ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2905

By: Peterson (Ron), Shelton and Rousselot of the House

and

Laster of the Senate

An Act relating to insurance * * * * property and casualty * * * * certification * * * * prohibiting certain activities * * * * unfair methods * * * associations; deleting reference; modifying reference * * * * modifying certain reciprocal requirements * * * * certain policy requirements; modifying reference * * * * amending 36 O.S. 2001, Sections 6002, 6058, 6059, 6060.4, as amended by Section 6, Chapter 464, O.S.L. 2003, Section 20, Chapter 334, O.S.L. 2004, Section 21, Chapter 334, O.S.L. 2004, Section 30, Chapter 334, O.S.L. 2004, and Section 32, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2005, Sections 6060.4, 6470.13, 6470.14, 6470.23 and 6470.25), which relate to insurance companies; modifying certain benefits * * * * workers' compensation; modifying references; modifying certain policy requirements; repealing 36 O.S. 2001, Sections 331, 333 and 346 * * * * providing for codification; providing an effective date; and declaring an emergency.

AMENDMENT NO. 1: Pages 1, 2, and 3, strike the title, enacting clause and entire bill and insert

An Act relating to insurance; amending 36 O.S. 2001, Sections 107, 121, 301, 307, as amended by Section 3, Chapter 355, O.S.L. 2005, 312A, 313, 332, 334.1, 348.1, as last amended by Section 1, Chapter 129, O.S.L. 2005, and 362, as last amended by Section 2, Chapter 131, O.S.L. 2004 (36 O.S. Supp. 2005, Sections 307, 348.1 and 362), which relate to property and casualty; modifying definition; deleting references; modifying structure of Insurance Department; modifying duties; modifying powers and duties; modifying reference; modifying fees; modifying certain fund; amending 36 O.S. 2001, Sections 901.2, 901.3, 901.4, 902, 902.2, as amended by Section 6, Chapter 519, O.S.L. 2004, 902.3, 903.2, 904, 907, 907.1, 908, 924.2, as amended by Section 1, Chapter 50, O.S.L. 2002, 924.3, 932, 937 and 997 (36 O.S. Supp. 2005, Sections 902.2 and 924.2), which relate to the Oklahoma Insurance Rating Act; modifying definitions; modifying certification; modifying references; modifying certain rate requirements; modifying definition; amending 36 O.S. 2001, Section 1109, which relates to surplus line coverage; modifying certification; requiring certain

submissions; requiring certain documentation; establishing guidelines for certain organizations; prohibiting certain activities; permitting certain activities; establishing review system; providing for certain examinations; mandating certain rules; providing for certain penalties; providing for certain disciplinary actions; requiring certain filings; defining terms; establishing certain procedures regarding military personnel; exempting certain entities; permitting certain activities; amending 36 O.S. 2001, Section 1204, as amended by Section 10, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2005, Section 1204), which relates to unfair methods; deleting reference; amending 36 O.S. 2001, Sections 1435.6, as last amended by Section 8, Chapter 274, O.S.L. 2004, 1435.8, as amended by Section 15, Chapter 307, O.S.L. 2002, 1435.10, and 1435.23, as amended by Section 19, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2005, Sections 1435.6, 1435.8 and 1435.23), which relate to producer licenses; modifying certain examination procedures; defining terms; modifying exemptions; modifying fees; requiring certain funds be treated in fiduciary capacity; directing remittance or credit of certain funds after certain time period; requiring certain reports; prohibiting certain activity; providing penalty therefor; authorizing promulgation of rules; amending 36 O.S. 2001, Section 2018, which relates to payment and assessments; modifying reference; amending 36 O.S. 2001, Sections 2403 and 2409, which relate to associations; deleting reference; modifying reference; amending 36 O.S. 2001, Sections 2602, 2616 and 2617, which relate to certification; deleting references; amending 36 O.S. 2001, Sections 2723.1 and 2813, which relate to exemptions; deleting references; amending 36 O.S. 2001, Section 2908, which relates to reciprocal insurers; modifying certain reciprocal requirements; amending 36 O.S. 2001, Section 3604, which relates to insurable interests; modifying definition; amending 36 O.S. 2001, Section 3639, as amended by Section 14, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2005, Section 3639), which relates to certain policy requirements; modifying reference; amending 36 O.S. 2001, Section 5004, which relates to title insurance; defining term; amending 36 O.S. 2001, Sections 6002, 6058, 6059, 6060.4, as amended by Section 6, Chapter 464, O.S.L. 2003, Section 20, Chapter 334, O.S.L. 2004, Section 21, Chapter 334, O.S.L. 2004, Section 30, Chapter 334, O.S.L. 2004, and Section 32, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2005, Sections 6060.4, 6470.13, 6470.14, 6470.23 and 6470.25), which relate to insurance companies; modifying certain benefits; modifying certain coverage; modifying certain requirements; modifying certain inspections; modifying certain licenses; modifying references; amending Section 13, Chapter 390, O.S.L. 2003 (36 O.S. Supp. 2005, Section 6812), which relates to filing of certain reports; modifying contents of certain reports; amending 70 O.S. 2001, Section 4312, which relates to insurance on university employees; modifying reference; amending 74 O.S. 2001, Section 1320, which relates to state government; modifying

