STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1952 By: Sweeden of the House

and

Price of the Senate

COMMITTEE SUBSTITUTE

An Act relating to insurance; creating the Oklahoma Producer Licensing Act; providing short title; stating purpose and scope; amending 36 O.S. 1991, Section 1422, as last amended by Section 59, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1422), which relates to licensing definitions; adding and modifying definitions; amending 36 O.S. 1991, Section 1423, as last amended by Section 2, Chapter 246, O.S.L. 1996 (36 O.S. Supp. 2000, Section 1423), which relates to agency status and authority; modifying terms; requiring licensing; providing exceptions to licensing; requiring examination and providing procedure for application for examination; providing qualifications for applicant; providing for issuance of license; providing lines for which license may be issued; providing term of licensure; providing for reinstatement of lapsed license; providing for waiver in certain circumstances; providing for nonresident licensing; amending 36 O.S. 1991, Section 1426, as amended by Section 79, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1426), which relates to exemptions from examination requirements; providing for mandatory exemptions; requiring insurance producer to notify the Insurance Commissioner of use of assumed name; providing for temporary licensing; providing for license denial, nonrenewal or revocation; prohibiting commissions, with exceptions; providing for appointed agents; providing procedure for appointment; requiring notification to the Insurance Commissioner for termination of insurance business relationships; requiring notification to producer; providing immunities; providing for confidentiality; providing for reciprocity; authorizing promulgation of rules; amending Section 60, Chapter 418, O.S.L. 1997, as last amended by Section 9, Chapter 353, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1424.11), which relates to categories for licensure; providing for limited lines qualification; modifying lines for which a limited lines producer may receive qualification; amending Section 63, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1424.14), which relates to controlled business; modifying terms; providing for customer service representative licenses; requiring bond for insurance consultants and surplus lines brokers and

stating purpose therefor; amending 36 O.S. 1991, Section 1425, as last amended by Section 69, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1425), which relates to licensing; providing for fees; providing that certain fees are not refundable with exception; amending Section 71, Chapter 418, O.S.L. 1997, as amended by Section 34, Chapter 205, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1425.2), which relates to qualification for licensure as a resident or nonresident; limiting scope of section; amending Section 73, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1425.4), which relates to surplus lines applicants; modifying terms; amending Section 75, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1425.6), which relates to unlawful acts and penalties therefor; modifying terms; amending 36 O.S. 1991, Section 1425.1, as renumbered by Section 127, Chapter 418, O.S.L. 1997, and as last amended by Section 12, Chapter 353, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1426A), which relates to continuing education; modifying terms; providing an exemption; amending 36 O.S. 1991, Section 1427, as amended by Section 80, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1427), which relates to insurance consultants; modifying terms; amending Section 6, Chapter 246, O.S.L. 1996 (36 O.S. Supp. 2000, Section 1427.1), which relates to customer service representatives; modifying terms; amending Section 62, Chapter 418, O.S.L. 1997, as amended by Section 33, Chapter 205, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1424.13), which relates to licensure requirements for agencies; eliminating certain restriction; amending Section 24, Chapter 178, O.S.L. 1992 (36 O.S. Supp. 2000, Section 5103), which relates to licensing under the Reinsurance Intermediary Act; providing terms of licenses and fees therefor; repealing 36 O.S. 1991, Sections 1421, Sections 67 and 72, Chapter 418, O.S.L. 1997, Section 76, Chapter 418, O.S.L. 1997, as amended by Section 2, Chapter 36, O.S.L. 1999, Section 78, Chapter 418, O.S.L. 1997, 1428, as last amended by Section 13, Chapter 353, O.S.L. 2000, 1430, 1431, 1431.1, 1432 and 1433 (36 O.S. Supp. 2000, Sections 1424.18, 1425.3, 1425.7, 1425.9 and 1428), which relate to insurance agent licensing; providing for codification; providing for recodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Producer Licensing Act".

B. This act governs the qualifications and procedures for the licensing of insurance producers. It simplifies and organizes statutory language to improve efficiency, permits the use of new technology, and reduces costs associated with issuing and renewing insurance licenses.

C. This act does not apply to excess and surplus lines agents and brokers licensed, except for Section 13 of this act and except where specifically referenced in this act.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1422, as last amended by Section 59, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1422), is amended to read as follows:

Section 1422. As used in ~~Section 1421 et seq. of this title~~ the Oklahoma Producer Licensing Act:

1. "Commissioner" means the Insurance Commissioner;

2. "Business entity" means a corporation, association, partnership, limited liability company, limited partnership, or other legal entity;

3. "Customer service representative" means an individual appointed by an insurance producer, surplus lines insurance broker, managing general agent, or insurance agency to assist the insurance producer, broker, or agency in transacting the business of insurance from the office of the insurance producer, broker, or agency and whose salary may vary based on the production or volume of applications or premiums;

4. "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains the producer's principal place of residence or principal place of business and is licensed to act as an insurance producer;

5. "Insurance" means any of the lines of authority in Title 36 of the Oklahoma Statutes, including workers' compensation insurance. Any insurer approved to offer workers' compensation equivalent insurance pursuant to the provisions of Section 65 of Title 85 of

the Oklahoma Statutes may appoint property and casualty insurance producers. All producers appointed for workers' compensation equivalent insurance products must be licensed as property and casualty insurance producers by the Oklahoma Insurance Department;

6. "Insurance consultant" means an individual or legal entity who, for a fee, ~~holds himself or herself or itself~~ is held out to the public as engaged in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance that could be issued or delivered in this state;

