ENROLLED HOUSE
BILL NO. 2470

By: Braddock of the House

and

Laster of the Senate

An Act relating to civil procedure; amending 12 O.S. 2001, Section 1651, which relates to declaratory judgments; modifying restriction on certain declarations; amending 12 O.S. 2001, Section 2803, as amended by Section 59, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2003, Section 2803), which relates to hearsay; adding certain exception to the hearsay rule; amending 12 O.S. 2001, Section 3226, as amended by Section 73, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2003, Section 3226), which relates to the discovery code; expanding the scope of discovery by requiring a party to produce an insurance agreement under certain circumstances; amending 36 O.S. 2001, Sections 901, 902.1, as amended by Section 2, Chapter 150, O.S.L. 2003, 902.2, 903, 924.1, as amended by Section 1, Chapter 49, O.S.L. 2002, 929, 941 and 942 (36 O.S. Supp. 2003, Sections 902.1 and 924.1), which relate to the Oklahoma Insurance Rating Act; adding certain insurance to exception; modifying type of insurer prohibited from certain increase; deleting certain factor of consideration for reviewing filings; deleting procedures related to rate filings of homeowners insurance; deleting certain notice procedure; modifying entity accepting certain schedule of rates; deleting exception; deleting certain authorization of the Insurance Commissioner; amending 36 O.S. 2001, Sections 981, 982, 983, 984, 985, 986, 987, 989 and 990, which relate to the Commercial Property and Casualty Competitive Loss Cost Rating Act; modifying name of the act; deleting certain authorization of the Commissioner of Insurance; modifying certain definition; adding life insurance as being excluded from the act; specifying party responsible for burden of proof; requiring rulings to contain certain factors; providing for challenge of a ruling; requiring the Commissioner to monitor competition; deleting certain reason for determining a rate as excessive; providing reasons for determining a rate as unfairly discriminatory in a competitive market; providing method of classifying risk; providing procedures for rates of insurers upon certain finding; modifying duties of the Commissioner in noncompetitive markets; specifying requirements of insurers for rate filings in certain markets; authorizing the Commissioner to adopt certain rules; authorizing use of a rate found to be in excess under certain circumstances; providing exception to public inspection; modifying findings required for rate

disapproval in certain markets; modifying procedures for rate disapproval; requiring the Commissioner to issue certain order; deleting allowance of interim rates under certain circumstances; authorizing the Commissioner to examine entities for compliance; providing for maintenance of records; requiring payment of cost for certain party; providing for proper administration and enforcement of the Commercial Property and Casualty Competitive Loss Cost Rating Act; providing for nonapplicability of other laws under certain circumstances; providing judicial review; amending 36 O.S. 2001, Section 3636, which relates to uninsured motorist coverage; providing exclusion of insurance coverage for insureds under certain circumstances; modifying requirements of uninsured motorist forms; providing form; allowing deviation from form with certain approval; providing renewal procedures; amending 47 O.S. 2001, Sections 591.4, 591.9, 591.10 and 591.11, which relate to Automotive Dismantlers and Parts Recycler Act; updating reference to certain act; authorizing administrative fines; modifying authorization to access certain sale; providing fee; providing for certain revocation or cancellation of license; amending 47 O.S. 2001, Section 1105, as last amended by Section 4, Chapter 431, O.S.L. 2003 (47 O.S. Supp. 2003, Section 1105), which relates to certificates of title; specifying procedures for sellers to foreign buyers; amending 47 O.S. 2001, Section 7-204, which relates to motor vehicle insurance; modifying requirements for an effective policy or bond; increasing policy limits for certain policies; amending 47 O.S. 2001, Sections 7-324, 8-101, 8-104 and 425, which relate to proof of financial responsibility, owners of for-rent vehicles, taxicabs, state-owned automobiles and itinerant merchants; increasing liability insurance limits; amending 70 O.S. 2001, Section 1210.43, which relates to vocational or area school vehicles; increasing liability insurance limits; repealing 36 O.S. 2001, Section 988, which relates to rate filings under the Commercial Property and Casualty Competitive Loss Cost Rating Act; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2001, Section 1651, is amended to read as follows:

Section 1651. District courts may, in cases of actual controversy, determine rights, status, or other legal relations, including but not limited to a determination of the construction or validity of any foreign judgment or decree, deed, contract, trust, or other instrument or agreement or of any statute, municipal ordinance, or other governmental regulation, whether or not other

relief is or could be claimed, except that no ~~such~~ declaration shall be made concerning liability or nonliability for damages on account of alleged tortious injuries to persons or to property either before or after judgment or for compensation alleged to be due under workers' compensation laws for injuries to persons ~~or concerning obligations alleged to arise under policies of insurance covering liability or indemnity against liability for such injuries~~. The determination may be made either before or after there has been a breach of any legal duty or obligation, and it may be either affirmative or negative in form and effect; provided however, that a court may refuse to make ~~such~~ a determination where the judgment, if rendered, would not terminate the controversy, or some part thereof, giving rise to the proceeding.

SECTION 2. AMENDATORY 12 O.S. 2001, Section 2803, as amended by Section 59, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2003, Section 2803), is amended to read as follows:

Section 2803. The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

1. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter;

2. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition;

3. A statement of the declarant's then existing state of mind, emotion, sensation or physical condition, such as intent, plan, motive, design, mental feeling, pain and bodily health, but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification or terms of declarant's will;

4. Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, if reasonably pertinent to diagnosis or treatment;

5. A record concerning a matter about which a witness once had knowledge but now has insufficient recollection to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness’s memory and to reflect that knowledge correctly. The record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party;

6. A record of acts, events, conditions, opinions or diagnosis, made at or near the time by or from information transmitted by a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the record, all as shown by the testimony of the custodian or other qualified witness, or by certification that complies with paragraph 11 or 12 of Section 2902 of this title, or with a statute providing for certification, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution,

association, profession, occupation and calling of every kind, whether or not conducted for profit. A public record inadmissible under paragraph 8 of this section is inadmissible under this exception;

7. Evidence that a matter is not included in records kept in accordance with the provisions of paragraph 6 of this section, to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a record was regularly made and preserved, or by certification that complies with paragraph 11 or 12 of Section 2902 of this title, or with a statute providing for certification, unless the sources of information or other circumstances indicate lack of trustworthiness;

8. To the extent not otherwise provided in this paragraph, a record of a public office or agency setting forth its regularly conducted and regularly recorded activities or matters observed pursuant to duty imposed by law and as to which there was a duty to report, or factual finding resulting from an investigation made pursuant to authority granted by law. The following are not within this exception to the hearsay rule:

a. investigative reports by police and other law enforcement personnel,

b. investigative reports prepared by or for a government, a public office or agency when offered by it in a case in which it is a party,

c. factual findings offered by the government in criminal cases,

d. factual findings resulting from special investigation of a particular complaint, case or incident, or

e. any matter as to which the sources of information or other circumstances indicate lack of trustworthiness;

9. Records of births, fetal deaths, deaths or marriages, if the report thereof was made to a public office pursuant to statutory requirements;

10. To prove the absence of a record or the nonoccurrence or nonexistence of a matter of which a record was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with Section 2903 of this title, or testimony, that diligent search failed to disclose the record or entry;

11. Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage or other similar facts of personal or family history contained in a regularly kept record of a religious organization;

12. Statements of fact contained in a certified record that the maker performed a marriage or other ceremony or administered a sacrament, made by a cleric, public official or other person authorized by the rules or practices of a religious organization or by law to perform the act certified and purporting to have been

issued at the time of the act or within a reasonable time thereafter;

13. Statements of fact concerning personal or family history including those contained in family Bibles, genealogy, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts or tombstones, or the like;

14. A public record purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed and delivered;

15. A statement contained in a record purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the record unless dealings with the property since the record was made have been inconsistent with the truth of the statement or the purport of the record;

16. Statements in a record in existence twenty (20) years or more, the authenticity of which is established;

17. Market quotations, tabulations, lists, directories or other published or publicly recorded compilations generally used and relied upon by the public or by persons in particular occupations;

18. To the extent called to the attention of an expert witness upon cross-examination or relied upon by the witness in direct examination, statements contained in published treatises, periodicals or pamphlets on a subject of history, medicine or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits;

19. Reputation among members of an individual’s family by blood, adoption or marriage, or among the individual’s associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption or marriage, ancestry or other similar fact of the individual’s personal or family history;

20. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community and reputation as to events of general history important to the community or state or nation in which located;

21. Reputation of a person's character among the person’s associates or in the community;

22. Evidence of a final judgment, but not upon a plea of nolo contendere, adjudging a person guilty of a crime punishable by death or imprisonment in excess of one (1) year, to prove any fact essential to sustain the judgment, but not including, when offered by the state in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility; ~~or~~

23. Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the matter would be provable by evidence of reputation; or

24. A verified or declared written medical report signed by a physician, provided:

a. the report is used in an action not arising out of contract in which the claim of the plaintiff is not in excess of Twenty-five Thousand Dollars ($25,000.00),

b. the report contains a history of the plaintiff, the complaints of the plaintiff, the physician's findings on examination, and any diagnostic tests, description and cause of the injury, and the nature and extent of any permanent impairment. All opinions expressed in the report must be based upon a reasonable degree of medical probability, and

c. the medical report must be verified or contain a written declaration, made under the penalty of perjury, that the report is true.

SECTION 3. AMENDATORY 12 O.S. 2001, Section 3226, as amended by Section 73, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2003, Section 3226), is amended to read as follows:

Section 3226. A. DISCOVERY METHODS. Parties may obtain discovery by one or more of the following methods: Depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise under this section, the frequency of use of these methods is not limited.

B. DISCOVERY SCOPE AND LIMITS. Unless otherwise limited by order of the court in accordance with the Oklahoma Discovery Code, the scope of discovery is as follows:

1. IN GENERAL. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not a ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. A party shall produce upon request pursuant to Section 3234 of this title, any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this section, an application for insurance shall not be treated as a part of an insurance agreement.

2. TRIAL PREPARATION: MATERIALS. Subject to the provisions of paragraph 3 of this subsection, discovery may be obtained of documents and tangible things otherwise discoverable under paragraph 1 of this subsection and prepared in anticipation of litigation or for trial by or for another party or by or for the representative of that other party, including his attorney, consultant, surety, indemnitor, only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable, without undue hardship, to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain, without the required showing provided for in this paragraph, a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of paragraph 4 of subsection A of Section 3237 of this title apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is:

a. A written statement signed or otherwise adopted or approved by the person making it, or

b. A stenographic, mechanical, electrical, or other recording, or a transcription thereof, which substantially recites an oral statement by the person making it and contemporaneously recorded.

3. TRIAL PREPARATION: EXPERTS.

a. Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of paragraph 1 of this subsection and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(1) A party may, through interrogatories, require any other party to identify each person whom that other party expects to call as an expert witness at trial and give the address at which that expert witness may be located.

(2) After disclosure of the names and addresses of the expert witnesses, the other party expects to call as witnesses, the party, who has requested disclosure, may depose any such expert witnesses subject to scope of this section. Prior to taking the deposition the party must give notice as required in subsections A and C of Section 3230 of this title. If any documents are provided to such disclosed expert witnesses, the documents shall not be protected from disclosure by privilege or work product protection and they may be obtained through discovery.

(3) In addition to taking the depositions of expert witnesses the party may, through interrogatories, require the party who expects to call the expert witnesses to state the subject matter on which each expert witness is expected to testify; the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion; the qualifications of each expert witness, including a list of all publications authored by the expert witness within the preceding ten (10) years; the compensation to be paid to the expert witness for the testimony and preparation for the testimony; and a listing of any other cases in which the expert witness has testified as an expert at trial or by deposition within the preceding four (4) years. An interrogatory seeking the information specified above shall be treated as a single interrogatory for purposes of the limitation on the number of interrogatories in Section 3233 of this title.

b. A party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only upon motion, when the court may order discovery as provided in Section 3235 of this title or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by any other means.

c. Unless manifest injustice would result:

(1) The court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under division (2) of subparagraph a of this paragraph and subparagraph b of this paragraph.