reference; amending 76 O.S. 2001, Section 22, which relates to malpractice insurance; modifying reference; amending 85 O.S. 2001, Sections 61, 64, as amended by Section 25, Chapter 129, O.S.L. 2005, and 65 (85 O.S. Supp. 2005, Section 64), which relate to workers' compensation; modifying references; modifying certain policy requirements; repealing 36 O.S. 2001, Sections 331, 333 and 346, which relate to property and casualty; repealing 36 O.S. 2001, Sections 901, as amended by Section 4, Chapter 519, O.S.L. 2004, Section 2, Chapter 1, 1st Extraordinary. Session of the 50th Legislature 2005, O.S.L. 2005, 903, as last amended by Section 5, Chapter 129, O.S.L. 2005, 905, 928, 929, as amended by Section 9, Chapter 519, O.S.L. 2004, 930, 931, 933, 934, 935, 936, 991, as amended by Section 8, Chapter 129, O.S.L. 2005, 993, and Section 23, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2005, Sections 901, 902.4, 903, 929, 991 and 1000), which relate to rates; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 107, is amended to read as follows:

Section 107. When used with reference to the administration of ~~this~~ the Oklahoma Insurance Code, "State Insurance Board", "Insurance Board" or "Board" means the State Board for Property and Casualty Rates established by Section 331, Article 3, of this Code. For purposes of the laws of this state and the Oklahoma Insurance Code, the term "Board" or "any predecessor to the Board" shall have the same meaning as the term "Insurance Commissioner".

SECTION 2. AMENDATORY 36 O.S. 2001, Section 121, is amended to read as follows:

Section 121. In computing any period of time prescribed or allowed by this title, by the rules of the Commissioner ~~or the State Board for Property and Casualty Rates~~, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, a legal holiday as defined by the Oklahoma Statutes, or any day when the office of the Commissioner does not remain open for

public business until 4:00 p.m., in which event the period runs until the end of the next day when the office of the Commissioner is open until 4:00 p.m. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

SECTION 3. AMENDATORY 36 O.S. 2001, Section 301, is amended to read as follows:

Section 301. The Insurance Department of the State of Oklahoma is hereby created. The ~~Department shall consist of the~~ Insurance Commissioner ~~and the State Board for Property and Casualty Rates~~ shall be the chief executive officer of the Insurance Department. The powers and duties of the Insurance Commissioner shall be those created by ~~this~~ the Oklahoma Insurance Code ~~and not reserved to the Board and such powers and duties of the Board as the Board may request the Commissioner to perform. The powers and duties of the State Board for Property and Casualty Rates shall be those created by the applicable provisions of the Insurance Code~~. The Insurance Department shall be situated in one area in the State Capitol or some other location conveniently accessible to the general public subject to the provisions of Sections 63 and 94 of Title 74 of the Oklahoma Statutes and Section 580:20-13-5 of the Oklahoma Administrative Code.