~~3. "Insurance agent" means an individual or legal entity appointed by an insurer to solicit applications for a policy of insurance or to negotiate a policy of insurance on its behalf.~~

7. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance. Any person not duly licensed as an insurance ~~agent~~ producer, surplus lines insurance broker, or limited ~~insurance representative~~ lines producer who solicits a policy of insurance on behalf of an insurer shall be deemed to be acting as an insurance agent within the meaning of ~~this act~~ the Oklahoma Producer Licensing Act, and shall thereby become liable for all the duties, requirements, liabilities, and penalties to which an insurance ~~agent~~ producer of the company is subject, and the company by issuing the policy of insurance shall thereby accept and acknowledge the person as its agent in the transaction. For purposes of the laws of this state and the Oklahoma Insurance Code, the term "insurance agent" shall have the same meaning as the term "insurance producer";

8. "Insurer" has the meaning set out in Section 103 of this title;

9. "License" means a document issued by the Insurance Commissioner of this state authorizing a person to act as an insurance producer for the lines of authority specified in the

document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier;

10. "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, known as "gap" insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the Insurance Commissioner determines should be designated a form of limited line credit insurance;

11. "Limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy;

12. "Limited lines insurance" means limited line credit and those lines of insurance defined in Section 20 of this act or any other line of insurance the Insurance Commissioner deems necessary to recognize for the purposes of complying with subsection E of Section 9 of this act;

~~4.~~ 13. "Limited ~~insurance representative~~ lines producer" means ~~an individual or legal entity~~ a person who is authorized by the Commissioner to sell, solicit or negotiate ~~contracts for a particular line of insurance as provided in Section 1424 of this title, which the Legislature hereby determines does not require the professional competency demanded for an insurance agent's license~~ limited lines insurance. For purposes of the laws of this state and the Oklahoma Insurance Code, the term "limited insurance representative" shall have the same meaning as the term "limited lines producer";

~~5.~~ 14. "Managing general agent" means an individual or legal entity appointed, as an independent contractor, by one or more insurers to exercise general supervision over the business of the insurer in this state, with authority to appoint ~~agents~~ insurance producers for the insurer, and to terminate appointments for the insurer;

~~6.~~ 15. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchaser;

16. "Person" means an individual or a business entity;

17. "Sell" means to exchange a contract of insurance, by any means, for money or its equivalent, on behalf of an insurance company;

18. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;

19. "Surplus lines insurance broker" means an individual or legal entity who solicits, negotiates, or procures a policy of insurance in an insurance company not licensed to transact business in this state which cannot be procured from insurers licensed to do business in this state. All transactions under such license shall be subject to Article 11 of ~~this title~~ the Oklahoma Insurance Code;

20. "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance;

21. "Uniform Business Entity Application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities; and

22. "Uniform Application" means the current version of the NAIC Uniform Application for resident and nonresident producer licensing.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 1423, as last amended by Section 2, Chapter 246, O.S.L. 1996 (36 O.S. Supp. 2000, Section 1423), is amended to read as follows:

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

B. Every surplus lines insurance broker who solicits an application for insurance of any kind shall, in any controversy between the insured or the insured's beneficiary and the insurer issuing any policy upon such application, be regarded as representing the insured or 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~~ insurance producer shall be entitled to commissions on all premiums collected for group insurance policies negotiated by ~~said agent~~ the insurance producer on behalf of an insurer and an insurer shall be required to pay such commissions to the ~~agent~~ insurance producer, 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~~ insurance producer'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~~ insurance producer of fraud or embezzlement;

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

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

4. Death of the ~~agent~~ insurance producer, 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.4 of Title 36, unless there is created a duplication in numbering, reads as follows:

A person shall not sell, solicit, or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with the Oklahoma Producer Licensing Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.5 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Nothing in the Oklahoma Producer Licensing Act shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

B. A license as an insurance producer shall not be required of the following:

1. An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state, and:

a. the officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance, or

b. the officer, director or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance, or

c. the officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

2. A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans, issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass-marketed property and casualty insurance, where no commission is paid to the person for the service;

3. An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director or trustees are

engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

4. Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

5. A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

6. A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

7. A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.6 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to Section 10 of this act. 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 of this act.

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

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.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.7 of Title 36, unless there is created a duplication in numbering, reads as follows:

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 of this act;

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 of this act; 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 of this act;

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

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.8 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Unless denied licensure pursuant to Section 13 of this act, persons who have met the requirements of Sections 6 and 7 of this act 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. Credit - limited line credit insurance;

8. Title insurance; and

9. 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 of this act 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 of this act.

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 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.9 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Unless denied licensure pursuant to Section 13 of this act, 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 of this act;

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. 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. 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. 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 A of this section.

E. 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 A 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 8 of this act.

SECTION 10. AMENDATORY 36 O.S. 1991, Section 1426, as amended by Section 79, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1426), is amended to read as follows:

Section 1426. A. The following ~~may be~~ are exempt from the requirement for an examination, if the Insurance Commissioner determines, in accordance with rules adopted by the Commissioner, that the applicant is cognizant of and capable of fulfilling the responsibilities of the license:

1. ~~Any applicant for a license covering the same line or lines of insurance for which the applicant was licensed pursuant to a similar license in this state, other than a temporary license, within the twenty-four (24) months preceding the date of application, unless the previous license was revoked, suspended, or continuation thereof was refused by the Commissioner;~~

~~2.~~ Any limited ~~insurance representative~~ lines producer;

~~3. An applicant for a nonresident license;~~ and

~~4.~~ 2. A surplus lines insurance broker.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.11 of Title 36, unless there is created a duplication in numbering, reads as follows:

An insurance producer doing business under any name other than the producer's legal name is required to notify the Insurance Commissioner prior to using the assumed name.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.12 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner may issue a temporary license for a period not to exceed one hundred eighty (180) days without requiring an examination if the Insurance Commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

1. To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

2. To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

3. To the designee of a licensed insurance producer entering active service in the Armed Forces of the United States of America; or

4. In any other circumstance in which the Insurance Commissioner deems that the public interest will best be served by the issuance of this license.