(2) The court shall require that the party seeking discovery with respect to discovery obtained under subparagraph b of this paragraph, pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

4. CLAIMS OF PRIVILEGE OR PROTECTION OF TRIAL PREPARATION MATERIALS. When a party withholds information otherwise discoverable under the Oklahoma Discovery Code by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

C. PROTECTIVE ORDERS.

1. Upon motion by a party or by the person from whom discovery is sought, accompanied by a certification that the movant has in good faith conferred or attempted to confer, either in person or by telephone, with other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court in which the action is pending or on matters relating to a deposition, the district court in the county where the deposition is to be taken may enter any order which justice requires to protect a party or person from annoyance, harassment, embarrassment, oppression or undue delay, burden or expense, including one or more of the following:

a. that the discovery not be had,

b. that the discovery may be had only on specified terms and conditions, including a designation of the time or place,

c. that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery,

d. that certain matters not be inquired into, or that the scope of the disclosure or discovery be limited to certain matters,

e. that discovery be conducted with no one present except persons designated by the court,

f. that a deposition after being sealed be opened only by order of the court,

g. that a trade secret or other confidential research, development or commercial information not be disclosed or be disclosed only in a designated way, and

h. that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court;

2. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of paragraph 4 of subsection A of Section 3237 of this title apply to the award of expenses incurred in relation to the motion. Any protective order of the court which has the effect of removing any material obtained by discovery from the public record shall contain the following:

a. a statement that the court has determined it is necessary in the interests of justice to remove the material from the public record,

b. specific identification of the material which is to be removed or withdrawn from the public record, or which is to be filed but not placed in the public record, and

c. a requirement that any party obtaining a protective order place the protected material in a sealed manila envelope clearly marked with the caption and case number and is clearly marked with the word "CONFIDENTIAL", and stating the date the order was entered and the name of the judge entering the order;

3. No protective order entered after the filing and microfilming of documents of any kind shall be construed to require the microfilm record of such filing to be amended in any fashion;

4. The party or counsel which has received the protective order shall be responsible for promptly presenting the order to appropriate court clerk personnel for appropriate action;

5. All documents produced or testimony given under a protective order shall be retained in the office of counsel until required by the court to be filed in the case;

6. Counsel for the respective parties shall be responsible for informing witnesses, as necessary, of the contents of the protective order; and

7. When a case is filed in which a party intends to seek a protective order removing material from the public record, the plaintiff(s) and defendant(s) shall be initially designated on the petition under pseudonym such as "John or Jane Doe", or "Roe", and the petition shall clearly indicate that the party designations are fictitious. The party seeking confidentiality or other order removing the case, in whole or in part, from the public record, shall immediately present application to the court, seeking instructions for the conduct of the case, including confidentiality of the records.

D. SEQUENCE AND TIMING OF DISCOVERY. Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence. The fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay discovery by any other party.

E. SUPPLEMENTATION OF RESPONSES. A party who has responded to a request for discovery with a response that was complete when it was made is under no duty to supplement the response to include information thereafter acquired, except as follows:

1. A party is under a duty seasonably to supplement the response with respect to any question directly addressed to:

a. the identity and location of persons having knowledge of discoverable matters, and

b. the identity of each person expected to be called as an expert witness at trial, the subject matter on which the person is expected to testify, and the substance of the testimony of the person.

2. A party is under a duty seasonably to amend a prior response to an interrogatory, request for production, or request for admission if the party obtains information upon the basis of which:

a. (i) the party knows that the response was incorrect in some material respect when made, or

(ii) the party knows that the response, which was correct when made, is no longer true in some material respect; and

b. the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

3. A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

F. DISCOVERY CONFERENCE. At any time after commencement of an action, the court may direct the attorneys for the parties to appear for a conference on the subject of discovery. The court shall do so upon motion by the attorney for any party if the motion includes:

1. A statement of the issues as they then appear;

2. A proposed plan and schedule of discovery;

3. Any limitations proposed to be placed on discovery;

4. Any other proposed orders with respect to discovery; and

5. A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion.

Each party and his attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than ten (10) days after service of the motion.

Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any; and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. In preparing the plan for discovery the court shall protect the parties from excessive or abusive use of discovery. An order shall be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference.

G. SIGNING OF DISCOVERY REQUESTS, RESPONSES AND OBJECTIONS. Every request for discovery, response or objection thereto made by a party represented by an attorney shall be signed by at least one of his attorneys of record in his individual name whose address shall be stated. A party who is not represented by an attorney shall sign

the request, response or objection and state his address. The signature of the attorney or party constitutes a certification that he has read the request, response or objection, and that it is:

1. To the best of his knowledge, information and belief formed after a reasonable inquiry consistent with the Oklahoma Discovery Code and warranted by existing law or a good faith argument for the extension, modification or reversal of existing law;

2. Interposed in good faith and not primarily to cause delay or for any other improper purpose; and

3. Not unreasonable or unduly burdensome or expensive, given the nature and complexity of the case, the discovery already had in the case, the amount in controversy, and other values at stake in the litigation. If a request, response or objection is not signed, it shall be deemed ineffective.

If a certification is made in violation of the provisions of this subsection, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the request, response or objection is made, or both, an appropriate sanction, which may include an order to pay to the amount of the reasonable expenses occasioned thereby, including a reasonable attorney fee.

SECTION 4. AMENDATORY 36 O.S. 2001, Section 901, is amended to read as follows:

Section 901. A. This article applies to every insurer including every stock or mutual insurer, reciprocal or interinsurance exchange or Lloyd's association authorized by any provisions of the laws of this state to transact any of the kinds of insurance covered by this article except:

1. Life insurance;

2. Accident and health insurance;

3. Reinsurance, other than joint reinsurance, to the extent stated in this act;

4. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

5. Insurance of hulls of aircraft, including their accessories and equipment, or against liability arising out of the ownership, maintenance or use of aircraft;

6. Insurers exempted under Section 110 of this title;

7. Title insurance; ~~and~~

8. Insurance of bail bonds; and

9. Personal risk property and casualty insurance.

B. This article shall be administered by the State Board for Property and Casualty Rates.

SECTION 5. AMENDATORY 36 O.S. 2001, Section 902.1, as amended by Section 2, Chapter 150, O.S.L. 2003 (36 O.S. Supp. 2003, Section 902.1), is amended to read as follows:

Section 902.1 No ~~property or casualty~~ workers' compensation insurer shall increase filed base rates by more than fifteen percent (15%) without prior approval from the State Board for Property and Casualty Rates, pursuant to the request for rate approval required in Article 9 of the Insurance Code. However, a ~~property and casualty~~ workers' compensation insurer may decrease filed base rates by greater than fifteen percent (15%) without prior approval by the State Board of Property and Casualty Rates.

SECTION 6. AMENDATORY 36 O.S. 2001, Section 902.2, is amended to read as follows:

Section 902.2 A. The State Board for Property and Casualty Rates when reviewing a filing shall give due consideration to the following when, in its discretion, it determines that such factor or factors are applicable:

1. Past loss experience within and outside this state;

2. Prospective loss experience within and outside this state;

3. Physical hazards insured;

4. Safety and loss prevention programs;

5. Underwriting practices and judgment;

6. Catastrophe hazards;

7. Reasonable underwriting profit and contingencies;

8. Dividends, savings or unabsorbed premium deposits allowed or returned to policyholders;

9. Past expenses within and outside this state;

10. Prospective expenses within and outside this state;

11. Existence of classification rates for a given risk;

12. Investment income within and outside this state;

13. Rarity or peculiarity of the risks within and outside this state;

14. In the case of workers' compensation rates, differences in the hazard levels of different geographical regions of the state;

15. All other relevant factors within and outside this state; and

16. ~~In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business in this state for not less than the previous five (5) years; and~~

~~17.~~ Whether existing rates continue to meet the standards of this article.

B. The Board shall determine the weight to be accorded each of the factors contained in subsection A of this section.

C. Past or prospective expenses within or outside this state pursuant to paragraphs 9 and 10 of subsection A of this section shall not include prohibited expenses for advertising or prohibited expenses for membership in organizations.

1. For the purpose of this subsection:

a. "prohibited expenses for advertising" means the cost of advertising in any media the purpose of which is to influence legislation or to advocate support for or opposition to a candidate for public office;

b. "prohibited expenses for advertising" shall not mean:

(1) any communication to customers and the public of information regarding an insurer's insurance products,

(2) any communication to customers and the public of safety, safety education or loss prevention information,

(3) periodic publications or reports to stockholders or members required by the certificate or bylaws of the insurer,

(4) any communication with customers and the public which provides instruction in the use of the insurer's products and services, or

(5) any communication with customers and the public for giving notice or information required by law or otherwise necessary;

c. "prohibited expenses for membership" means the cost of membership in any organization which conducts substantial efforts, including but not limited to prohibited expenses for advertising, the purpose of which is to influence legislation or to advocate support for or opposition to a candidate for public office; and

d. "prohibited expenses for membership" shall not mean the cost of membership in rating organizations or other organizations the primary purpose of which is to provide statistical information on losses.

2. The Board shall promulgate rules for the implementation of this subsection.

SECTION 7. AMENDATORY 36 O.S. 2001, Section 903, is amended to read as follows:

Section 903. A. 1. Except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every insurer governed by the provisions of this act shall file with the Board, either directly or through a licensed rating organization of which it is a member or subscriber, all rates and rating plans and classifications, class rates, rating schedules, loss cost and all other supplementary rate information and every modification of any of the foregoing, which it uses or proposes to use in this state except as otherwise provided in this section.

2. The Board shall send a notification of filing of rates to any person who annually requests, in writing, to be notified of filings pursuant to regulation of the Board.

3. The Attorney General shall be notified within ten (10) days, in writing, of each:

a. filing of rates, whether for prior approval or for immediate use, and

b. certification of completion of a filing.

4. The Attorney General shall be notified at least ten (10) days in advance, in writing, of each:

a. meeting of the Board, and

b. hearing conducted by the Board.

B. Rates, rating plans, classifications, schedules, loss cost and other information shall be deemed approved thirty (30) calendar days following certification of completion of the filing as provided in this act unless, within the thirty (30) calendar-day period:

1. The Board by majority vote, approves, disapproves or approves with modification, the filing at one of its scheduled meetings or hearings;

2. The Board orders a formal hearing on the filing; or

3. The Board or the Commissioner, if a quorum of the Board is not available at the next regularly scheduled meeting, extends this period for one additional thirty (30) calendar-day period.

C. Nothing in this act shall be construed to require any filing for approval of rates, rating plans, classifications, schedules, loss cost and other information approved by the Board prior to the effective date of this act.

D. Any formal hearing ordered by the Board shall be completed and a written order on the filing issued by the Board within ninety (90) calendar days from the date of the order setting the formal hearing, or the filing shall be deemed approved at the expiration of the ninety-day period.

E. ~~1. Rate filings on homeowner's insurance shall become effective when filed, or upon a future date specified in such filing, and shall remain effective unless the Board reviews and disapproves the filing because such rate is not in compliance with the standards set out in this act. Provided, if a rate filing is disapproved because it is excessive or unfairly discriminatory, the Board may order return of premium to the policyholders; plus interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points.~~

~~2. For purposes of this subsection, homeowner's insurance shall mean:~~

~~a. insurance which combines, on an individual basis, property and liability insurance required to protect an individual's investment in his home or contents thereof, commonly called homeowner's or renter's insurance and specifically including insurance on a farm dwelling and attached or detached garage and their contents,~~

~~b. dwelling fire insurance, or~~

~~c. individual fire insurance on dwelling contents.~~

~~3. Any such rate shall remain in effect until amended or withdrawn by the insurer.~~

~~F.~~ Rates or risks which are not by general custom of the business, or because of rarity or peculiar characteristics, written according to normal classification or rating procedure and which cannot be practicably filed before they are used, may be used before being filed. The Board may make such examination as it may deem advisable to ascertain whether any such rates meet the requirements of this act.