SECTION 4. AMENDATORY 36 O.S. 2001, Section 307, as amended by Section 3, Chapter 355, O.S.L. 2005 (36 O.S. Supp. 2005, Section 307), is amended to read as follows:

Section 307. The Insurance Commissioner shall be charged with the duty of administration and enforcement of the provisions of ~~this~~ the Oklahoma Insurance Code and of any requirements placed on an insurance company pursuant to subsection L of section 1111 of Title 47 of the Oklahoma Statutes~~, except those duties specifically assigned to the State Board for Property and Casualty Rates. The Insurance Commissioner shall provide such administrative and staff~~

~~support as required by the Board~~. The Insurance Commissioner shall have jurisdiction over complaints against all persons engaged in the business of insurance, and shall hear all matters either in person, by authorized disinterested employees, or by hearing examiners appointed by the Commissioner for that purpose. It shall be the duty of the Insurance Commissioner to file and safely keep all books and papers required by law to be filed with the Insurance Department, and to keep and preserve in permanent form a full record of proceedings, including a concise statement of the conditions of such insurers and other entities reported and examined by the Department and its examiners. The Commissioner shall, annually, at the earliest practicable date after returns are received from the several authorized insurers and other organizations, make a report to the Governor of the State of Oklahoma of the affairs of the Office of the Insurance Commissioner, which report shall contain a tabular statement and synopsis of the several statements, as accepted by the Insurance Commissioner, which shall include with respect to each insurance company the admitted assets, liabilities except capital, capital and surplus, Oklahoma premium income, amount of claims paid in Oklahoma, and such other matters as may be of benefit to the public. The Commissioner may educate consumers and make recommendations regarding the subject of insurance in this state, and shall set forth in a statement the various sums received and disbursed by the Department, from and to whom and for what purpose. Such report shall be published by and subject to the order of the said Insurance Commissioner. The Insurance Commissioner shall, upon retiring from office, deliver to the qualified successor all furniture, records, papers and property of the office.

SECTION 5. AMENDATORY 36 O.S. 2001, Section 312A, is amended to read as follows:

Section 312A. Civil penalties and fees imposed pursuant to the provisions of ~~Title 36 of the Oklahoma Statutes~~ this title may be

enforced in the same manner in which civil judgments may be enforced. All final orders of the Insurance Commissioner ~~or State Board for Property and Casualty Rates~~ imposing administrative charges, fees, civil penalties or fines may be recorded in the office of the Clerk of the District Court of Oklahoma County and, upon such recording, all appropriate writs and process shall issue and shall be enforced by the judges of said court upon application.

SECTION 6. AMENDATORY 36 O.S. 2001, Section 313, is amended to read as follows:

Section 313. A. Orders and notices of the Insurance Commissioner shall be in writing and shall be signed by either the Commissioner, an authorized employee of the Insurance Department, or an independent hearing examiner. A final order signed by an independent hearing examiner, after hearing, shall be final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes.

B. In the exercise of the powers and the performance of the duties enumerated in this title, the Commissioner ~~and the State Board for Property and Casualty Rates~~ shall comply with the procedures of the Administrative Procedures Act. Any conflict between the provisions of Title 75 of the Oklahoma Statutes and of this title shall be resolved in favor of the provisions of this title.

SECTION 7. AMENDATORY 36 O.S. 2001, Section 332, is amended to read as follows:

Section 332. A. ~~The State Board for Property and Casualty Rates is hereby vested with the duty and authority of enforcing and administering all applicable provisions of the Insurance Code pertaining to the jurisdiction of the Board. The Board may make reasonable rules and regulations necessary for effectuating such provisions of this Code.~~

~~B. The Board shall have powers and authority expressly conferred upon it by or reasonably implied from the provisions of this Code. The Board shall have the power to approve, disapprove, or approve with modifications, filings submitted to it.~~

~~C.~~ The ~~Board~~ Commissioner may conduct such examinations and investigations of insurance matters, within the scope of ~~its~~ the authority of the Commissioner, as ~~it~~ the Commissioner may deem proper to secure information useful in the lawful administration of the applicable provisions of the Oklahoma Insurance Code.

~~D.~~ B. The Insurance Commissioner ~~on behalf of the Board~~ shall have the authority to employ actuaries, statisticians, accountants, attorneys, auditors, investigators or any other technicians as the Insurance Commissioner may deem necessary or beneficial to examine any filings for rate revisions made by insurers or ~~rating~~ advisory organizations and to examine such records of the insurers or ~~rating~~ advisory organizations as may be deemed appropriate in conjunction with the filing for a rate revision in order to determine that the rates or other filings are consistent with the terms, conditions, requirements and purposes of the Insurance Code, and to verify, validate and investigate the information upon which the insurer or ~~rating~~ advisory organization relies to support such filing.

