:
 - (1) a list of reinsurers with which such automatic agreements are in effect,
 - (2) the coverages and amounts or percentages that may be reinsured, and
 - (3) commission schedules,
- b. commit the insurer to participate in insurance or reinsurance syndicates,

- c. appoint any agent or broker without assuring that the agent or broker is lawfully licensed to transact the type of insurance for which he is appointed,
- d. without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, which shall not exceed one percent (1%) of the insurer's policyholder's surplus as of December 31 of the last completed calendar year,
- e. collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report shall be promptly forwarded to the insurer,
- f. permit its sub-agent or sub-broker to serve on the insurer's board of directors,
- g. jointly employ an individual who is employed with the insurer, or
- h. appoint a sub-managing general agent.

SECTION 24. AMENDATORY 36 O.S. 2001, Section 1612, is amended to read as follows:

Section 1612. Any domestic company, in addition to the investments permitted by this article, may invest in electronic machines constituting a data processing system, or systems, and other office equipment, furniture and machines, and such other property, machines and equipment heretofore or hereafter purchased for use in connection with the data processing of the transaction of the business of an insurance company and may further invest in property, which shall not be included in calculating the limitation of Section 1624, used for recreational, hospitalization, convalescent and/or retirement purposes for its employees, to the extent that the total market value of all such property, which shall be depreciated over its useful life in accordance with standard

accounting procedures, constitutes less than three per cent of its otherwise admitted assets.

SECTION 25. AMENDATORY 36 O.S. 2001, Section 1803, is amended to read as follows:

Section 1803. A. The Insurance Commissioner shall, if there is substantial reason to believe that any insurer is insolvent, or if any insurer's condition is such as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or it has exceeded its powers, or it has failed to comply with the law, or if such insurer gives its consent:

1. Notify the insurer of ~~his~~ the Commissioner's determination;
2. Furnish the insurer a written list of requirements to abate ~~his~~ the Commissioner's determination; and
3. If ~~he~~ the Commissioner makes a further determination to supervise, notify the insurer that it is under supervision pursuant to this ~~act~~ article.

B. Such insurer shall comply with the lawful requirements of the Commissioner and, if placed under supervision, shall have ninety (90) days from the date of notice within which to comply with the requirements of the Commissioner unless the Commissioner designates a lesser or greater period of time or unless the Commissioner determines at any time during or after the ninety-day period of time that judicial or administrative proceedings should be initiated to place such insurer in conservation, rehabilitation or liquidation proceedings or other delinquency proceedings, pursuant to Articles 18 and 19 of this title. If such insurer does not comply with such requirements, such supervision may continue until such requirements are remedied or until the Commissioner approves or completes pursuit of additional options as provided in the Insurance Code.

SECTION 26. AMENDATORY 36 O.S. 2001, Section 3106, is amended to read as follows:

Section 3106. A. Whenever the Insurance Commissioner deems it to be prudent or necessary ~~he~~ the Commissioner shall personally, or by ~~his~~ an authorized representative, visit each motor service club and thoroughly inspect and examine its financial condition, its ability to fulfill its obligations, whether it has complied with the provisions of this act and any other facts relative to its business methods, management and the equity of its dealings with its members.

B. Every motor service club shall furnish to the Commissioner, on or before ~~December 31,~~ July 1 of each year, on blanks prescribed and furnished by the Commissioner, a statement which shall exhibit the financial condition of the company as of ~~the last day of the month immediately preceding the reporting date.~~ Such reports may ~~require the inclusion of an exhibit of the operating results of the company for the three-month period immediately preceding the date for which the financial condition is shown.~~ The Commissioner shall ~~furnish two or more of the prescribed forms for each reporting period~~ December 31 of the previous calendar year. Such statements shall be subscribed and sworn to by the president and secretary or two other proper officers of the company.

SECTION 27. AMENDATORY 36 O.S. 2001, Section 3623.1, is amended to read as follows:

Section 3623.1 A. Nothing in this Code shall be construed to prevent an insurer from charging and collecting in this state separate initial membership fees ~~and,~~ policy fees and any other fees as defined in subsection C of this section in addition to premiums for insurance, and such fees shall not be considered premium within the definition of this Code, but shall be subject to premium tax as provided in this Code. An insurer shall fully disclose all fees to its customers.

B. A minimum premium charge is considered premium within the definition of this Code, and shall be subject to premium tax as provided in this Code.

C. 1. Fees are defined as a flat amount added to the basic premium rate to reflect the cost of establishing the required records, sending premium notices and other related expenses and include, but are not limited to, the following: Installment fees, service charges, financing fees, membership fees, return check fees, policy fees, motor vehicle record fees, inspection fees, late fees, electronic transfer fees, credit score fees and expense load fees.