~~G.~~ F. Whenever it shall be made to appear to the Board, either from its own information or from complaint of any party alleging to be aggrieved thereby, that there are reasonable grounds to believe that the rates on any or on all risks or classes of risks or kinds of insurance within the scope of this article are not in accordance with the terms of this act, it shall be the duty of the Board to investigate and determine whether or not any or all of such rates meet the requirements of this act.

~~H.~~ G. When investigating rates to determine whether or not they comply with the provisions of this act, the previously approved filing shall not be changed, altered, amended, or held in abeyance until after completion of the investigation and an opportunity for hearing in accordance with the provisions of this article. Following such hearing, the Board shall enter its order in accordance with the provisions of this act. The effective date of such order shall not be less than thirty (30) days nor more than sixty (60) days after the date of the order unless the Board determines that, in the public interest, a shorter or longer period is appropriate; provided, the filer has adequate time to implement such rate change. Any such order shall apply prospectively only and

shall not affect premiums collected on new or renewal policies issued prior to the effective date of this order.

~~I.~~ H. Under such rules and regulations as it shall adopt, the Board may, by written order, suspend or modify the requirements of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Board may make such examination as it may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in this act. This subsection shall not apply to workers' compensation filings.

~~J.~~ I. Any filing with respect to fidelity, surety or guaranty bonds shall, however, be deemed approved from the date of filing.

~~K.~~ J. If the Board finds that a filing does not meet the requirements of this act, it shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing, specifying therein in what respects it finds that such filing fails to meet the requirements of this act and stating that such filing shall not become effective to the extent disapproved.

~~L. If within thirty (30) days after a rate has become effective for homeowner's insurance the Board finds that such filing does not meet the requirements of this act, it shall send to the rating organization or insurer which made such filing, a written notice of disapproval of such filing, specifying therein in what respect it finds that such filing fails to meet the requirements of this act and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Any such notice shall apply prospectively only and shall not affect premiums collected on new or renewal policies issued prior to the effective date of this notice. If a rate filing is disapproved because it is excessive or unfairly discriminatory the Board may order return of premium to the policyholder; plus interest thereon at an annual rate equal to the average United States Treasury Bill rate of the preceding calendar year as certified by the State Treasurer on the first regular business day in January of each year, plus four percentage points.~~

SECTION 8. AMENDATORY 36 O.S. 2001, Section 924.1, as amended by Section 1, Chapter 49, O.S.L. 2002 (36 O.S. Supp. 2003, Section 924.1), is amended to read as follows:

Section 924.1 A. Any schedule of rates or rating plan for automobile or motorcycle liability and physical damage insurance submitted to or filed with the ~~State Board for Property and Casualty Rates~~ State Insurance Commissioner shall provide for an appropriate reduction in premium charges for those insured persons for a three-year period after successfully completing a motor vehicle accident prevention course which shall include but not be limited to an automobile or motorcycle accident prevention course meeting the criteria established by the Department of Public Safety. Provided, however, there shall be no reduction in premiums for a self-instructed course or a course which does not provide for actual classroom or field driving instruction for a minimum number of hours as determined by the Department of Public Safety. Provided further, there shall be no reduction in premiums for a course attended

pursuant to a court order in connection with a motor vehicle violation or an alcohol- or drug-related offense.

B. All insurance companies writing automobile or motorcycle liability and physical damage insurance in this state shall allow an appropriate reduction in premium charges to all eligible persons pursuant to this section.

C. The approved course shall be taught by instructors approved by the Department of Public Safety.

D. Upon successfully completing the approved course, each participant shall be issued by the sponsoring agency of the course, a certificate which shall be the basis of qualification for the discount on insurance.

E. Each participant shall successfully complete an approved course each three (3) years to continue to be eligible for the discount on insurance.

F. An approved course pursuant to this section shall provide at least six (6) hours of instruction.

SECTION 9. AMENDATORY 36 O.S. 2001, Section 929, is amended to read as follows:

Section 929. ~~Except with regard to homeowner's insurance, every~~ Every member of, or subscriber to, a licensed rating organization may adhere to the filings made on its behalf by such organization, except that any such member or subscriber may deviate from such filings as authorized herein if it has filed with the rating organization and with the Board, the deviation to be applied and information necessary to justify the deviation, provided such deviation, other than direct deviations as are authorized by this act, is approved by the Board. If approved, the deviation shall remain in force until such approval is withdrawn by the insurer with the approval of the Board when required. The Board shall approve any such deviation requiring Board action unless it finds that the deviation to be applied would not be uniform in its application or would be inconsistent with the provisions of this act, but unless it approves the deviation within thirty (30) days it shall, within a reasonable time, grant a hearing to the applicant at the applicant's request.

SECTION 10. AMENDATORY 36 O.S. 2001, Section 941, is amended to read as follows:

Section 941. A. No insurance carrier who issues motor vehicle insurance policies in this state shall assign driving record points, cancel, refuse to issue or renew, or charge a higher premium rate for any motor vehicle liability or collision insurance policy for the reason that the insured has been involved in a motor vehicle collision and was not at fault.

B. This section shall not apply to an insured who has been convicted of:

1. Homicide or assault arising out of the operation of any motor vehicle; or

2. A violation of Section 11-902 or 761 of Title 47 of the Oklahoma Statutes as being impaired by or under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in the Uniform Controlled Dangerous Substances Act.

~~C. The Insurance Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance business in this state of any insurance carrier violating the provisions of this section or may censure the insurer or impose a fine.~~

SECTION 11. AMENDATORY 36 O.S. 2001, Section 942, is amended to read as follows:

Section 942. ~~A.~~ Any insurance carrier that issues motor vehicle liability or collision insurance policies in this state shall not establish or apply premium rates, increase premium rates, cancel a policy, or refuse to issue or renew a policy, based on any traffic record maintained by the Department of Public Safety which covers a period of time more than three (3) years prior to the date the insurance carrier makes a determination to take any such action.

~~B. The Insurance Commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance business in this state of any insurance carrier violating the provisions of this section or may censure the insurer or impose a fine.~~

SECTION 12. AMENDATORY 36 O.S. 2001, Section 981, is amended to read as follows:

Section 981. Short Title and Purposes of Act.

A. Sections ~~1~~ 981 through ~~18~~ 998 of this title and Sections 22, 23 and 24 of this act shall constitute a part of the Oklahoma Insurance Code and shall be known and may be cited as the "~~Commercial~~ Property and Casualty Competitive Loss Cost Rating Act".

B. The purposes of the ~~Commercial~~ Property and Casualty Competitive Loss Cost Rating Act are:

1. To promote price competition among insurers so as to provide rates that are responsive to competitive market conditions;

2. To protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

3. To prohibit unlawful price-fixing agreements and other anticompetitive behavior by insurers;

4. To provide regulatory procedures for the maintenance of appropriate data reporting systems;

5. To provide regulatory controls in the absence of ~~competition~~ a competitive marketplace; and

6. To authorize essential cooperative action among insurers in the ratemaking process and to regulate such activity to prevent

practices that substantially lessen competition or create a monopoly~~; and~~

~~7. To authorize the Commissioner of Insurance to exempt from the provisions of the Commercial Property and Casualty Competitive Loss Cost Rating Act certain lines of property/casualty insurance which are not suitable for such regulation~~.

SECTION 13. AMENDATORY 36 O.S. 2001, Section 982, is amended to read as follows:

Section 982. Definitions.

As used in the ~~Commercial~~ Property and Casualty Competitive Loss Cost Rating Act:

1. "Accepted actuarial standards" means the standards adopted by the Casualty Actuarial Society Statement of Principles regarding property and casualty ratemaking or the Standards of Practice adopted by the Actuarial Standards Board;

2. "Advisory organization" means any corporation, unincorporated association, partnership or person, whether located inside or outside this state, that is licensed in accordance with Section ~~11~~ 991 of this ~~act~~ title and which assists insurers in ratemaking-related activities such as enumerated in Section ~~13~~ 993 of this ~~act~~ title;

3. "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in costs may be recognized;

4. "Commercial risk" means any kind of risk that is not a personal risk;

5. "Commissioner" means the Commissioner of Insurance of this state;

6. "Competitive market" means a market which has not been found to be noncompetitive pursuant to Section ~~4~~ 984 of this ~~act~~ title;

7. "Developed losses" means losses, including loss adjustment expenses, adjusted using accepted actuarial standards, to eliminate the effect of differences between current payment or reserve estimates and those which are anticipated to provide actual ultimate loss, including loss adjustment expense payments;

8. "Expenses" means that portion of a rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses and fees;

9. "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder’s loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit or unity modification;

10. "Joint underwriting" means a voluntary arrangement established to provide insurance coverage for a risk pursuant to

which two or more insurers jointly contract with the insured at a price and under policy terms agreed upon between the insurers;

11. "Loss adjustment expense" means the expenses incurred by the insurer in the course of settling claims;

12. "Market" means the statewide interaction between buyers and sellers of identical or readily substitutable products that provide insurance protection of identifiable perils to buyers;

13. "Mass marketed plan" means a method of selling property-liability insurance wherein the insurance is offered to employees of particular employers or to members of particular associations or organizations or to persons grouped in other ways, and the employer or association or other organization has agreed to, or otherwise affiliated itself with, the sale of such insurance to its employees or members;

14. "Noncompetitive market" means a market for which there is a ruling in effect pursuant to Section ~~4~~ 984 of this ~~act~~ title that a reasonable degree of competition does not exist;

15. "Personal risk" means homeowners, tenants, private passenger nonfleet automobiles, manufactured homes and other property and casualty insurance for personal, family or household needs, including any property and casualty insurance that is otherwise intended for noncommercial coverage;

16. "Pool" means a voluntary arrangement, established on an ongoing basis, pursuant to which two or more insurers participate in the sharing of risks on a predetermined basis. The pool may operate through an association, syndicate or other pooling agreement;

17. "Prospective loss costs" means historical aggregate losses and may include loss adjustment expenses, including all assessments that are loss based, projected through development to their ultimate value and through trending to a future point in time;

18. "Pure premium rate" means that portion of the rate which represents the loss costs per unit of exposure including loss adjustment expense;

19. "Rate" or "rates" means that cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premium;

20. "Residual market mechanism" means an arrangement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance which may be afforded applicants who are unable to obtain insurance through ordinary methods;

21. "Special assessments" means guaranty fund assessments, Special Indemnity Fund assessments, Vocational Rehabilitation Fund assessments, and other similar assessments. Special assessments shall not be considered as either expenses or losses;

22. "Statistical plan" means the plan, system or arrangement used in collecting data;

23. "Supplementary rating information" means any manual or plan of rates, classification, rating schedule, minimum premium, policy fee rating rule and any other information needed to determine the applicable premium in effect or to be in effect. This includes, rating plans, territory codes and descriptions and rules which include factors or relativities such as increased limits factors, deductible discounts or relativities, classification relativities or similar factors used to determine the rate in effect or to be in effect;

24. "Supporting information" means the experience and judgment of the filer and the experience or data of other insurers or advisory organizations relied upon by the filer, the interpretation of any other data relied upon by the filer, descriptions of methods used in making the rates and any other information required by the Commissioner to be filed; and

25. "Trending" means any procedure for projecting losses to the average date of loss, or premiums or exposures to the average date of writing, for the period during which the policies are to be effective.

SECTION 14. AMENDATORY 36 O.S. 2001, Section 983, is amended to read as follows:

Section 983. Scope of Act.