1. The Commissioner shall maintain a list of technicians qualified pursuant to rules adopted by the ~~Board~~ Commissioner who are proficient in the lines of insurance ~~for which the Board approves rates~~ being reviewed. Upon request of the Commissioner ~~or the Board~~, the Commissioner shall employ the next available technician in rotation on the list, proficient in the line or lines of insurance being reviewed. The Commissioner may deviate from the list when employing technicians for loss cost filings pursuant to Section 901.5 of this title.

2. All reasonable expenses incurred in such filing review shall be paid by the insurer or ~~rating~~ advisory organization making the filing.

~~E.~~ C. The Commissioner shall employ ~~for the Board~~ examiners to ensure that the rates which have been approved by or filed with the ~~Board~~ Commissioner are the rates which are being used by the insurer or by the insurers whose ~~rating~~ advisory organization has had a rate approval or rate filing.

1. Any insurer examined pursuant to the provisions of this section shall pay all reasonable charges incurred in such examination, including the actual expense of the Commissioner or the expenses and compensation of the authorized representative of the Commissioner and the expense and compensation of assistants and examiners employed therein.

2. All expenses incurred in such examination shall be verified by affidavit and a copy shall be filed and kept in the office of the Insurance Commissioner.

SECTION 8. AMENDATORY 36 O.S. 2001, Section 334.1, is amended to read as follows:

Section 334.1 The Insurance Commissioner is hereby authorized to arrange for the training of rate analysts and assistant rate analysts. Funds appropriated to the Insurance Commissioner may be used to pay the tuition and fees of the above personnel while receiving training related to the operations of the ~~Board~~ Property and Casualty Division.

SECTION 9. AMENDATORY 36 O.S. 2001, Section 348.1, as last amended by Section 1, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2005, Section 348.1), is amended to read as follows:

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

1. Rating organizations, ~~application~~ statistical agents and advisory organizations:

a. Application fee for issuance of license $200.00

b. License fee $500.00

2. Miscellaneous:

a. Certificate of Insurance Commissioner, under seal.....$ 20.00

b. Upon each transaction of filing of documents required pursuant to the provisions of ~~Section~~ Sections 3610 and 6601 of this title:

(1) For an individual insurer.....$ 50.00

(2) For an approved joint underwriting association, or rating or advisory organization:

(a) Basic fee.....$ 50.00

(b) Additional fee for each member or subscriber insurer.....$ 10.00, not to exceed.....$500.00.

3. For each rate, loss cost and rule filing request pursuant to the provisions of Sections ~~902.1, 903 et seq.,~~ 6821 and 981 et seq. of this title:

a. For an individual insurer.....$100.00

b. For an approved joint underwriting association, rating or advisory organization:

(1) Basic fee.....$100.00

(2) Additional fee for each member or subscriber insurer.....$ 10.00, not to exceed.....$500.00.

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

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

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

SECTION 10. AMENDATORY 36 O.S. 2001, Section 362, as last amended by Section 2, Chapter 131, O.S.L. 2004 (36 O.S. Supp. 2005, Section 362), is amended to read as follows:

Section 362. A. There is hereby created in the State Treasury a revolving fund for the Insurance Commissioner to be designated the "Insurance Department Anti-Fraud Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received and collected by the Insurance Department pursuant to subsection B of this section and all other monies designated to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Insurance Commissioner for the purposes of investigation of suspected insurance fraud and civil or administrative action in cases involving suspected insurance fraud.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

B. The following shall pay an annual fee of Seven Hundred Fifty Dollars ($750.00) to the Insurance Department which shall be payable quarterly in the amount of One Hundred Eighty-seven Dollars and fifty cents ($187.50): Life, accident and health insurers; property and casualty insurers; county mutual fire insurers; mutual benefit associations; fraternal benefit societies; reciprocal insurers; motor service clubs; title insurers; nonprofit insurers; health maintenance organizations (HMOs); service warranty associations; surplus lines carriers; multiple employer welfare arrangements (MEWAs); trusts which write surety policies; prepaid dental plan organizations; and accredited reinsurers. The payments shall be due on or before the last day of the month following each calendar quarter. Within sixty (60) days after each calendar quarter, the Commissioner shall transfer~~:~~