2. The fee passed on to the consumer must be the actual expense incurred by the insurance company, insurance agency or insurance producer.

D. Minimum premium charge is the smallest acceptable premium for which an insurance company will write a policy. This minimum charge is necessary to cover fixed expenses, other than those expenses defined as fees above, in placing the policy on the books. A minimum premium charge includes, but is not limited to, minimum earned premium and minimum retained premium.

E. An insurance consultant, insurance producer, limited lines producer, managing general agent or surplus lines insurance broker cannot charge a duplicate fee or minimum premium charge.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3623.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Premiums paid for coverage of life, accident and health insurance shall be refunded from the date of death of the insured to the premium due date.

1. The refund of premium shall be on a daily pro-rata basis.

2. Premium refunds shall be provided within ninety (90) days from the date of valid proof of loss has been received.

B. As it pertains to this section, life, accident and health insurance coverage shall include any policy, contract, plan or agreement of life, accident and health insurance, or subscriber certificates of life or medical care corporations, health care

corporations, hospital service associations, or health care maintenance organizations, delivered or issued for delivery in this state by any insurer; any certificate, contract or policy issued by a fraternal benefit society; any policy or certificate issued pursuant to a group insurance policy delivered or issued for delivery in this state; and any evidence of coverage issued by a health maintenance organization. Life, accident and health insurance coverage shall include long-term care, dental, vision and disability insurance policies and certificates.

SECTION 29. AMENDATORY 36 O.S. 2001, Section 3624, is amended to read as follows:

Section 3624. Except as provided in subsection C D of Section 6055 of this title, a policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to assignability, any life or accident and health policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured, may be assigned either by pledge or transfer of title, by an assignment executed by the insured alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

SECTION 30. AMENDATORY 36 O.S. 2001, Section 4030.5, is amended to read as follows:

Section 4030.5 A. The minimum values as specified in Sections ~~28, 29, 30, 31 and 33~~ 4046.1, 4049, 4085, 4086 and 4088 of this ~~act~~ title, of any paid-up annuity, cash surrender or death benefits

available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

B. With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of ~~three percent (3%)~~ one and one-half percent (1 1/2%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

1. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of ~~three percent (3%)~~ one and one-half percent (1 1/2%) per annum; and

2. The amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of Thirty Dollars (\$30.00) and less a collection charge of One Dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

C. With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years; and

2. The annual contract charge shall be the lesser of Thirty Dollars (\$30.00) or ten percent (10%) of the gross annual consideration.

D. With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of the net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of Seventy-five Dollars (\$75.00).

SECTION 31. AMENDATORY 36 O.S. 2001, Section 4430, is amended to read as follows:

Section 4430. A. 1. An insurer may not charge a renewal premium rate for a long-term care insurance policy which exceeds by more than fifteen percent (15%) any premium charged for the policy during the preceding twelve (12) months.

2. Upon approval of the Insurance Commissioner, an insurer may charge a renewal premium exceeding the fifteen percent (15%) increase provided for in paragraph 1 of this subsection upon showing that a larger increase is necessary because of utilization of policy benefits in excess of the expected rate.

B. 1. This section does not apply to life insurance policies or riders containing accelerated long-term care benefits.

2. For certificates issued or delivered on or after November 1, 1995, under a group long-term care insurance policy as defined in Section 4424 of this title, which policy was in force on November 1, 1995, the provisions of this section shall not apply.

3. This section does not apply to policies or certificates ~~issued or delivered~~ approved for issue or delivery on or after November 1, 2001.

SECTION 32. AMENDATORY 36 O.S. 2001, Section 4511, is amended to read as follows:

Section 4511. A. No employer providing pharmacy services including prescription drugs to any employee or retiree of said employer, as part of a health care program, shall knowingly÷

~~1. require the employee or retiree of said employer to obtain drugs from a mail order pharmacy as a condition of obtaining the employer's payment for such prescription drugs; or~~

~~2. impose upon an employee or retiree of said employer not utilizing a mail order pharmacy designated by the employer a copayment fee or other condition not imposed upon employees or retirees of said employer utilizing the designated mail order pharmacy.~~

~~B. The provisions of this section shall not apply to any employer who offers, as a part of a health care program, health insurance coverage to employees or retirees of said employer which provides for reimbursement of an equal portion of the cost to the employee or retiree of said employer for prescription drugs regardless of the supplier provided that the health insurance plan allows the employee or retiree of said employer freedom of choice in determining where the drugs are purchased.~~

~~C.~~ Any person violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor. Each such violation shall constitute a separate offense.