The ~~Commercial~~ Property and Casualty Competitive Loss Cost Rating Act applies to all forms of ~~commercial~~ property and casualty insurance written in this state by insurers licensed in this state. The Property and Casualty Competitive Loss Cost Rating Act shall not apply to:

1. Reinsurance;

2. Life insurance;

3. Accident and health insurance;

~~3.~~ 4. Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, excluding inland marine, insurance as determined by the Commissioner;

~~4.~~ 5. Title insurance; and

~~5.~~ 6. Workers' compensation insurance~~; and~~

~~6. Personal risk property and casualty insurance~~.

SECTION 15. AMENDATORY 36 O.S. 2001, Section 984, is amended to read as follows:

Section 984. Competitive Market.

A. A competitive market is presumed to exist for a line of insurance unless the Commissioner, after a hearing, issues an order

stating that a reasonable degree of competition does not exist in the market. The burden of proof in any hearing shall be placed on the party or parties advocating the position that competition does not exist. Any ruling that a market is not competitive shall identify the factors causing the market not to be competitive. Such order shall expire no later than one (1) year after issue unless rescinded earlier by the Commissioner or unless the Commissioner renews the rule after a hearing and a finding as to the continued lack of a reasonable degree of competition. Any ruling that renews the finding that competition does not exist shall also identify the factors that cause the market to continue not to be competitive.

B. 1. In determining whether a reasonable degree of competition exists within a line of insurance, the Commissioner shall consider the following factors:

a. the number of insurers ~~available to write~~ actively engaged in writing coverage,

b. market shares of the leading writers and the changes in market shares over a reasonable period of time,

c. existence of financial or economic barriers that could prevent new firms from entering the market,

d. measures of market concentration and changes of market concentration over time,

e. whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk, and

f. the relationship of insurers' costs to revenue over a reasonable period of time.

2. All determinations by the Commissioner shall be made on the basis of findings of fact and conclusions of law.

3. The ruling may be challenged in the district court.

C. The Commissioner shall monitor the degree and continued existence of competition in this state on an ongoing basis. In doing so, the Commissioner may utilize existing relevant information, analytical systems and other sources, or rely on some combination thereof. Such activities may be conducted internally within the Insurance Department, in cooperation with other state insurance departments, through outside contractors or in any other appropriate manner.

SECTION 16. AMENDATORY 36 O.S. 2001, Section 985, is amended to read as follows:

Section 985. Ratemaking Standards.

A. A rate may not be excessive, inadequate or unfairly discriminatory.

1. No rate in a competitive market may be determined to be excessive. A rate in a noncompetitive market may be determined to be excessive if it is likely to produce a profit that is

unreasonably high for the insurance provided ~~or if expenses are unreasonably high in relation to the services rendered~~.

2. A rate may not be determined to be inadequate unless:

a. the rate is clearly insufficient to sustain projected losses, expenses and special assessments, and

b. the rate is unreasonably low and use of the rate by the insurer has tended or, if continued, will tend to create a monopoly in the market.

3. Unfair discrimination may be determined to exist if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate may not be determined to be unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense levels, or like expenses but different loss exposures, or if it averaged broadly among persons insured within a group, franchise or blanket policy or a mass-marketed plan. No rate in a competitive market shall be considered unfairly discriminatory unless it classifies risk on the basis of race, color, creed, or national origin.

B. In determining whether rates ~~comply with standards under subsection A of this section~~ in a noncompetitive market are excessive, inadequate, or unfairly discriminatory, due consideration may be given to:

1. Past and prospective loss experience within and outside this state, in accordance with accepted actuarial principles;

2. Conflagration and catastrophe hazards;

3. A reasonable margin for underwriting profit and contingencies;

4. Loadings for leveling premium rates over time for dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

5. Past and prospective expenses both countrywide and those specially applicable to this state; and

6. Provisions for special assessments; and to all other relevant factors including judgment within and outside this state.

C. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses. No risk classification however, may be based on race, creed, national origin, or the religion of the insured.

D. The expense provisions included in the rates for use by an insurer or group of insurers may differ from those of any other

insurer or group of insurers to reflect the requirements of the operating methods of the insurer or group of insurers.

E. The rates may contain provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to the investment income attributable to the line of insurance.

F. Risks may be classified in any way except that no risk may be classified on the basis of race, color, creed, or national origin.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 985.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. If the Commissioner determines that competition does not exist in a market and issues a ruling to that effect pursuant to Section 984 of Title 36 of the Oklahoma Statutes, the rates applicable to insurance sold in that market shall be regulated in accordance with the provisions of Sections 985 through 989 of Title 36 of the Oklahoma Statutes that are applicable to noncompetitive markets.

B. Any rate in effect at the time the Commissioner determines that competition does not exist pursuant to Section 984 of Title 36 of the Oklahoma Statutes shall be deemed to be in compliance with the laws of this state unless disapproved pursuant to the procedures and rating standards contained in Sections 985 through 989 of Title 36 of the Oklahoma Statutes that are applicable to noncompetitive markets.

C. Any insurer having a rate filing in effect at the time the Commissioner determines that competition does not exist pursuant to Section 984 of Title 36 of the Oklahoma Statutes may be required to furnish supporting information within thirty (30) days of a written request by the Commissioner.

SECTION 18. AMENDATORY 36 O.S. 2001, Section 986, is amended to read as follows:

Section 986. Rate Administration.

A. ~~Reasonable rules and statistical plans may be promulgated by~~ In only those markets found to be noncompetitive pursuant to Section 984 of this title, insurers and advisory organizations shall file with the Commissioner ~~for use by the companies to record and report~~ and the Commissioner shall review reasonable rules and plans for recording and reporting their rates, loss and expense experience and other information determined by the Commissioner to be necessary or appropriate for the administration of the ~~Commercial~~ Property and Casualty Competitive Loss Cost Rating Act. ~~In promulgating such rules and plans, the Commissioner shall give due consideration to the rating systems on file and, in order that the rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states.~~ The Commissioner may designate one or more advisory organizations or other agencies to assist in gathering such experience and making compilation thereof.

B. Reasonable rules and plans may be promulgated by the Commissioner for the exchange of data necessary for the development and application of rating plans.

C. In order to further uniform administration of rate regulatory laws, the Commissioner and every insurer and advisory organization may exchange information and experience data with insurance supervisory officials, insurers and advisory organizations in other states and may consult with them with respect to the application of rating systems.

D. Cooperation among advisory organizations or among advisory organizations and insurers in ratemaking or in other matters within the scope of ~~this act~~ the Property and Casualty Competitive Loss Cost Rating Act is authorized. The Commissioner may review such cooperative activities and practices, and if, after a hearing, any such activity or practice is found to violate the provisions of ~~this act~~ the Property and Casualty Competitive Loss Cost Rating Act, a written order may be issued specifying that such activity or practice violates the provisions of this act and requiring the discontinuance of such activity.

SECTION 19. AMENDATORY 36 O.S. 2001, Section 987, is amended to read as follows:

Section 987. Rate Filings.

A. In a competitive market, every insurer shall file with the Commissioner all rates and supplementary rate information to be used in this state no later than thirty (30) days after the effective date; provided, that the rates and supplementary rate information need not be filed for commercial risks, which by general custom are not written according to manual rules or rating plans.

B. In a noncompetitive market, every insurer shall file with the Commissioner all rates, supplementary rate information and supporting information at least thirty (30) days before the proposed effective date. The Commissioner may give written notice, within thirty (30) days of receipt of the filing, that the Commissioner needs additional time, not to exceed thirty (30) days from the date of the notice to consider the filing. Upon written application of the insurer, the Commissioner may authorize rates to be effective before the expiration of the waiting period or an extension thereof. A filing shall be deemed to meet the requirements of the Property and Casualty Competitive Loss Cost Rating Act and to become effective unless disapproved pursuant to Section 988 of this title by the Commissioner before the expiration of the waiting period or an extension thereof.

In a noncompetitive market, the filing shall be deemed in compliance with the filing provision of this section unless the Commissioner informs the insurer within ten (10) days after receipt of the filings as to what supplementary rate information or supporting information is required to complete the filing.

C. Every authorized insurer shall file with the Commissioner, except as to rates for those lines of insurance exempted from the provisions of the ~~Commercial~~ Property and Casualty Competitive Loss Cost Rating Act by the Commissioner under subsections E and F ~~of Section 8~~ of this ~~act~~ section and except for those risks designated

as special risks under Section ~~17~~ 997 of this ~~act~~ title, all rates, supplementary rate information and any changes and amendments which it proposes to use. An insurer may file its rates by either filing its final rates or by filing a multiplier and, if applicable, an expense constant adjustment to be applied to prospective loss costs that have been filed by an advisory organization as permitted by Section ~~13~~ 993 of this ~~act~~ title. Such loss cost multiplier filing and expense constant filings made by insurers shall remain in effect until amended or withdrawn by the insurer. Every filing shall state the effective date.

D. Under rules as may be adopted, the Commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks.

E. Notwithstanding any other provision of the Property and Casualty Competitive Loss Cost Rating Act, upon the written consent of the insured in a separate written document, a rate in excess of that determined in accordance with the other provisions of the Property and Casualty Competitive Loss Cost Rating Act may be used on a specific commercial risk.

~~B.~~ F. A filing and any supporting information required to be filed shall be open to public inspection once the filing becomes effective except information marked confidential, trade secret, or proprietary by the insurer or filer.

SECTION 20. AMENDATORY 36 O.S. 2001, Section 989, is amended to read as follows:

Section 989. Improper Rates; Disapproval; Hearing.

A. ~~If the~~ Basis for disapproval.

1. The Commissioner ~~finds that~~ shall disapprove a rate ~~is not in compliance with Section 5 of this act, or that a rate had been set in violation of Section 12 of this act, the Commissioner shall order that its use be discontinued for any policy issued or renewed after the date of the order and the order may prospectively provide for premium adjustment of any such policy then in force. The order shall be issued within thirty (30) days after the close of a hearing, if one is requested by the filer, or within such reasonable extension of time as fixed by the Commissioner. The order shall expire one (1) year after its effective date unless rescinded earlier by the Commissioner.~~

~~B. If the~~ in a competitive market only if the Commissioner finds, pursuant to subsection B of this section, that the rate is inadequate or unfairly discriminatory pursuant to Section 985 of this title.

2. The Commissioner ~~disapproves~~ may disapprove a rate for use in a noncompetitive market only if the Commissioner finds, pursuant to subsection B of this section, that the rate is excessive, inadequate or unfairly discriminatory under this subsection ~~A of this section, disapproval shall take effect no less than sixty (60) days after the order is issued and the last premium rate in effect for the insurer shall be reimposed for a period of one (1) year~~

~~unless the Commissioner approves a rate under subsection C or subsection F of this section~~.

~~C. For a period of one (1) year after the effective date of a disapproval order under subsection A of this section, no rate adopted to replace one disapproved under such order may be used until it has been filed with the Commissioner and approved within thirty (30) days thereafter.~~

~~D. For filings made in a noncompetitive market and residual market filings, if a waiting period is required in accordance with subsection D of Section 8 of this act, and if within such waiting period or the extension thereto, the Commissioner finds that a filing does not meet the requirements of the Commercial Property and Casualty Competitive Loss Cost Rating Act, written notice of disapproval shall be sent to the insurer or advisory organization which made the filing, specifying in what respect the filing fails to meet the requirements of the Commercial Property and Casualty Competitive Loss Cost Rating Act and stating that such filing shall not become effective. If a filing is disapproved by the Commissioner, the insurer or advisory organization may request a hearing on the disapproval within thirty (30) days and the Commissioner shall schedule a hearing within thirty (30) days of the receipt of the request. The filer bears the burden of proving compliance with the standards established by the Commercial Property and Casualty Competitive Loss Cost Rating Act.~~

B. Procedures for disapproval.

1. Prior to the expiration of a waiting period or an extension thereof, made pursuant to subsection B of Section 987 of this title, the Commissioner may disapprove, by written order, rates filed pursuant to subsection B of Section 987 of this title with a hearing. The order shall specify in what respects the filing fails to meet the requirements of this act. Any insurer whose rates are disapproved pursuant to this section shall be given a hearing upon written request made within thirty (30) days of disapproval.