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

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

SECTION 11. AMENDATORY 36 O.S. 2001, Section 901.2, is amended to read as follows:

Section 901.2 As used in this act unless the context otherwise requires:

1. "Act" means the Oklahoma Insurance Rating Act;

2. ~~"Board" means the State Board for Property and Casualty Rates created pursuant to Section 331 et seq. of Title 36 of the Oklahoma Statutes;~~

~~3.~~ "Commissioner" means the Insurance Commissioner of the State of Oklahoma or his designee;

~~4.~~ 3. "Department" means the Insurance Department of the State of Oklahoma;

~~5.~~ 4. "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or as a prospective loss cost and an adjustment to account for the treatment of expenses, profit and variations in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premiums:

a. "prospective loss cost", as used in this paragraph, means that portion of a rate that does not include provisions for expenses, other than loss adjustment expenses, or profit, and are based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time, and

b. "expenses", as used in this paragraph, means that portion of a rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses, and fees; and

~~6.~~ 5. "Rating organization, advisory organization or statistical organization" means any two or more insurers acting in cooperation or in concert for the purpose of making rates, rating plans or rating systems.

SECTION 12. AMENDATORY 36 O.S. 2001, Section 901.3, is amended to read as follows:

Section 901.3 A. In order to be ~~certified by the Insurance Commissioner as~~ complete, a filing shall contain~~, unless the Commissioner includes as part of the certification a specific finding that a particular item is not necessary and stating the reasons therefor,~~ the following:

1. A memorandum briefly summarizing the gist of the filing;

2. An index to the filing;

3. A clear and concise statement of the action desired to be taken by the ~~State Board for Property and Casualty Rates~~ Commissioner;

4. References to the sections of law and to rules and regulations which authorize the action desired to be taken by the ~~Board~~ Insurance Commissioner or which support the information contained in the filing;

5. An explanation of the application of the filing factors, which are contained in subsection A of Section 902.2 or subsection B of Section 985 of this title, together with assumptions and conclusions concerning such factors;

6. References to exhibits and other documents contained in the filing which are relied upon to support the action requested by the filing; and

7. Any other information required by the Commissioner ~~or the Board~~.

B. If the filer is ~~a rating~~ an advisory organization or joint underwriting association, it is sufficient for such information to be provided in summary form for all the filer's members and subscribers.

C. If a filing is incomplete, the Commissioner shall notify the filer, in writing, of the necessary materials required by this article, by rules of the ~~Board~~ Commissioner or by orders adopted by the ~~Board~~ Commissioner to complete the filing ~~for certification. The time for certification of the filing shall be tolled pending~~

~~receipt of such information from the filer. Upon receipt of the required information the time for completion of certification shall again begin to run.~~

~~D. Upon certification of the completion of a filing by the Commissioner, the filing shall be placed on the agenda of the next regularly scheduled meeting of the Board. Following certification, no meeting regarding a filing shall be held unless the requirements of subsection A of Section 901.4 of this title are met.~~

~~E. If the Commissioner fails or refuses to certify completion of a filing which meets or exceeds the requirements of this act, the company or organization making the filing may request, in writing, that the Board certify the filing. Certification by the Board shall have the same effect as if the Commissioner had certified the filing.~~

~~F. Certification of the completion of the filing shall be accomplished within thirty (30) calendar days. If the filing is not certified to be complete or if a dispute occurs regarding the certification of completion of the filing, then the dispute or failure or refusal to certify completion shall be presented to the Board at the next scheduled meeting for the Board's review and decision on certification~~.

SECTION 13. AMENDATORY 36 O.S. 2001, Section 901.4, is amended to read as follows:

Section 901.4 A. Not less than ten (10) days in advance of a meeting to determine whether a hearing will be held, the ~~Board~~ Insurance Commissioner shall give notice to each insurer or organization making the filing, to each party to the filing and to any person who annually requests in writing to be notified of filings made pursuant to this act, of the date, time and location of any hearing or rehearing, the name of the insurer or organization making the filing and of the parties to the filing and a brief statement of the action requested in the filing.