B. The Insurance Commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect

insureds and the public. The Insurance Commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The Insurance Commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business. If the applicant fails to pass the licensure examination, the temporary license shall terminate automatically.

C. As to a temporary agent's license issued because of the death or disability of an agent, no insurers shall be represented by the temporary licensee in addition to those represented by the deceased or disabled agent.

D. The fee paid for the temporary license shall not be applied upon the fee for any permanent license of the same category issued to the licensee before expiration of the temporary license.

E. No license issued pursuant to the provisions of subsection A of this section shall be effective for more than six (6) months. The Commissioner, in his discretion, may renew the license once upon proper application and for good cause. However, no temporary license shall be issued for any line of insurance to any applicant who has failed to pass the required examination.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.13 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew a license issued pursuant to the Oklahoma Producer Licensing Act or may levy a civil penalty in accordance with subsection D of this section or any combination of actions, for any one or more of the following causes:

1. Providing incorrect, misleading, incomplete or materially untrue information in the license application;

2. Violating any insurance laws, or violating any regulation, subpoena or order of the Insurance Commissioner or of another state's Insurance Commissioner;

3. Obtaining or attempting to obtain a license through misrepresentation or fraud;

4. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

5. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

6. Having been convicted of a felony;

7. Having admitted or been found to have committed any insurance unfair trade practice or fraud;

8. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

9. Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

10. Forging another's name to an application for insurance or to any document related to an insurance transaction;

11. Improperly using notes or any other reference material to complete an examination for an insurance license;

12. Knowingly accepting insurance business from an individual who is not licensed;

13. Failing to comply with an administrative or court order imposing a child support obligation; or

14. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

B. In the event that the action by the Insurance Commissioner is to nonrenew or to deny an application for a license, the Insurance Commissioner shall notify the applicant or licensee and advise the applicant or licensee, in writing, of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Insurance Commissioner within thirty (30) days of the date of notification of said notification by the Insurance Commissioner for a hearing before the Insurance Commissioner or an independent hearing examiner to determine the reasonableness of the Insurance Commissioner's action. The hearing shall be heard within a reasonable time period and shall be held pursuant to the Oklahoma Administrative Procedures Act.

C. The license of a business entity may be suspended, revoked or refused if the Insurance Commissioner finds, after opportunity for hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the Insurance Commissioner nor corrective action taken.

D. In addition to or in lieu of any applicable denial, probation, censure, suspension or revocation of a license, a person may, after opportunity for hearing, be subject to a civil fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) for each occurrence. Said penalty may be enforced in the same manner in which civil judgments may be enforced.

E. Every licensee licensed pursuant to the provisions of the Oklahoma Producer Licensing Act shall keep at the licensee's place of business the usual and customary records pertaining to transactions authorized by the license. All records as to any particular transactions shall be kept available and open to the inspection of the Commissioner at any time during business hours

during the three (3) years immediately following the date of completion of the transaction. The Commissioner may require a financial or market conduct examination during any investigation of a licensee. The cost of such examination shall be apportioned among all of the appointing insurers of the licensee.

F. The Insurance Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Oklahoma Producer Licensing Act and Title 36 of the Oklahoma Statutes against any person who is under investigation for or charged with a violation of the Oklahoma Producer Licensing Act or Title 36 of the Oklahoma Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law.

G. Files pertaining to investigations or legal matters which contain information concurring a current and ongoing investigation of allegations of violations of the Oklahoma Insurance Code by a licensed agent shall not be available for public inspection without proper judicial authorization; however, a licensee under investigation for alleged violations of the Oklahoma Insurance Code, or against whom an action for alleged violations of the Oklahoma Insurance Code has been commenced, may view evidence and complaints pertaining to the investigation, other than privileged information, at reasonable times at the Commissioner's office. All qualification examination materials, booklets and answers for any license authorized to be issued by the Commissioner under any statute shall not be available for public inspection.

H. The Commissioner shall promptly notify all appointing insurers, where applicable, and the licensee regarding any censure, suspension, revocation or termination of license by the Commissioner.

I. Upon suspension, revocation or termination of the license of a resident or nonresident of this state, the Commissioner shall

notify the Central Office of the National Association of Insurance Commissioners, or its appropriate nonprofit affiliates and the Insurance Commissioner of each state for whom the Commissioner has executed a certificate of licensure status.

J. Any licensee who ceases to maintain residency in this state shall deliver the licensee's insurance license to the Commissioner by personal delivery or by mail with return receipt requested within ten (10) days after terminating residency.

K. The Commissioner may issue a duplicate license for any lost, stolen or destroyed license issued pursuant to this act upon an affidavit of the licensee prescribed by the Commissioner concerning the facts of such loss, theft or destruction.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.14 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this act and is not so licensed.

B. A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this act and is not so licensed.

C. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this act at the time of the sale, solicitation or negotiation and was so licensed at that time.