2. If, at any time, the Commissioner finds that a rate applicable to insurance sold in a noncompetitive market does not comply with the standards set forth in Section 985 of this title, the Commissioner may, after a hearing held upon not less than twenty (20) days' written notice, issue an order pursuant to subsection C of this section, disapproving such rate. The hearing notice shall be sent to every insurer and advisory organization that adopted the rate and shall specify the matters to be considered at the hearing. The disapproval order shall not affect any contract or policy made or issued prior to the effective date set forth in the order.

3. If, at any time, the Commissioner finds that a rate applicable to insurance sold in a competitive market is inadequate or unfairly discriminatory under paragraph 2 or 3 of subsection A of Section 985 of this title, the Commissioner may issue an order pursuant to subsection C of this section disapproving the rate. The order shall not affect any contract or policy made or issued prior to the effective date set forth in the order.

C. Order of disapproval.

If the Commissioner disapproves a rate pursuant to subsection B of this section, the Commissioner shall issue an order within thirty (30) days of the close of the hearing specifying in what respects the rate fails to meet the requirements of this act. The order shall state an effective date no sooner than thirty (30) business days after the date of the order when the use of the rate shall be discontinued. This order shall not affect any policy made before the effective date of the order.

D. Appeal of orders and establishment of reserves.

If an order of disapproval is appealed pursuant to Section 990 of this title, the insurer may implement the disapproved rate upon notification to the court, in which case any excess of the disapproved rate over a rate previously in effect shall be placed in a reserve established by the insurer. The court shall have control over the disbursement of funds from such reserve. The funds shall be distributed as determined by the court in its final order except that de minimus refunds to policyholders shall not be required.

E. All determinations made by the Commissioner under this section shall be on the basis of findings of fact and conclusions of law.

~~F. Whenever an insurer has no legally effective rates pursuant to subsection A or D of this section, the Commissioner shall, upon the insurer's request, specify interim rates for the insurer that are adequate to protect the interests of all parties. The Commissioner may order that a specified portion of the premiums be placed in a special reserve established by the insurer. When new rates become legally effective, the Commissioner shall order the reserved funds or any overcharge in the interim rates to be distributed appropriately, except that minimal adjustments may not be required.~~

SECTION 21. AMENDATORY 36 O.S. 2001, Section 990, is amended to read as follows:

Section 990. Challenge and Review of Application of Rating System.

A. Every advisory organization and every insurer subject to the ~~Commercial~~ Property and Casualty Competitive Loss Cost Rating Act which makes its own rates shall provide within this state reasonable means whereby any insured aggrieved by the application of its rating system may, upon that insured's written request, be heard in person or by the insured's authorized representative to review the manner in which such rating system has been applied in connection with the insurance afforded the aggrieved insurer.

B. An insurer or any party affected by the action of an advisory organization may, within thirty (30) days after written notice of that action, make application, in writing, for an appeal to the Commissioner, setting forth the basis for the appeal and the grounds to be relied upon by the applicant.

C. Within thirty (30) days, the Commissioner shall review the application and, if the Commissioner finds that the application is made in good faith and that it sets forth on its face grounds which reasonably justify holding a hearing, the Commissioner shall conduct

a hearing held not less than ten (10) days after written notice to the applicant and to the advisory organization or insurer. The Commissioner, after a hearing, shall affirm or reverse the action of the advisory organization or insurer.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 999 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner may examine any insurer, pool, advisory organization, or residual market mechanism to ascertain compliance with the Property and Casualty Competitive Loss Cost Rating Act.

B. Every insurer, pool, advisory organization, and residual market mechanism shall maintain adequate records from which the Commissioner may determine compliance with the provisions of the Property and Casualty Competitive Loss Cost Rating Act. The records shall contain the experience, data, statistics and other information collected or used and shall be available to the Commissioner for examination or inspection upon reasonable notice.

C. The reasonable cost of an examination made pursuant to this section shall be paid by the examined party upon presentation to the party of a detailed account of the costs.

D. The Commissioner may accept the report of an examination made by an insurance supervisor official of another state in lieu of an examination pursuant to this section.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000 of Title 36, unless there is created a duplication in numbering, reads as follows:

A line of insurance regulated pursuant to the Property and Casualty Competitive Loss Cost Rating Act shall be exempt from regulation of the Property and Casualty Rate Board under the provisions of Section 331 et seq. of this title. The administration and enforcement of the Property and Casualty Competitive Loss Cost Rating Act shall be governed solely by the provision of this act except as provided in this act. No other law relating to insurance and no other provisions in this Code heretofore or hereafter enacted shall apply to or be construed as supplementing or modifying the provisions of the Property and Casualty Competitive Loss Cost Rating Act unless such other law or provision expressly so provides and specifically refers to the sections of this act which it intends to supplement or modify.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1001 of Title 36, unless there is created a duplication in numbering, reads as follows:

Any order, ruling, finding, decision or other act of the Oklahoma Insurance Commission made pursuant to the Property and Casualty Competitive Loss Cost Rating Act shall be subject to judicial review.

SECTION 25. AMENDATORY 36 O.S. 2001, Section 3636, is amended to read as follows:

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

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

C. For the purposes of this coverage the term "uninsured motor vehicle" shall include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. For the purposes of this coverage the term "uninsured motor vehicle" shall also include an insured motor vehicle, the liability limits of which are less than the amount of the claim of the person or persons making such claim, regardless of the amount of coverage of either of the parties in relation to each other.

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

E. For purposes of this section, there is no coverage for any insured while occupying a motor vehicle owned by, or furnished or available for the regular use of the named insured, a resident spouse of the named insured, or a resident relative of the named insured, if such motor vehicle is not insured by a motor vehicle insurance policy.

F. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds

recoverable from the assets of the insolvent insurer. Provided, however, with respect to payments made by reason of the coverage described in subsection C of this section, the insurer making such payment shall not be entitled to any right of recovery against such tort-feasor in excess of the proceeds recovered from the assets of the insolvent insurer of said tort-feasor. Provided further, that any payment made by the insured tort-feasor shall not reduce or be a credit against the total liability limits as provided in the insured's own uninsured motorist coverage. Provided further, that if a tentative agreement to settle for liability limits has been reached with an insured tort-feasor, written notice shall be given by certified mail to the uninsured motorist coverage insurer by its insured. Such written notice shall include:

1. Written documentation of pecuniary losses incurred, including copies of all medical bills; and

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

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

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

1. When an insurer is notified of a change in or an additional named insured;

2. When there is an additional vehicle that is not a replacement vehicle; provided, a new form shall not be required for the addition, substitution or deletion of a vehicle from a commercial automobile liability policy; or

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

After selection of limits, rejection, or exercise of the option not to purchase uninsured motorist coverage by a named insured or applicant for insurance, the insurer shall not be required to notify any insured in any renewal, reinstatement, substitute, amended or replacement policy as to the availability of such uninsured motorist

coverage or such optional limits. Such selection, rejection, or exercise of the option not to purchase uninsured motorist coverage by a named insured or an applicant shall be valid for all insureds under the policy and shall continue until a named insured requests in writing that the uninsured motorist coverage be added to an existing or future policy of insurance.

~~H. The~~ I. Effective for forms required before April 1, 2005, the offer of the coverage required by subsection B of this section shall be in the following form which shall be filed with and approved by the Insurance Commissioner. The form shall be provided to the proposed insured in writing separately from the application and shall read substantially as follows:

OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

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

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

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

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

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

4. You may reject Uninsured Motorist coverage.

Please indicate below what Uninsured Motorist coverage you want:

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

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

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

____ I want to reject Uninsured Motorist coverage.

_____
Proposed Insured

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

~~I.~~ J. The Insurance Commissioner shall approve a deviation to ~~this~~ the form described in subsection I of this section if the form includes substantially the same information.

K. The following are effective on forms required on or after April 1, 2005. The offer of the coverage required by subsection B of this section shall be in the following form which shall be filed with and approved by the Insurance Commissioner. The form shall be provided to the proposed insured in writing separately from the application and shall read substantially as follows:

OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

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

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

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

2. You may buy Uninsured Motorist coverage in the amount of $25,000.00 for each person injured, not to exceed $50,000.00 for two or more persons injured in one occurrence (the smallest coverage which Oklahoma allows) for $ for months.

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

4. You may reject Uninsured Motorist coverage.

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

____ I want minimum Uninsured Motorist coverage $25,000.00 per person/$50,000.00 per occurrence.

____ I want Uninsured Motorist coverage in the following amount:

$ per person/$ per occurrence.

____ I want to reject Uninsured Motorist coverage.

_____
Proposed Insured

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

L. The Insurance Commissioner shall approve a deviation from the form described in subsection K of this section if the form includes substantially the same information.

M. A change in the bodily injury liability coverage due to a change in the amount or limits prescribed for bodily injury or death by a policy meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes shall not be considered an amendment of the bodily injury liability coverage under paragraph 3 of subsection H of this section.

N. On the first renewal on or after April 1, 2005, the insurer shall change the Uninsured Motorist coverage limits to $25,000.00 per person/$50,000.00 per occurrence and charge the corresponding premium for existing policyholders who have selected Uninsured Motorist coverage limits less than $25,000.00 per person/$50,000.00 per occurrence. At the first renewal on or after April 1, 2005, the insurer shall provide existing policyholders who have selected Uninsured Motorist coverage limits less than $25,000.00 per person/$50,000.00 per occurrence a notice of the change of their Uninsured Motorist coverage limits and that notice shall state how such policyholders may reject Uninsured Motorist coverage limits or select Uninsured Motorist coverage with limits higher than $25,000.00 per person/$50,000.00 per occurrence. No notice shall be required to existing policyholders who have rejected Uninsured Motorist coverage or have selected Uninsured Motorist coverage limits equal to or greater than $25,000.00 per person/$50,000.00 per occurrence. For purposes of this subsection an existing policyholder is a policyholder who purchased a policy from the insurer before April 1, 2005, and such policy renews on or after April 1, 2005.

SECTION 26. AMENDATORY 47 O.S. 2001, Section 591.4, is amended to read as follows:

Section 591.4 A. Every person, firm or corporation desiring to engage in the business of an automotive dismantler and parts recycler shall apply in writing, on a form to be prescribed by the Oklahoma Used Motor Vehicle and Parts Commission, which form shall contain:

1. The name of the applicant;

2. The street address of the applicant's principal place of business;

3. The type of business organization of the applicant;

4. The applicant's financial statement;

5. The legal description of the proposed place of business, together with written verification from the appropriate local authorities that the place of business meets the licensing and zoning requirements of the municipality or county where located; and

6. Such additional information as may be required by the Commission.

B. Notwithstanding subsection A of this section, the Commission may decline to issue an original license or buyer's identification card (B.I.D.) to any person, firm or corporation that does not, in good faith, meet the requirements of ~~Section 591.1 et seq. of this title~~ the Automotive Dismantlers and Parts Recycler Act; or whose proposed place of business does not meet the applicable zoning requirements; or whose proposed use is deemed inappropriate by the Commission due to surrounding property uses or objections from the immediate surrounding neighbors, such that the place of business would be deemed to be a private or public nuisance; or whose place of business is not properly screened by natural objects, plantings, opaque fences of a height not less than six (6) nor more than eight (8) feet or other appropriate sightproofing, so as to screen where possible vehicles and parts stored outside of buildings from view from immediately adjacent property.