B. Hearings shall be open to the public.

C. Any person aggrieved with respect to a rate filing may make written application to the ~~Board~~ Commissioner to participate in any hearing called by the ~~Board~~ Commissioner. If the ~~Board~~ Commissioner finds the application to be supported by reasonable grounds, it may allow the applicant to appear in person or by counsel.

At the conclusion of any formal hearing and before the final closing of such hearing, any party in interest upon timely request shall be granted, as a matter of right, a continuance of twenty-four (24) hours for the purpose of making examination and analyses of documents introduced in the hearing.

D. The evidentiary procedures of the Administrative Procedures Act~~, Sections 310 and 315 of Title 75 of the Oklahoma Statutes,~~ shall apply to hearings conducted pursuant to this act.

E. Upon written request seasonably made by a person affected by the hearing, and at such person's expense, the ~~Board~~ Commissioner shall cause a full stenographic record of the proceedings to be made by a competent court reporter. If transcribed, such record shall be a part of the ~~Board's~~ Commissioner's record of the hearing, and a copy of such stenographic record shall be furnished to any other party having a direct interest therein at the request and expense of such party.

F. Following a hearing on a filing made pursuant to this act, the ~~Board~~ Commissioner may take the matter under advisement for up to thirty (30) calendar days, subject to the provisions of Section 903 of ~~Title 36 of the Oklahoma Statutes~~ this title.

G. At any time during the pendency of a filing, the ~~Board~~ Commissioner may:

1. Require the submission of additional information by any party to the filing;

2. Solicit proposals for independent analysis of the filing by qualified technicians, such technicians to be chosen pursuant to the

provisions of Section 332 of ~~Title 36 of the Oklahoma Statutes~~ this title;

3. Consider the findings of its employees or the technician; and

4. Conduct other or additional investigations including additional hearings.

~~H. The provisions of this section shall not apply to regularly scheduled meetings of the Board which are governed by the provisions of the Oklahoma Open Meeting Act and where no hearing has been requested.~~

~~I. The Board may utilize hearing officers to hear matters before the Board. The hearing officer shall file a proposed order for any such matter with the Board. The proposed order shall include findings of fact and conclusions of law. Such proceedings shall be conducted in accordance with the Administrative Procedures Act.~~

SECTION 14. AMENDATORY 36 O.S. 2001, Section 902, is amended to read as follows:

Section 902. A. The ~~Board~~ Insurance Commissioner shall not approve rates for insurance which are excessive, inadequate, or unfairly discriminatory.

1. An excessive rate is one which:

a. is unreasonably high for the insurance provided, or

b. is unreasonable because (1) a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable and (2) the rate is unreasonably high for the insurance provided.

2. An inadequate rate is one which:

a. is (1) unreasonably low for the insurance provided and (2) the continued use of such rate endangers, or if

continued would endanger, the solvency of the insurer, or

b. is (1) unreasonably low for the insurance provided and (2) the continued use of such rate by the insurer has, or if continued would have, the effect of destroying competition or creating a monopoly, or

c. is insufficient to cover projected losses, expenses and a reasonable margin for profit for the line of insurance coverage to be offered in this state by the filer.

3. A rate shall not be unfairly discriminatory.

a. A rate is not unfairly discriminatory because it is based in part upon the establishment or modification of classifications of risks based upon:

(1) the size of the risk,

(2) the expense or difficulty in management of the risk,

(3) the individual experience of the risk,

(4) the location or dispersion of the risk, or

(5) any other reasonable consideration attributable to the risk.

b. A rate is not unfairly discriminatory in relation to another in the same class of business if it reflects equitably the differences in expected losses and expenses. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or with like expense factors but different loss exposures, if the rates reflect the differences with reasonable accuracy.

c. A rate shall be deemed unfairly discriminatory as to a risk or group of risks if the application of premium

discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

d. A rate shall never be based upon race, color, creed or national origin.

B. The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

C. Nothing in this act shall be construed to require uniformity in insurance rates, classifications, rating plans, or practices.

D. Nothing in this act shall abridge or restrict the freedom of contract of insurers, agents, brokers or employees with reference to the commissions, compensation, or salaries to be paid to such agents, brokers, or employees by insurers.