D. An insurer or insurance producer may pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell,

solicit or negotiate insurance in this state, unless the payment would violate Section 1204 of Title 36 of the Oklahoma Statutes.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.15 of Title 36, unless there is created a duplication in numbering, reads as follows:

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 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. 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 within five (5) days of its determination.

D. An insurer shall pay a biennial appointment fee, in the amount and method of payment set forth in Section 23 of this act, for each insurance producer appointed by the insurer.

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 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.16 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract or other insurance business relationship with a producer shall notify the Insurance Commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the Insurance Commissioner, if the reason for termination is one of the reasons set forth in Section 13 of this act or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 13 of this act. Upon the written request of the Insurance Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the producer.

B. An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason not set forth in Section 13 of this act, shall notify the Insurance Commissioner within thirty (30) days following the effective date of the termination, using a format prescribed by the Insurance Commissioner. Upon written request of the Insurance Commissioner, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

C. The insurer or the authorized representative of the insurer shall promptly notify the Insurance Commissioner in a format acceptable to the Insurance Commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the Insurance Commissioner in

accordance with subsection A of this section had the insurer then known of its existence.

D. 1. Within fifteen (15) days after making the notification required by subsections A, B and C of this section, the insurer shall mail a copy of the notification to the producer at the producer's last known address. If the producer is terminated for cause for any of the reasons listed in Section 13 of this act, the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

2. Within thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the Insurance Commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the Insurance Commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection F of this section.

E. 1. In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the Insurance Commissioner, or an organization of which the Insurance Commissioner is a member and that compiles the information and makes it available to other Insurance Commissioners or regulatory or law enforcement agencies shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the Insurance Commissioner, from an insurer or producer; or a statement by a terminating insurer or producer to an insurer or

producer limited solely and exclusively to whether a termination for cause under subsection A of this section was reported to the Insurance Commissioner, provided that the propriety of any termination for cause under subsection A of this section is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

2. In any action brought against a person that may have immunity under paragraph 1 of this subsection for making any statement required by this section or providing any information relating to any statement that may be requested by the Insurance Commissioner, the party bringing the action shall plead specifically in any allegation that paragraph 1 of this subsection does not apply because the person making the statement or providing the information did so with actual malice.

3. Paragraph 1 or 2 of this subsection shall not abrogate or modify any existing statutory or common law privileges or immunities.

F. 1. Any documents, materials or other information in the control or possession of the Department of Insurance that is furnished by an insurer, producer or an employee or agent thereof acting on behalf of the insurer or producer, or obtained by the Insurance Commissioner in an investigation pursuant to this section shall be confidential by law and privileged, shall not be subject to the Open Records Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Insurance Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Insurance Commissioner's duties.

2. Neither the Insurance Commissioner nor any person who received documents, materials or other information while acting under the authority of the Insurance Commissioner shall be permitted

or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph 1 of this subsection.

3. In order to assist in the performance of the Insurance Commissioner's duties under this act, the Insurance Commissioner:

a. may share documents, materials or other information, including the confidential and privileged documents, materials or information subject to paragraph 1 of this subsection, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information,

b. may receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information, and

c. may enter into agreements governing sharing and use of information consistent with this subsection.

4. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall

occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in paragraph 3 of this subsection.

5. Nothing in the Oklahoma Producer Licensing Act shall prohibit the Insurance Commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection pursuant to the Open Records Act to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates or subsidiaries of the National Association of Insurance Commissioners.

G. An insurer, the authorized representative of the insurer, or producer that fails to report as required under the provisions of this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with Section 13 of this act.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.17 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner shall waive any requirements for a nonresident producer license applicant with a valid license from the applicant’s home state, except the requirements imposed by Section 9 of this act, if the applicant’s home state awards nonresident licenses to residents of this state on the same basis.

B. A nonresident producer’s satisfaction of the producer’s home state’s continuing education requirements for licensed insurance producers shall constitute satisfaction of this state’s continuing education requirements if the nonresident producer’s home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.18 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. A producer shall report to the Insurance Commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

B. Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the Insurance Commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.19 of Title 36, unless there is created a duplication in numbering, reads as follows:

The Insurance Commissioner may, in accordance with Section 307.1 of Title 36 of the Oklahoma Statutes, promulgate reasonable rules as are necessary or proper to carry out the purposes of the Oklahoma Producer Licensing Act.

SECTION 20. AMENDATORY Section 60, Chapter 418, O.S.L. 1997, as last amended by Section 9, Chapter 353, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1424.11), is amended to read as follows:

Section 1424.11 A. ~~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, consultant, or customer service representative unless duly licensed. Salaried employees in the office of an insurance agent, surplus lines insurance broker, limited insurance representative, managing general agent or consultant, who devote full time to clerical and~~

~~administrative services, with incidental receiving of insurance applications and premiums in the office of the employer and who do not receive any commissions for the applications nor a compensation that is varied by the volume of applications or premiums taken or received, shall be exempt from any licensing requirement. Employees who sell motor vehicle insurance for a rental vehicle operation in connection with short-term renting or leasing of motor vehicles may do so under the limited insurance license of the branch manager of the location at which the vehicle is rented or the coverage is sold.~~

~~B. 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 for which he or she is not then qualified and duly licensed.~~

~~C. An insurance agent 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. Personal property and casualty insurance;~~

~~4. Commercial property and casualty insurance;~~

~~5. Variable annuity contracts, including fraternal agents licensed pursuant to Section 2733.1 of this title; and~~

~~6. Title insurance.~~

~~D.~~ A limited ~~insurance representative~~ lines producer 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 motor vehicle insurance at a vehicle rental counter or at any other point of sale at which motor vehicle insurance is offered or sold in connection with the short-term renting or leasing of motor vehicles;

4. ~~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;~~

~~5. 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;~~

~~6.~~ 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;

~~7.~~ 5. 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;

~~8. 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;~~

~~9.~~ 6. Crop hail and multiperil crop hail insurance; and

~~10.~~ 7. Prepaid dental insurance, provided the individual selling the prepaid dental insurance has been appointed by the prepaid dental plan organization to sell such insurance.