SECTION 27. AMENDATORY 47 O.S. 2001, Section 591.9, is amended to read as follows:

Section 591.9 The Oklahoma Used Motor Vehicle and Parts Commission is authorized to refuse a license or buyer's identification card (B.I.D.) to any person, firm or corporation for the following reasons:

1. Failure to meet the requirements of ~~this act~~ the Automotive Dismantlers and Parts Recycler Act;

2. Failure to continue to meet the requirements of this act or of the rules promulgated by the Commission pursuant to the provisions of the Automotive Dismantlers and Parts Recycler Act~~, Section 591.1 et seq. of this title~~;

3. Upon satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established by ~~Section 591.1 et seq. of this title~~ the Automotive Dismantlers and Parts Recycler Act;

4. For the felony conviction of a state or federal law by an applicant, licensee, partner of an applicant or licensee, director, officer, or stockholder in the case of a corporate applicant or licensee, or an employee, manager, or any person having a pecuniary interest in the business involving:

a. theft,

b. violation of the Oklahoma certificate of title law or similar laws of other states,

c. alteration, obliteration, or removal of a vehicle identification number, or

d. any other act directly relating to the ability of the applicant or licensee to conduct an automotive dismantler and parts recycling business;

5. Commission of any unlawful act which resulted in the revocation of any similar license in another state; or

6. Engaging in business under a past or present license issued pursuant to ~~this act~~ the Automotive Dismantlers and Parts Recycler Act in such a manner as to cause injury to the public or to those with whom the licensee has dealt.

SECTION 28. AMENDATORY 47 O.S. 2001, Section 591.10, is amended to read as follows:

Section 591.10 A. Any person, firm or corporation who is refused a license or whose license or B.I.D. card is canceled or revoked shall be notified in person or by mail with return receipt requested to the address given on the application of the applicant or licensee and, upon written request within fifteen (15) days of receipt of such notice, shall be given a hearing upon the proposed action. The hearing may be conducted by the Commission and shall be held no more than thirty (30) days from receipt of the written request for a hearing. The hearing may be informal and the rules of evidence of the courts of Oklahoma shall not be required. Appeals from the decision of the Commission shall be governed by the ~~Oklahoma~~ Administrative Procedures Act.

B. In addition to the cancellation, revocation or refusal to issue or renew a license or buyer's identification or the imposition of any other penalty by the Commission, the Commission is hereby authorized to impose administrative fines for violations of the Automotive Dismantlers and Parts Recycler Act in the amounts not to exceed Five Hundred Dollars ($500.00) for a first violation, One Thousand Dollars ($1,000.00) for a second violation and Five Thousand Dollars ($5,000.00) for a third violation.

SECTION 29. AMENDATORY 47 O.S. 2001, Section 591.11, is amended to read as follows:

Section 591.11 A. Sales at a salvage pool or salvage disposal sale shall be opened only to ~~persons~~:

1. A person possessing ~~a license or a buyer's identification number to buy at a salvage pool or salvage disposal sale~~ an automobile dismantler's license or rebuilder certificate issued by the Oklahoma Used Motor Vehicle and Parts Commission and who has a buyer's identification card;

2. A person from another state who has a buyer's identification card; or

3. A foreign buyer who has a buyer's identification card.

~~1. License and~~ B. A buyer's identification ~~numbers~~ card to bid or buy at salvage pools or salvage disposal sales shall be issued by the Commission on a form prescribed by it and shall include, but not be limited to, the name, address, ~~driver's license number,~~ physical description and signature of the applicant; and the name and address of the employer of the applicant. The Commission may exact a fee not to exceed Ten Dollars ($10.00) for the issuance or renewal of a buyer's identification card for a resident of this state and a fee not to exceed Two Hundred Ten Dollars ($210.00) for the issuance or renewal of a buyer's identification card ~~for a resident of another state~~ for an out-of-state buyer and a fee not to exceed Four Hundred Dollars ($400.00) for the issuance or renewal of a buyer's identification card for foreign buyers. There shall be no more than three (3) B.I.D. cards per business, as defined in ~~this act~~ the Automotive Dismantlers and Parts Recycler Act. A buyer's identification card fee shall be returnable only in the event that the permit application is denied by the Commission as allowed pursuant to the Automotive Dismantlers and Parts Recycler Act.

~~2.~~ C. It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to prohibit the bidding by any person who does not display the buyer's identification card number for such person and, further, to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid buyer's identification card.

~~3. The~~ D. A buyer's identification card ~~may be refused, canceled or revoked for the same reasons a license under this act may be refused, canceled or revoked~~ issued to a person, firm or corporation may be refused, canceled or revoked due to the refusal, cancellation or revocation of their automotive dismantler's license or rebuilder certificate issued by the Oklahoma Used Motor Vehicle and Parts Commission. Any person whose buyer's identification card is refused, canceled or revoked shall enjoy the same review and appeal procedures ~~as a person whose license is refused, canceled or revoked~~ provided in Section 591.10 of this title.

SECTION 30. AMENDATORY 47 O.S. 2001, Section 1105, as last amended by Section 4, Chapter 431, O.S.L. 2003 (47 O.S. Supp. 2003, Section 1105), is amended to read as follows:

Section 1105. A. As used in the Oklahoma Vehicle License and Registration Act:

1. "Salvage vehicle" means any vehicle which is within the last ten (10) model years and which has been damaged by collision or other occurrence to the extent that the cost of repairing the vehicle for safe operation on the highway exceeds sixty percent (60%) of its fair market value, as defined by Section 1111 of this title, immediately prior to the damage. For purposes of this section, actual repair costs shall only include labor and parts for actual damage to the suspension, motor, transmission, frame or unibody and designated structural components;

2. "Rebuilt vehicle" means any salvage vehicle which has been rebuilt and inspected for the purpose of registration and title;

3. "Flood-damaged vehicle" means a salvage or rebuilt vehicle which was damaged by flooding or a vehicle which was submerged at a

level to or above the dashboard of the vehicle and on which an amount of loss was paid by the insurer;

4. "Recovered-theft vehicle" means a salvage or rebuilt vehicle which was recovered from a theft; and

5. "Junked vehicle" means any vehicle which is incapable of operation or use on the highway, has no resale value except as a source of parts or scrap and has an eighty percent (80%) loss in fair market value.

B. The owner of every vehicle in this state shall possess a certificate of title as proof of ownership of such vehicle, except those vehicles registered pursuant to Section 1120 of this title and trailers registered pursuant to Section 1133 of this title, previously titled in another state and engaged in interstate commerce, and except as provided in subsection M of this section. There shall be six types of certificates of title:

1. Original title for any motor vehicle which is not a remanufactured, salvage, rebuilt or junked vehicle;

2. Salvage title for any motor vehicle which is a salvage vehicle or is specified as a salvage vehicle or the equivalent thereof on a certificate of title from another state;

3. Rebuilt title for any motor vehicle which is a rebuilt vehicle;

4. Junked title for any motor vehicle which is a junked vehicle or is specified as a junked vehicle or the equivalent thereof on a certificate of title from another state;

5. Classic title for any motor vehicle, except a junked vehicle, which is twenty-five (25) model years or older; and

6. Remanufactured title for any vehicle which is a remanufactured vehicle.

Application for a certificate of title, whether the initial certificate of title or a duplicate, may be made to the Oklahoma Tax Commission or any motor license agent. When application is made with a motor license agent, the application information shall be transmitted either electronically or by mail to the Tax Commission by the motor license agent. If the application information is transmitted electronically, the motor license agent shall forward the required application along with evidence of ownership, where required, by mail. Where the transmission of application information cannot be performed electronically, the Tax Commission is authorized to provide postage paid envelopes to motor license agents for the purpose of mailing the application along with evidence of ownership, where required. The Tax Commission shall upon receipt of proper application information issue an Oklahoma certificate of title. The certificates may be mailed to the applicant. Upon issuance of a certificate of title, the Tax Commission shall provide the appropriate motor license agent with confirmation of such issuance.

C. 1. The application for certificate of title shall be upon a blank form furnished by the Tax Commission, containing:

a. a full description of the vehicle,

b. the manufacturer's serial or other identification number,

c. the motor number and the date on which first sold by the manufacturer or dealer to the owner,

d. any distinguishing marks,

e. a statement of the applicant's source of title,

f. any security interest upon the vehicle, and

g. such other information as the Commission may require.

2. The application for a certificate of title for a vehicle which is within the last seven (7) model years shall require a declaration as to whether the vehicle has been damaged by collision or other occurrence and whether the vehicle has been recovered from theft and the extent of the damage to the vehicle. The declaration shall be made by the owner of a vehicle if:

a. the vehicle has been damaged or stolen,

b. the owner did or did not receive any payment for the loss from an insurer, or

c. the vehicle is titled or registered in a state that does not classify the vehicle or brand the title because of damage to or loss of the vehicle similar to the classifications or brands utilized by this state.

The declaration shall be based upon the best information and knowledge of the owner and shall be in addition to the requirements specified in paragraph 1 of this subsection. The Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this paragraph without the required declaration, completed and signed by the owner of the vehicle. Upon receipt of an application without the properly completed declaration, the Tax Commission shall return the application to the applicant with notice that the title may not be issued without the required declaration. Nothing in this paragraph shall prohibit the Tax Commission from recognizing the type of or brand on a title or other ownership document issued by another state or the inspection conducted in another state and issuing the appropriate certificate of title for the vehicle.

3. The certificate of title shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print,

e. void background, and

f. color coding.

4. Each title issued pursuant to the provisions of the Oklahoma Vehicle License and Registration Act shall be color coded as determined by the Tax Commission.

5. The certificate of title shall be of such size and design and color as the Tax Commission may direct pursuant to the provisions of this section. The title shall be on colored paper or other material as designated by the Tax Commission and be of such intensity or hue as will allow easy identification as to whether the title is an original title, a salvage title, a rebuilt title, remanufactured title, or a junked title. The type of title shall be identified on the front of the certificate of title. The original title, rebuilt title, remanufactured title, or classic title shall be identified by the word "Original", "Rebuilt", “Remanufactured” or "Classic" printed in the upper right quadrant of the certificate of title, in the space which is currently captioned "type of title".

D. 1. To obtain an original certificate of title for a vehicle that is being registered for the first time in this state which has not been previously registered in any other state, the applicant shall be required to deliver, as evidence of ownership, a manufacturer's certificate of origin properly assigned by the manufacturer, distributor, or dealer licensed in this or any other state shown thereon to be the last transferee to the applicant upon a form to be prescribed and approved by the Tax Commission. A manufacturer's certificate of origin shall contain:

a. the manufacturer's serial or other identification number,

b. date on which first sold by the manufacturer to the dealer,

c. any distinguishing marks including model and the year same was made,

d. a statement of any security interests upon the vehicle, and

e. such other information as the Tax Commission may require.

2. The manufacturer's certificate of origin shall have the following security features:

a. intaglio printing or security thread, with or without watermark,

b. latent images,

c. fluorescent inks,

d. micro print, and

e. void background.

E. In the absence of a dealer's or manufacturer's number, the Tax Commission may assign such identifying number to the vehicle, which shall be permanently stamped, burned or pressed or attached into the vehicle, and a certificate of title shall be delivered to the applicant upon payment of all fees and taxes, and the remaining copies shall be permanently filed and indexed by the Tax Commission. The Tax Commission shall assign an identifying number to any rebuilt vehicle if the vehicle identification number displayed on the rebuilt vehicle does not accurately describe the vehicle as rebuilt. The motor license agent, at the time of inspection of the rebuilt vehicle pursuant to Section 1111 of this title, shall identify the make, model, and year for the body to accurately describe the rebuilt vehicle. At the time of the inspection, an appropriate identifying number shall be permanently stamped, burned, pressed, or attached on the rebuilt vehicle. The assigned identifying number shall be recorded on the certificate of title for the rebuilt vehicle. The dealer's or manufacturer's vehicle identification number on the rebuilt vehicle shall be preserved in the computer files of the Tax Commission for at least five (5) years.