SECTION 33. AMENDATORY 36 O.S. 2001, Section 5123, is amended to read as follows:

Section 5123. ~~A.~~ An asset or reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 5122 of this title shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in Section 5122 of this title. This security may be in one or more of the following forms:

1. Cash;

2. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets; ~~and~~

3. Any other form of security acceptable to the Insurance Commissioner; ~~and~~

~~B. 1.~~

4. a. Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in paragraph 1 of subsection J of Section 5122 of this title, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust

for, the ceding company on or before the filing date of its annual statement.

- ~~2.~~ b. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6050 of Title 36, unless there is created a duplication in numbering, reads as follows:

All persons, companies, governmental entities or trust authorities operating an ambulance service within this state may sell prepaid or discounted ambulance service membership subscriptions to individuals who reside within its authorized service area in exchange for payment of an annual membership fee. The agreement between the ambulance service and an individual shall not be deemed to be insurance and shall expressly provide for the assignment of insurance benefits directly to the ambulance service. Under such assignment, the insurer shall be obligated directly to the ambulance service for the lesser of the full and customary charge by the ambulance service or the designated or allowable amount set forth by the insurance policy for any services actually rendered to the individual by the ambulance service during the membership year less any applicable deductible or copayment.

SECTION 35. AMENDATORY 59 O.S. 2001, Section 1306, is amended to read as follows:

Section 1306. A. 1. An applicant for a cash bondsman license shall meet all requirements set forth in Section 1305 of this title with exception of residence.

2. In addition to the requirements prescribed in Section 1305 of this title, an applicant for a professional bondsman license shall submit to the Insurance Commissioner financial statements prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with generally accepted principles of accounting procedures setting forth the total assets of the bondsman less liabilities and debts and which shall show a net worth of at least Fifty Thousand Dollars (\$50,000.00), said statements to be current as of a date not earlier than ninety (90) days prior to submission of the application and the statement shall be attested to by an unqualified opinion of the accountant.

3. Professional bondsman applicants shall make a deposit with the Insurance Commissioner in the same manner as required of domestic insurance companies of an amount to be determined by the Commissioner, which shall not be less than Twenty Thousand Dollars (\$20,000.00). Such deposits shall be subject to all laws, rules and regulations as deposits by domestic insurance companies but in no instance shall a professional bondsman write bonds which equal more than ten times the amount of the deposit which such bondsman has submitted to the Commissioner. In addition, a professional bondsman may make the deposit by purchasing an annuity through a licensed domestic insurance company in the State of Oklahoma. The annuity shall be in the name of ~~the Insurance Commissioner~~ and the bondsman as owner with legal assignment to the Insurance Commissioner. The assignment form shall be approved by the Commissioner. If a bondsman exceeds the above limitation, the bondsman shall be notified by the Commissioner by mail with return receipt requested that the excess shall be reduced or the deposit increased within ten (10) days of notification, or the license of the bondsman shall be suspended immediately after the ten-day period, pending a hearing on the matter.

4. The deposit herein provided for shall constitute a reserve available to meet sums due on forfeiture of any bonds or recognizance executed by such bondsman.

5. Any deposit made by a professional bondsman pursuant to this section shall be released and returned by the Commissioner to the professional bondsman only upon extinguishment of all liability on outstanding bonds.

6. No release of deposits to a professional bondsman shall be made by the Commissioner except upon written application and the written order of the Commissioner. The Commissioner shall have no liability for any such release to a professional bondsman provided the release was made in good faith.

B. The deposit provided in this section shall be held in safekeeping by the Insurance Commissioner and shall only be used if a bondsman fails to pay an order and judgment of forfeiture after being properly notified or shall be used if the license of a professional bondsman has been revoked. The deposit shall be held in the name of the Insurance Commissioner and the bondsman. The bondsman shall execute an assignment of the deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

C. Currently licensed professional bondsmen may maintain their aggregate liability limits upon presentation of documented proof that they have previously been granted a limitation greater than the requirements of subsection A of this section.

D. Notwithstanding any other provision of Section 1301 et seq. of this title, the license of a professional bondsman is transferable upon the death or legal or physical incapacitation of the bondsman to the bondsman's spouse, or to such other transferee as the professional bondsman may designate in writing, and the transferee may elect to act as a professional bondsman until the expiration of the license or for a period of one hundred eighty

(180) days, whichever is greater, if the following conditions are met:

1. The transferee must hold a valid license as a surety bondsman in this state; and

2. The asset and deposit requirements set forth in this section continue to be met.

SECTION 36. REPEALER 36 O.S. 2001, Section 615, is hereby repealed.

SECTION 37. This act shall become effective November 1, 2002.

48-2-9284 SD 6/12/15