~~E.~~ B. 1. An insurance ~~agent~~ producer or limited ~~insurance representative~~ lines producer may solicit applications for and issue travel accident policies or baggage insurance by means of mechanical vending machines supervised by the ~~agent or representative~~ insurance producer or limited lines producer only if 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.

2. 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 vending machine shall be that stated in the provisions of Section ~~1425~~ 23 of this ~~title~~ act. Proof of existence of the license shall be displayed on or about each machine in such manner as the Commissioner may reasonably require.

SECTION 21. AMENDATORY Section 63, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1424.14), is amended to read as follows:

Section 1424.14 A. The Commissioner shall not grant, renew, continue, or permit to continue any license if 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 of the licensee to the second degree or a corporation, association, or partnership of which the licensee or a member of ~~his or her~~ the licensee's 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.

B. 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.

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

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.22 of Title 36, unless there is created a duplication in numbering, reads as follows:

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. 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 23. AMENDATORY 36 O.S. 1991, Section 1425, as last amended by Section 69, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1425), is amended to read as follows:

Section 1425. A. ~~The Commissioner shall not issue, continue, or permit to continue any license of an insurance agent, surplus lines insurance broker, limited insurance representative, or customer service representative except in compliance with the provisions of this section.~~

~~B. 1. Application shall be made to the Commissioner by the applicant on a form prescribed and with the information required by the Commissioner.~~

~~2. 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 or attorney-in-fact 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 expressly terminated in writing by the insurer or as provided in subsection E of this section. The Commissioner shall collect from each company a biennial appointment fee.~~

~~3. In connection with the 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 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.~~

~~4. 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 Commissioner.~~

~~5. Any insurer approved to offer workers' compensation equivalent insurance pursuant to the provisions of Section 65 of Title 85 of the Oklahoma Statutes may appoint property and casualty agents. All agents appointed for workers' compensation equivalent insurance products must be licensed as property and casualty agents by the Oklahoma Insurance Department.~~

~~C. Every individual applicant for licensing as an insurance agent, managing general agent, limited insurance representative, or customer service representative pursuant to the provisions of the Insurance Agents Licensing Act 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 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

2. Miscellaneous:

   a. Certificate and Clearance of Commissioner, under seal .....$ 3.00

   b. ~~Agent's~~ Insurance producer's study manual:

      Life, Accident & Health .....not to exceed $ 40.00

      Property and Casualty .....not to exceed $ 40.00

   c. For filing organizational documents of an entity applying for a license as an ~~agency~~ insurance producer .....$ 20.00

3. Examination for license:

   For each examination covering laws and one or more lines of insurance ..... $ 50.00

4. Licenses:

   a. ~~Agent's~~ Insurance producer's biennial license, regardless of number of companies represented ..... $ 60.00

   b. ~~Agent's~~ 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 ~~insurance representative~~ 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 ~~agent~~ insurance producer, managing general agent, or limited ~~insurance representative~~ lines producer by insurer, each license of each ~~agent~~ 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.

~~F.~~ B. 1. The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 1, 2, 7 and 8 of subsection ~~E~~ 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 ~~Insurance~~

~~Agents~~ 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 ~~E~~ A of this section shall be paid into the State Treasury to the credit of the General Revenue Fund of the state.

~~G.~~ 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 ~~Insurance~~ 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.

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

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

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 24. AMENDATORY Section 71, Chapter 418, O.S.L. 1997, as amended by Section 34, Chapter 205, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1425.2), is amended to read as follows:

Section 1425.2 A. The Insurance Commissioner shall issue an ~~insurance agent's license, managing general agent's license,~~ insurance consultant's license~~, 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 or legal entity, in accordance with this section.

1. An applicant may qualify as a resident if 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 resident license from each state, so long as both states are party to a reciprocal dual licensing agreement.

2. ~~An applicant may qualify for a license pursuant to the provisions of the Oklahoma Insurance Agents Producers Licensing Act as a nonresident only if 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 the applicant claims residency and which provides for the issuance of nonresident licenses to residents of this state, by law or by a reciprocal licensing agreement with the Commissioner.~~

~~3. The applicant shall provide to the Commissioner an original certification of licensure status from the resident state of the applicant.~~

~~4.~~ 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.

B. ~~A legal entity otherwise qualified to hold a license as a nonresident agent shall be licensed pursuant to the provisions of this section:~~

~~1. If the primary purpose of the entity is the transacting of insurance business, or the entity is a national banking association that qualifies for an insurance agency license pursuant to federal law or the regulations and policies of the United States Comptroller of the Currency or the Board of Governors of the Federal Reserve System issued pursuant thereto or the entity is a state banking~~

~~association that qualifies for an agency license pursuant to federal law or the law of the state in which it is chartered. Any entity that owns an interest in or is a partner in a licensed nonresident agency shall also qualify for and obtain an agency license pursuant to this section, unless:~~

~~a. a waiver of this requirement is requested in writing and approved by the Commissioner,~~

~~b. the owning entity is a bank organized under the laws of this state,~~

~~c. the owning entity is a national banking association,~~

~~d. the owning entity is a "financial holding company" as defined in Section 2 of the Bank Holding Company Act of 1956, 12 U.S.C., Section 1841,~~