F. When registering for the first time in this state a vehicle which was not originally manufactured for sale in the United States, to obtain a certificate of title, the Tax Commission shall require the applicant to deliver:

1. As evidence of ownership, if the vehicle has not previously been titled in the United States, the documents constituting valid proof of ownership in the country in which the vehicle was originally purchased, together with a notarized translation of any such documents; and

2. As evidence of compliance with federal law, copies of the bond release letters for the vehicle issued by the United States Environmental Protection Agency and the United States Department of Transportation, together with a receipt issued by the Internal Revenue Service indicating that the applicable federal gas guzzler tax has been paid.

The Tax Commission shall not issue a certificate of title for a vehicle which is subject to the provisions of this paragraph without the required documentation from agencies of the United States and evidence of ownership. Upon receipt of an application without the required documentation, the Tax Commission shall return the application to the applicant with notice that the certificate of title may not be issued without the required documentation. Nothing in this paragraph shall prohibit the Tax Commission from issuing certificates of title for antique or classic vehicles not driven upon the public streets, roads, or highways.

G. When registering in this state a vehicle which was titled in another state and which title contains the name of a secured party on the face of the other state certificate of title, or such state certificate is being held by the secured party in that state or any other state, the Tax Commission or the motor license agent shall complete a lien entry form as prescribed by the Tax Commission. The owner of such vehicle shall file an affidavit with the Tax Commission or the motor license agent stating that title to the vehicle is being held by a secured party has not been issued pursuant to the laws of the state where titled, and that there is an

existing lien or encumbrance on the vehicle. The current name and address of the secured party or lienholder shall also be stated in the affidavit. The form of the affidavit shall be prescribed by the Tax Commission and contain any other information deemed necessary by the Tax Commission. A statement of the lien or encumbrance shall be included on the Oklahoma certificate of title and the lien or encumbrance shall be deemed continuously perfected as though it had been perfected pursuant to Section 1110 of this title. For completing the lien entry form and recording the security interest on the certificate of title, the Tax Commission or the motor license agent shall collect a fee of Three Dollars ($3.00) which shall be in addition to other fees provided by the Oklahoma Vehicle License and Registration Act. The fee, if collected by the motor license agent pursuant to this subsection, shall be retained by the motor license agent.

H. The charge for each certificate of title issued, except for junked titles as defined in paragraph 4 of subsection B of this section, shall be Eleven Dollars ($11.00), which charge shall be in addition to any other fees or taxes imposed by law for such vehicle. One Dollar ($1.00) of each such charge shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. However, the charge shall not apply to any vehicle which is to be registered in this state pursuant to the provisions of Section 1120 or 1133 of this title and which was registered in another state at least sixty (60) days prior to the time it is required to be registered in this state.

I. The vehicle identification number of a junked vehicle shall be preserved in the computer files of the Tax Commission for a period of not less than five (5) years. The charge of junked titles as defined in paragraph 4 of subsection B of this section shall be Four Dollars ($4.00). The fee remitted to the Tax Commission shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

J. If a vehicle is sold to a resident of another state destroyed, dismantled, or ceases to be used as a vehicle, the owner shall immediately notify the Tax Commission. Absent evidence to the contrary, failure to notify the Tax Commission shall be prima facie evidence that the vehicle has been in continuous operation in this state.

K. If a vehicle is stolen, the owner shall immediately notify the appropriate law enforcement agency. Immediately after receiving such notification, the law enforcement agency shall notify the Tax Commission.

L. No title for an out-of-state vehicle, except any commercial truck or truck-tractor registered pursuant to Section 1120 of this title which is engaged in interstate commerce or any trailer or semitrailer registered pursuant to Section 1133 of this title which is engaged in interstate commerce, shall be issued without an inspection of such vehicle and payment of a fee of Four Dollars ($4.00) for such inspection; provided, the Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall include a comparison of the vehicle identification number on the vehicle with the number recorded on the ownership records and the recording of the actual odometer reading on the vehicle. The four-dollar fee shall be collected by the motor license agent or Commission when the title is issued. The motor license agent shall retain Two Dollars ($2.00). The remaining Two Dollars ($2.00) shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

The Tax Commission may allow the inspection to be performed at a location out-of-state by another state's department of motor vehicles or state police.

M. No title for any out-of-state vehicle offered for sale at salvage pools, salvage disposal sales, or an auction, or by a dealer or a licensed automotive dismantler and parts recycler, shall be issued without an inspection to compare the vehicle identification number on the vehicle with the number recorded on the ownership record and to record the actual odometer reading on the vehicle. Upon request of the seller, person or entity conducting an auction, dealer or licensed dismantler, the inspection shall be conducted at the location or place of business of the sale, auction, dealer, or the dismantler. The inspection shall be conducted by any motor license agent or a duly authorized employee thereof; provided, if the vehicle identification number on the vehicle offered for sale at salvage pools, salvage disposal sales or a classic or antique auction does not match the number recorded on the ownership record, the inspection may be conducted at the location of or place of business of such sale or auction by any state, county or city law enforcement officer. The Tax Commission may enter into reciprocal agreements with other states for such inspections to be performed at locations outside the boundaries of this state for vehicles which:

1. Are offered for sale at auction;

2. Have been solely used as vehicles for rent under the ownership of a licensed motor vehicle dealer or a person engaged in the business of renting motor vehicles; or

3. Have not been registered in this or any other state for more than one (1) year.

The inspection shall be certified upon forms prescribed by the Tax Commission. The name and other identification of the authorized person conducting the inspection shall be legibly printed or typed on the form. Prior to any inspection by any employee of a motor license agent, the motor license agent shall notify the Tax Commission of the name and any other identification information requested by the Tax Commission of the authorized person. A signature specimen of the authorized person shall be submitted to the Tax Commission by the employing motor license agent. If the authorization to inspect vehicles is withdrawn or the employer-employee relationship is terminated, the motor license agent,

immediately, shall notify the Tax Commission and return any remaining inspection forms to the Tax Commission. The fee for the inspection shall be Four Dollars ($4.00). The motor license agent shall retain Three Dollars ($3.00) of the fee. Fees received by a motor license agent or an authorized employee thereof shall be handled and accounted for in the manner as prescribed by law for any other fees paid to or received by a motor license agent. Out-of-state vehicles brought into this state by a person licensed in another state to sell new or used vehicles to be sold within this state at a motor vehicle auction which is limited to dealer to dealer transactions shall not be required to be inspected, unless the vehicle is purchased by an Oklahoma dealer. Any person licensed in another state to sell new or used motor vehicles, who offers a motor vehicle for sale within this state at a motor vehicle auction which is limited to dealer to dealer transactions, shall not be within the definition of "owner" in Section 1102 of this title, for purposes of Section 1101 et seq. of this title.

N. An out-of-state vehicle which has been rebuilt shall be inspected pursuant to the provisions of Section 1111 of this title. The Tax Commission shall train motor license agents in interpreting vehicle identification numbers to assure that it accurately describes the vehicle and to detect rollback or alteration of the odometer. Failure of a motor license agent to inspect the vehicle and make the required notations shall be a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00) for the first offense and Five Thousand Dollars ($5,000.00) for the second offense or subsequent offense, or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

O. The ownership of any vehicle which has been declared a total loss by an insurer because of theft shall be transferred to the insurer by a salvage title; provided, the ownership of any such vehicle which has been declared a total loss by an insurer licensed by the Oklahoma Insurance Department and maintaining a multi-state motor vehicle salvage processing center in this state shall be transferred to the insurer by a salvage title without the requirement of a visual inspection of the vehicle identification number by the insurer. Upon recovery of the vehicle, the ownership shall be transferred by an original title, salvage title, or junked title, as may be appropriate based upon an estimate of the amount of loss submitted by the insurer.

P. The owner of any vehicle which is incapable of operation or use on the public roads and has no resale value, except as parts, scrap or junk, may deliver the certificate of title to the vehicle to the Tax Commission for cancellation. Upon verification that any perfected lien against the vehicle has been released, the certificate of title shall be canceled without any fee, charge, or cost required from the owner. The vehicle identification numbers on the certificates of title shall be preserved in the computer files of the Tax Commission for at least five (5) years from the date of cancellation of the certificate of title. The Tax Commission shall prescribe and provide an affidavit form to be completed by the owner of any vehicle for which the certificate of title is canceled. No title or registration shall subsequently be issued for a vehicle for which the certificate of title has been surrendered pursuant to this subsection. The Tax Commission shall prescribe a form for the

transfer of ownership of a vehicle for which the certificate of title has been canceled.

Q. The owner of a vehicle which is not within the last ten (10) model years, not roadworthy and not capable of repair for operation or use on the roads and highways shall transfer the vehicle only upon a certificate of ownership prescribed by the Tax Commission, if the certificate of title to the vehicle is lost, has been canceled, or otherwise not available. The prescribed ownership form shall include the names and addresses of the buyer and seller, the driver license number or social security number of the seller, the make and model of the vehicle, and the public vehicle identification number. If there is no public vehicle identification number, the vehicle shall be inspected by a law enforcement officer to verify the absence of the number on the vehicle and the prescribed ownership form shall include a signed statement, by such officer, verifying the absence of the number.

The certificate of ownership shall be completed in triplicate. The buyer and seller shall each retain a copy. Within thirty (30) days of the transaction, the seller shall submit one copy to the Tax Commission or a motor license agent accompanied with a fee of Four Dollars ($4.00). One Dollar ($1.00) shall be retained by the motor license agent and Three Dollars ($3.00) shall be deposited in the Oklahoma Tax Commission Reimbursement Fund in the State Treasury.

Upon receipt of the certificate, the Tax Commission shall verify that any perfected lien upon the vehicle has been released. If the lien is not released, the Tax Commission shall mail notice of the transfer to the lienholder at the lienholder's last-known address. If a certificate of title has been issued, it shall be canceled and the vehicle identification number shall be preserved in the computer of the Tax Commission for at least five (5) years. The buyer of the vehicle may not be sued and shall not be liable for monetary damages to the lienholder, however, the vehicle shall be subject to a valid repossession by a lienholder.

R. The Tax Commission shall notify the chief administrative officer of the agency or department responsible for issuing motor vehicle certificates of title in each state in the United States of the types of motor vehicle certificate of title effective in Oklahoma on and after January 1, 1989.

S. When registering for the first time in this state a remanufactured vehicle which has not been registered in any other state since its remanufacture, before issuing a certificate of title, the Tax Commission shall require the applicant to deliver a statement of origin from the remanufacturer.

T. If a vehicle is sold to a foreign buyer pursuant to the provisions of the Automotive Dismantlers and Parts Recycler Act, the licensed seller shall stamp the title with: "EXPORT ONLY. NONTRANSFERABLE IN THE UNITED STATES." The licensed seller shall supply the Tax Commission the title number, the vehicle identification number and the foreign buyer's bid identification number on a form prescribed by the Commission. The Commission shall cancel the title, and the vehicle identification number shall be preserved in the computer files of the Tax Commission for a period of not less than five (5) years.

SECTION 31. AMENDATORY 47 O.S. 2001, Section 7-204, is amended to read as follows:

Section 7-204. ~~(a)~~ A. No policy or bond shall be effective under Section 7-203 of this title unless issued by an insurance company or surety company authorized to do business in this state, except as provided in ~~subdivision (b)~~ subsection B of this section, nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than the following:

1. For policies or bonds issued or renewed before April 1, 2005, Ten Thousand Dollars ($10,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than Twenty Thousand Dollars ($20,000.00) because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to or destruction of property to a limit of not less than Ten Thousand Dollars ($10,000.00) because of injury to or destruction of property of others in any one accident;

2. For policies or bonds issued or renewed on or after April 1, 2005, Twenty-five Thousand Dollars ($25,000.000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to or destruction of property to a limit of not less than Twenty-five Thousand Dollars ($25,000.00) because of injury to or destruction of property of others in any one accident.

~~(b)~~ B. No policy or bond shall be effective under Section 7-203 of this title with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing such policy or bond is authorized to do business in this state, or if said company is not authorized to do business in this state, unless it shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

~~(c)~~ C. The Department may rely upon the accuracy of the information in a required report of an accident as to the existence of insurance or a bond unless and until the Department has reason to believe that the information is erroneous.