~~e. 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, or~~

~~f. the owning entity lawfully owned its interest in the licensed agency prior to November 1, 1997.~~

~~The provisions of this subsection shall not apply to any person licensed as a title insurance agent; and~~

~~2. Except as otherwise provided in paragraph 1 of this subsection, if such entity does not own an interest in or is not a partner in an entity licensed as a resident agency in this state pursuant to this title.~~

~~C.~~ The Commissioner shall not issue a license to any nonresident applicant until the applicant files with the Commissioner ~~his or her~~ the applicant's 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 Twenty Dollars ($20.00). The Commissioner shall forward a copy of the process by mail with return receipt requested to the licensee at ~~his or her~~ the licensee's last-known address of record or principal place of business, and the Commissioner shall keep a record of all process so served upon the licensee.

~~D.~~ 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~~ the licensee's last-known address of record or principal place of business. Service of process, other than a subpoena, 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~~ the licensee's last-known address of record or principal place of business by mail with return receipt requested.

~~E. 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.~~

SECTION 25. AMENDATORY Section 73, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1425.4), is amended to read as follows:

Section 1425.4 An applicant for a surplus lines insurance broker's license shall first be licensed in this state as a resident insurance ~~agent~~ producer qualified as to the line or lines of insurance to be written.

SECTION 26. AMENDATORY Section 75, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1425.6), is amended to read as follows:

Section 1425.6 A. It shall be unlawful for any person whose license to act as an insurance ~~agent~~ producer, limited ~~insurance representative~~ lines producer, managing general agent, insurance consultant, 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~~ producer, limited ~~insurance representative~~ lines producer, managing general agent, insurance consultant, 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 Five Thousand Dollars ($5,000.00) 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~~ producer, limited ~~insurance representative~~ lines producer, managing general agent, insurance consultant, surplus lines insurance broker, or customer service representative to assist, aid, or conspire with a person whose license as an insurance ~~agent~~ producer, limited ~~insurance representative~~ lines producer, managing general agent, insurance consultant, surplus lines insurance broker, or customer

service representative has been suspended, revoked, surrendered, or refused to engage in any acts as an insurance ~~agent~~ producer, limited ~~insurance representative~~ lines producer, managing general agent, insurance consultant, 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 Five Thousand Dollars ($5,000.00) 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.

C. Except for those persons exempt from licensure, it shall be unlawful for any person to do or perform any of the acts of an insurance ~~agent~~ producer, limited ~~insurance representative~~ lines producer, managing general agent, surplus lines insurance broker, insurance consultant, or customer service representative without being duly licensed. 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.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.27 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.28 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

SECTION 29. AMENDATORY 36 O.S. 1991, Section 1425.1, as renumbered by Section 127, Chapter 418, O.S.L. 1997, and as last amended by Section 12, Chapter 353, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1426A), is amended to read as follows:

Section 1426A. A. 1. Each insurance ~~agent~~ 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 ~~agent~~ 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, ~~he or she~~ 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 ~~agents~~ 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 ~~Commission~~ Commissioner.

3. An ~~agent~~ 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 ~~of Life Underwriters (CLU)~~ 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.

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~~ C of Section ~~1425~~ 23 of this ~~title~~ act, for the purposes of fulfilling and accomplishing the conditions and purposes of the Oklahoma ~~Insurance Agents~~ 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 ~~agent~~ 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 ~~insurance representatives~~ lines producers and nonresident agents who have successfully completed an equivalent or greater requirement ~~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 section.

F. ~~Agents~~ Insurance producers and limited ~~insurance representatives~~ lines producers who are sixty-five (65) years of age or older and who have at least thirty (30) years of experience as ~~agents~~ insurance producers or limited ~~insurance representatives~~ 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 ~~act~~ section.

SECTION 30. AMENDATORY 36 O.S. 1991, Section 1427, as amended by Section 80, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1427), is amended to read as follows:

Section 1427. A. No person shall act as, or hold himself or herself out to be, an insurance consultant until a license as an insurance consultant has been issued to ~~him or her~~ the person by the Insurance Commissioner. However, no insurance consultant's license shall be required of the following:

1. Attorneys licensed to practice law in this state acting in their professional capacity;

2. A duly licensed insurance ~~agent~~ producer or surplus lines insurance broker;

3. A trust officer of a bank acting in the normal course of ~~his or her~~ employment; or

4. An actuary or a certified public accountant who provides information, recommendations, advice, or services in ~~his or her~~ a professional capacity.

B. An application for a license to act as an insurance consultant shall be made to the Commissioner on forms prescribed by the Commissioner. Within a reasonable time after receipt of a properly completed application form, the Commissioner shall hold a written examination for the applicant, and may conduct investigations and propound interrogatories concerning the qualifications of the applicant, the residence, business affiliations, and any other matter which the Commissioner deems necessary or advisable to determine compliance with the provisions of the ~~Insurance Agents~~ Oklahoma Producer Licensing Act or for the protection of the public.

C. In advance of rendering any service as an insurance consultant as defined in the provisions of Section ~~1422~~ 2 of this ~~title~~ act, a written agreement on a form approved by the Commissioner shall be prepared by the consultant, and shall be signed by both the consultant and the client. The agreement shall outline the nature of the work to be performed by the consultant and shall state the fee for the work. The consultant shall retain a copy of the agreement for not less than three (3) years after completion of the services and shall make said copy available to the Insurance Commissioner upon request by the Insurance Commissioner.