SECTION 32. AMENDATORY 47 O.S. 2001, Section 7-324, is amended to read as follows:

Section 7-324. (a) Certification. A "motor vehicle liability policy" as the term is used in this article shall mean an "owner's policy" or an "operator's policy" of liability insurance, certified as provided in Section 7-321 or Section 7-322 of this title as proof of financial responsibility, and issued, except as otherwise provided in Section 7-322 of this title, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(b) Owner's policy. Such owner's policy of liability insurance:

1. Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is thereby to be granted; and

2. Shall insure the person named therein and any other person except as herein provided, as insured, using any such vehicle or vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such vehicle or vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such vehicle, as follows: ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, ~~Twenty Thousand Dollars ($20,000.00)~~ Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two or more persons in any one accident, and ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) because of injury to or destruction of property of others in any one accident.

3. May by agreement in a separate written endorsement between any named insured and the insurer exclude as insured any person or persons designated by name from coverage under the policy.

(c) Operator's policy. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Required statements in policies. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this title.

(e) Policy need not insure workmen's compensation. Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Provisions incorporated in policy. Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

1. The liability of the insurance carrier with respect to the insurance required by this title shall become absolute whenever

injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy.

2. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

3. The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in paragraph 2 of subsection (b) of this section.

4. The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this title shall constitute the entire contract between the parties.

(g) Excess or additional coverage. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this title. With respect to a policy which grants such excess or additional coverage, the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(h) Reimbursement provision permitted. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this title.

(i) Proration of insurance permitted. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) Multiple policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(k) Binders. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

SECTION 33. AMENDATORY 47 O.S. 2001, Section 8-101, is amended to read as follows:

Section 8-101. (a) It shall be unlawful for the owner of any motor vehicle engaged in the business of renting motor vehicles without drivers to rent a motor vehicle without a driver otherwise than as a part of a bona fide transaction involving the sale of such motor vehicle, unless he has previously notified the Department of the intention to so rent such vehicle and has given proof of

financial responsibility, and the Tax Commission shall not register any such vehicle unless and until the owner gives proof of financial responsibility either as provided in this section or, in the alternative, as provided in Section 8-102 of this title. The Department shall cancel the registration of any motor vehicle rented without a driver whenever the Department ascertains that the owner has failed or is unable to give and maintain such proof of financial responsibility.

(b) Such owner shall submit to the Commissioner evidence that there has been issued to him by an insurance carrier authorized to do business in this state a public liability insurance policy or policies covering each such motor vehicle so rented in the amounts as hereinafter stated and insuring every person operating such vehicle under a rental agreement or operating the vehicle with the express or implied permission of the owner against loss from the liability imposed by law upon such person arising out of the operation of said vehicle in the amount of ~~Twenty Thousand Dollars ($20,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) for bodily injury to or death of one person and, subject to said limit as respects bodily injury to or death of any one person, the amount of ~~Forty Thousand Dollars ($40,000.00)~~ Fifty Thousand Dollars ($50,000.00) on account of bodily injury to or death of more than one person in any one accident and ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) for damage to property of others in any one accident. Provided, that the Commissioner is authorized to accept, in lieu of such public liability insurance policy covering specific vehicles, proof by evidence satisfactory to the Commissioner of a valid and binding lease contract between the owner and a renter wherein it is agreed between such owner and the lessee-renter that such lessee-renter accepts responsibility for loss from any liability imposed by law upon any person arising out of the operation, either by express or implied permission of the lessee-renter, of any vehicle covered by such lease in amounts not less than the minimum amounts before set out in this subsection, together with satisfactory evidence of issuance to such lessee-renter, by an insurance carrier authorized to do business in this state, proper public liability insurance policies in amounts of not less than the minimum amounts before set out in this subsection or sufficient showing of financial responsibility of such lessee-renter as is required of owners by the provisions of Section 8-102 of this title.

(c) The owner shall maintain such policy or policies in full force and effect during all times that he is engaged in the business of renting any motor vehicle without a driver unless said owner shall have given proof of financial responsibility as provided in Section 8-102 of this title.

(d) Said policy or policies need not cover any liability incurred by the renter of any vehicle to any passenger in such vehicle.

(e) When any suit or action is brought against the owner of a for-rent motor vehicle upon a liability under this title, it shall be the duty of the judge of the court before whom the case is pending to cause a preliminary hearing to be had, in the absence of the jury, for the purpose of determining whether the owner has obtained and there is in full force and effect, a policy or policies of insurance covering the person operating the vehicle under a

rental agreement, in the limits above mentioned. When it appears that the owner has obtained such policy or policies and that the same are in full force and effect, the judge or magistrate before whom such action is pending shall dismiss the action as to the owner of the motor vehicle.

(f) Whenever the owner of a motor vehicle rents such vehicle without a driver to another, it shall be unlawful for the latter to permit any other person to operate such vehicle without the permission of the owner.

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

SECTION 34. AMENDATORY 47 O.S. 2001, Section 8-104, is amended to read as follows:

Section 8-104. A. 1. Every person, firm or corporation engaged in the business of operating a taxicab or taxicabs within a municipality shall file with the governing board of the municipality in which such business is operated proof of financial responsibility.

2. No governing board of a municipality shall hereafter issue any certificate of convenience and necessity, franchise, license permit or other privilege or authority to any person, firm or corporation authorizing such person, firm or corporation to engage in the business of operating a taxicab or taxicabs within the municipality unless such person, firm or corporation first files with the governing board proof of financial responsibility.

3. Every person, firm or corporation engaging in the business of operating a taxicab or taxicabs without the corporate city limits of a municipality or municipalities shall file with the Department of Public Safety, Financial Responsibility Division, of the state, proof of financial responsibility.

4. No person, firm or corporation shall hereafter engage in the business of operating a taxicab or taxicabs without the corporate city limits of a municipality or municipalities in the state unless such person, firm or corporation first files with the Department of Public Safety proof of financial responsibility.

B. As used in this section, "proof of financial responsibility" shall mean a certificate of any insurance carrier or risk retention group, as defined in Section 6453 of Title 36 of the Oklahoma Statutes, authorized to do business in the state certifying that there is in effect a policy of liability insurance insuring the owner and operator of the taxicab business, his agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident and arising out of the ownership, use or operation of such taxicab or taxicabs, subject to minimum limits, exclusive of interest and cost, with respect to each such motor vehicle as follows:

1. ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person;

2. ~~Twenty Thousand Dollars ($20,000.00)~~ Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two or more persons in any one accident; and

3. ~~Ten Thousand Dollars ($10,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) because of injury to or destruction of property of others in any one accident.

SECTION 35. AMENDATORY 47 O.S. 2001, Section 425, is amended to read as follows:

Section 425. (a) No license shall be issued by the Commission until the applicant shall have filed with each application, and the same have been approved by the Commission, the following insurance policies and bonds issued by an insurance carrier or bonding company authorized to do business within this state. In lieu of such policies, the applicant may file the written certificate or certificates of any insurance carrier duly authorized to do business in this state, certifying that it has issued to, or for the benefit of, the applicant, named as the insured therein, a policy or policies meeting the requirements of this section as hereinafter provided, and that said policy or policies are then in full force and effect. Such certificate or certificates shall give the dates of issuance and expiration of such policy or policies, and shall designate by explicit designation or by appropriate reference all motor vehicles covered thereby.

(1) A bond in the penal sum of Five Hundred Dollars ($500.00) in such form as may be prescribed by the Commission for the purpose of protecting the public against fraud, conditioned upon the delivery of correct weights, measures, footage, or grades, if the commodities handled by the itinerant merchant are those customarily sold by weights, measures, footage, or grades, accurate representation as to quality or class of such commodities, the actual payment of checks, drafts or other obligations delivered by the itinerant merchant in exchange for the purchase of commodities, and conditioned to pay any judgment or judgments that may be obtained against the itinerant merchant for civil liability arising out of the conduct of his business, and further providing for the prompt payment of license fees and taxes to this state or any governmental subdivision thereof, including the matters hereinbefore specified in this paragraph, but not including any causes of action covered by the insurance policies described in paragraph (2) of this subsection. Said bond shall further provide that any person dealing with said itinerant merchant, any person using the commodities handled by him, and any person holding checks, drafts, or other obligations, shall have cause of action upon said bond by reason of any violation of the terms of said bond with respect to such dealing, said commodities, or said checks, drafts or other obligations.

(2) A liability insurance policy or bond which shall bind the obligors to pay compensation for injuries to persons and damage to property resulting from the negligent operation of the motor vehicle operated under authority of the itinerant merchant's license, said policy or bond to be conditioned to pay any sum up to~~ Five Thousand~~

~~Dollars ($5,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) for personal injury to or death of one individual, and up to ~~Ten Thousand Dollars ($10,000.00)~~ Fifty Thousand Dollars ($50,000.00) for personal injuries or deaths resulting from any single accident, and up to ~~One Thousand Dollars ($1,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) for damage to property in any single accident.

(b) Every insurance policy and bond or certificate thereof filed with the Commission under the provisions of this act shall contain an endorsement or provision that the same shall not be cancelled by the obligor, shall not expire, and shall not become reduced in amount, until thirty (30) days after notice by registered United States mail has been sent to the Commission of the intention to cancel the same, or that the same is to expire or is to be reduced in amount. Upon receipt of such notice the Commission shall immediately notify the itinerant merchant by registered United States mail, return receipt requested, of the receipt of such notice, and shall advise him that unless a new insurance policy or bond is filed to replace the one to be canceled, or to expire, or to be reduced in amount, prior to the time such cancellation, expiration or reduction becomes effective, the license of such itinerant merchant in connection with which said policy or bond was issued shall be revoked at the time such cancellation, expiration or reduction becomes effective. If a new policy or bond is not filed or the amount of the reduction restored prior to the time such cancellation, expiration or reduction becomes effective, the Commission must revoke said license at said time, and licensee shall return license and license plate to the Commission.

(c) Any person having a cause of action against the itinerant merchant arising out of the matters described in paragraphs (1) and (2) of subsection (a) of this section may join said itinerant merchant and the surety on his bond in the same action, or may sue said surety without joining said itinerant merchant in the action if the itinerant merchant is deceased or if it is impossible to obtain jurisdiction of his person within the state where the cause of action arose.

SECTION 36. AMENDATORY 70 O.S. 2001, Section 1210.43, is amended to read as follows:

Section 1210.43 In event the vehicle is loaned the board of education shall provide insurance, by securing a policy from an insurance company authorized to do business in this state, with limits of not less than ~~Five Thousand Dollars ($5,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than ~~Ten Thousand Dollars ($10,000.00)~~ Fifty Thousand Dollars ($50,000.00) because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to or destruction of property to a limit of not less than ~~Five Thousand Dollars ($5,000.00)~~ Twenty-five Thousand Dollars ($25,000.00) because of injury to or destruction of property of others in any one accident, to cover such motor vehicle and its use while in its possession or control, and the owner so furnishing same shall not be liable for any personal injury or property damage resulting from the use of any such motor vehicle while in the possession of the board of education, its officials, employees or students.

The use of such motor vehicles for the purposes stated in Section 1210.41 of this title by technology center schools or technology center school districts is declared to be a public governmental function and no action for damages shall be brought against such schools or school districts or the boards of education thereof and the amount of damages, if any, recoverable against and collectible from such insurer may be determined in an action brought against said insurance company and shall be limited to the amount provided in the insurance contract.

SECTION 37. REPEALER 36 O.S. 2001, Section 988, is hereby repealed.

SECTION 38. This act shall become effective November 1, 2004.

Passed the House of Representatives the 28th day of May, 2004.

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Presiding Officer of the House of Representatives

Passed the Senate the 28th day of May, 2004.

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Presiding Officer of the Senate