D. No individual may concurrently hold a consultant's license and a license as an insurance ~~agent~~ producer, surplus lines insurance broker, or limited ~~insurance representative~~ lines producer.

E. No licensed consultant in the performance of activities as a consultant may employ, be employed by, be in partnership with, or receive any remuneration whatsoever from, any licensed insurance ~~agent~~ producer, surplus lines insurance broker, limited ~~insurance representative~~ producer, or insurer.

F. A license to act as an insurance consultant shall be valid for not longer than twelve (12) months and may be renewed annually.

G. All requirements and standards relating to the denial, revocation, or suspension of an insurance ~~agent's~~ producer's license, including penalties, shall apply to the denial, revocation, and suspension of an insurance consultant's license to the extent practicable.

H. A consultant is obligated by the terms of this license, to serve with objectivity and complete loyalty the interests of a client alone; and render to a client such information, counsel, and service as, within the knowledge, understanding, and opinion, in good faith, of the licensee, best serves the client's insurance needs and interests.

I. A duly licensed insurance ~~agent~~ producer or surplus lines insurance broker who acts as, or holds himself or herself out to be, an insurance consultant pursuant to the exemption from licensing as a consultant contained in the provisions of subsection A of this section shall nonetheless be subject to the provisions of subsections C and H of this section. However, nothing in this title shall prohibit the offset, in whole or in part, of the fee payable pursuant to the provisions of subsection C of this section by compensation otherwise payable to said duly licensed insurance ~~agent~~ producer or surplus lines insurance broker for acting as an ~~agent~~ insurance producer or broker.

SECTION 31. AMENDATORY Section 6, Chapter 246, O.S.L. 1996 (36 O.S. Supp. 2000, Section 1427.1), is amended to read as follows:

Section 1427.1 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~~ as defined by Section 2 of this act; 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~~ producer'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~~ producer, broker, or managing general agent, except a limited ~~insurance representative~~ lines producer, 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~~ insurance producer, broker, or agency at any one time. The ~~agent~~ insurance producer or broker designated to supervise the work of the customer service representative shall sign the appointment form and shall thereby ~~obligate himself or herself~~ be obligated 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~~ insurance producer, broker, or agency by which ~~he or she~~ the customer service representative 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~~ insurance producer, broker, or agency by which ~~he or she~~ the customer service representative is employed.

C. 1. A customer service representative's license shall not cover any kind of insurance for which the appointing ~~agent~~ insurance producer, 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~~ insurance producer, 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~~ insurance producer 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~~ insurance producer, broker, or agency.

3. A customer service representative shall be a salaried employee of the appointing ~~agent~~ insurance producer, 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~~ insurance producer, broker, or agency. The ~~agent~~ insurance producer, broker, or agency shall be responsible and accountable for all acts of the customer service representative within the scope of such appointment.

SECTION 32. AMENDATORY Section 62, Chapter 418, O.S.L. 1997, as amended by Section 33, Chapter 205, O.S.L. 2000 (36 O.S. Supp. 2000, Section 1424.13), is amended to read as follows:

Section 1424.13 A. Any person or legal entity authorized to do business in this state may be licensed as an insurance ~~agent~~ producer, surplus lines insurance broker, ~~or~~ limited ~~insurance representative~~ lines producer, or insurance consultant.

B. 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 any entity which has been licensed each individual acting for the entity as an ~~agent~~ insurance producer, surplus lines insurance broker, limited ~~insurance representative~~ lines producer, or consultant, shall be named in the license and shall qualify therefor as though an individual licensee. The State Insurance Commissioner shall charge a full additional license fee and a separate license shall be issued for each individual so named in such license. The agency shall notify the Commissioner within fifteen (15) days if any individual licensed on its behalf has been terminated, is no longer associated with the agency, or has left its employ.

C. A nonresident of this state shall only be named in a license for a resident insurance agency as a nonresident ~~agent~~ producer.

D. A domestic insurance agency must be organized pursuant to the provisions of the laws of this state and must maintain its principal place of business in this state.

E. 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.

F. ~~No entity shall be licensed as an agency unless the insurance business to be transacted pursuant to the license is the primary purpose of the entity as described in its organizing documents or the entity is a national banking association that qualifies for an insurance agency license pursuant to federal law or the regulations and policies of the United States Comptroller of the Currency or the Board of Governors of the Federal Reserve System issued pursuant thereto, or a bank that qualifies for an insurance agency license pursuant to paragraph 10 of Section 402 of Title 6 of the Oklahoma Statutes. Any entity that owns an interest in or is a partner in a licensed agency shall also qualify for and obtain an agency license pursuant to this section, unless the owning entity is a bank, a national banking association, or a "financial holding company" as defined in Section 2 of the Bank Holding Company Act of 1956, 12 U.S.C., Section 1841, or the owning entity lawfully owned its interest in the licensed agency prior to November 1, 1997. The provisions of this subsection shall not apply to any person licensed as a title insurance agent.~~

~~G.~~ The licensee 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.

~~H.~~ G. No person whose license as an insurance ~~agent~~ producer has been revoked by order of the Commissioner, nor any entity in which such person has a majority ownership interest, whether direct or indirect, shall own any interest in any entity licensed pursuant to the provisions of this section.

SECTION 33. AMENDATORY Section 24, Chapter 178, O.S.L. 1992 (36 O.S. Supp. 2000, Section 5103), is amended to read as follows:

Section 5103. A. No person, firm, association or corporation shall act as an RB in this state if the RB maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation:

1. In this state, unless such RB is a licensed producer in this state; or

2. In another state, unless such RB is a licensed producer in this state or another state having a law substantially similar to this law or such RB is licensed in this state as a nonresident reinsurance intermediary.

B. No person, firm, association or corporation shall act as an RM:

1. For a reinsurer domiciled in this state, unless such RM is a licensed producer in this state;

2. In this state, if the RM maintains an office either directly or as a member or employee of a firm or association, or an officer, director or employee of a corporation in this state, unless such RM is a licensed producer in this state; or

3. In another state for a nondomestic insurer, unless such RM is a licensed producer in this state or another state having a law substantially similar to this law or such person is licensed in this state as a nonresident reinsurance intermediary.

C. The Insurance Commissioner may require an RM subject to the provisions of subsection B of this section to:

1. File a bond in an amount from an insurer acceptable to the Commissioner for the protection of the reinsurer; and

2. Maintain an errors and omissions policy in an amount acceptable to the Commissioner.

D. 1. The Commissioner may issue a reinsurance intermediary license to any person, firm, association or corporation who has complied with the requirements of the Reinsurance Intermediary Act. Any such license issued to a firm or association shall authorize all the members of the firm or association and any designated employees to act as reinsurance intermediaries pursuant to the license, and all such persons shall be named in the application and any supplements thereto. Any such license issued to a corporation shall authorize all of the officers, and any designated employees and directors thereof to act as reinsurance intermediaries on behalf of the corporation, and all such persons shall be named in the application and any supplements thereto.

2. If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the Commissioner as agent for service of process in the manner, and with the same legal effect, provided for by the Reinsurance Intermediary Act for designation of service of process upon unauthorized insurers; and also shall furnish the Commissioner with the name and address of a resident of this state upon whom notices or orders of the Commissioner or process affecting such nonresident reinsurance intermediary may be served. Such licensee shall promptly notify the Commissioner in writing of every change in its designated agent for service of process, and such change shall not become effective until acknowledged by the Commissioner.

E. The Commissioner may refuse to issue a reinsurance intermediary license if, in ~~his~~ the judgment of the Commissioner, the applicant, any one named on the application, or any member, principal, officer or director of the applicant, or that any controlling person of such applicant, is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing has given cause for revocation or suspension of such license, or has failed to

comply with any prerequisite for the issuance of such license. Upon written request therefor, the Commissioner shall furnish a summary of the basis for refusal to issue a license, which document shall be privileged and not subject to the Oklahoma Open Records Act.

F. Licensed attorneys-at-law of this state when acting in their professional capacity as attorneys shall be exempt from this section.

G. Licenses issued by the Commissioner pursuant to this section shall be issued for a period of twenty-four (24) months. The license shall not be issued unless the application for the license is accompanied by a license fee of One Hundred Dollars ($100.00). The license shall not be renewed unless the renewal application for the license is accompanied by a renewal fee of One Hundred Dollars ($100.00).

SECTION 34. REPEALER 36 O.S. 1991, Sections 1421, 1428, as last amended by Section 13, Chapter 353, O.S.L. 2000, 1430, 1431, 1431.1, 1432, 1433, Section 67, Chapter 418, O.S.L. 1997, Section 72, Chapter 418, O.S.L. 1997, Section 76, Chapter 418, O.S.L. 1997, as amended by Section 2, Chapter 36, O.S.L. 1999 and Section 78, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Sections 1424.18, 1425.3, 1425.7, 1425.9 and 1428), are hereby repealed.

SECTION 35. RECODIFICATION 36 O.S. 1991, Sections 1422, 1423, 1426, 1425 and 1427, as last amended by Sections 2, 3, 10, 23 and 30 of this act, shall be recodified as Sections 1435.2, 1435.3, 1435.10, 1435.23 and 1435.30 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering. 36 O.S. 1991, Section 1425.1, as renumbered by Section 127, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1426A), and as last amended by Section 29 of this act, shall be recodified as Section 1435.29 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 63, Chapter 418, O.S.L. 1997, Section 73, Chapter 418, O.S.L. 1997, Section 75, Chapter 418,

O.S.L. 1997, Section 6, Chapter 246, O.S.L. 1996 and Section 24, Chapter 178, O.S.L. 1992 (36 O.S. Supp. 2000, Sections 1424.14, 1425.4, 1425.6 and 1427.1), as amended by Sections 21, 25, 26 and 31 of this act, shall be recodified as Sections 1435.21, 1435.25, 1435.26 and 1435.31 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 60, Chapter 418, O.S.L. 1997 and Section 71, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Sections 1424.11 and 1425.2), as last amended by Sections 20 and 24 of this act, shall be recodified as Sections 1435.20 and 1435.24 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 62, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Section 1424.13), as last amended by Section 32 of this act, shall be recodified as Section 1435.32 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering. 36 O.S. 1991, Section 1424.1, Section 61, Chapter 418, O.S.L. 1997, as amended by Section 10, Chapter 353, O.S.L. 2000, Section 64, Chapter 418, O.S.L. 1997, Section 65, Chapter 418, O.S.L. 1997, Section 66, Chapter 418, O.S.L. 1997, as amended by Section 11, Chapter 353, O.S.L. 2000, Section 68, Chapter 418, O.S.L. 1997, and Section 77, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 2000, Sections 1424.12, 1424.15, 1424.16, 1424.17, 1424.19 and 1425.8), shall be recodified as Sections 1435.33, 1435.34, 1435.35, 1435.36, 1435.37, 1435.38 and 1435.39 of Title 36 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 36. This act shall become effective November 1, 2001.

48-1-1384 MJM 6/12/2015 3:20:36 AM