E. ~~No insurer, agent, or broker shall make, issue, or deliver, or knowingly permit the making, issuance, or delivery of any policy of insurance within the scope of this law contrary to pertinent filings which are in effect for the insurer as provided in this article, except upon the written application of the insured stating his reasons therefor and filed with the Board, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. In the event of noncompliance with this subsection, the Board may, in addition to any other penalty provided by law, order a 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.~~

~~F.~~ The burden of compliance with the provisions of this act shall rest upon the insurer or rating organization in all matters involving a filing made pursuant to ~~this act~~ Section 6821 of this title.

~~G. Nothing in this act shall be construed to require the Board, when considering a filing made in accordance with the provisions of this act, to determine that existing rates no longer meet the requirements of this article.~~

SECTION 15. AMENDATORY 36 O.S. 2001, Section 902.2, as amended by Section 6, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2005, Section 902.2), is amended to read as follows:

Section 902.2 A. The ~~State Board for Property and Casualty Rates~~ Insurance Commissioner 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. Whether existing rates continue to meet the standards of this article.

B. The ~~Board~~ Commissioner 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~~

1. "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~~

2. "Prohibited expenses for advertising" shall not mean:

~~(1)~~

a. any communication to customers and the public of information regarding an insurer's insurance products,

~~(2)~~

b. any communication to customers and the public of safety, safety education or loss prevention information,

~~(3)~~

c. periodic publications or reports to stockholders or members required by the certificate or bylaws of the insurer,

~~(4)~~

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

~~(5)~~

e. any communication with customers and the public for giving notice or information required by law or otherwise necessary;

~~c. "prohibited~~

3. "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~~

4. "Prohibited expenses for membership" shall not mean the cost of membership in ~~rating~~ advisory 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 16. AMENDATORY 36 O.S. 2001, Section 902.3, is amended to read as follows:

Section 902.3 A. Workers' compensation premiums shall be calculated on a basis that, as nearly as is practicable, after the effects of experience rating and other applicable rating plans have been considered, the sum of expected losses and expected expenses as a percentage of premium shall be the same for high- and low-wage-paying employers in the same job classification.

B. The ~~State Board for Property and Casualty Rates~~ Insurance Commissioner and the Board of Managers of ~~the State Insurance Fund~~ CompSource Oklahoma shall:

1. Determine the extent to which high-wage-paying employers are paying premiums higher than those which would produce the same ratio of expected losses and expenses to premiums as for employers paying lower wages;

2. Determine whether this effect is primarily seen in certain types of job classifications;

3. Investigate alternatives and modifications to the current method of computing workers' compensation premiums, including wage rate recognition plans used in other states, split classifications, wage rate caps, and hours worked;

4. Conduct a hearing or hearings on this matter, including consideration of other alternatives; and

5. Adopt rules by January 1, 1996, to become effective on July 1, 1996, unless disapproved by the Legislature, to equalize, as nearly as is practicable, expected losses and expenses as a percentage of workers' compensation premiums for high- and low-wage-paying employers in the same job classification. If the effect is found to be primarily seen in certain types of job classifications, the rules shall be adopted to apply only to such types of job classifications. The adopted rules shall be subject to legislative review and shall be promulgated as permanent rules pursuant to the Administrative Procedures Act. The agency rule report required by the Administrative Procedures Act shall include a rule impact statement together with an actuarial analysis of the proposed rule describing in detail the classes of persons who most likely will be affected by the proposed rules; the classes of persons who will benefit from the adopted rules; and the probable economic impact of the proposed rules upon the affected classes of persons. The actuarial analysis shall be prepared by an independent actuary selected by the ~~State Board of Property and Casualty Rates~~ Insurance Commissioner. The rules shall not be invalidated on the ground that

the contents of the rule impact statement or the actuarial analysis are insufficient or inaccurate.

C. The cost of the premium adjustment plan shall be allocated among all employers purchasing workers' compensation insurance from all carriers, including ~~the State Insurance Fund~~ CompSource Oklahoma.

SECTION 17. AMENDATORY 36 O.S. 2001, Section 903.2, is amended to read as follows:

Section 903.2 A. No insurance company shall request and the ~~State Board for Property and Casualty Rates~~ Insurance Commissioner shall not approve an increase for the expense portion of insurance company rate filings based upon the requirements of ~~Sections 11 through 14 of this act~~ Section 6701 of this title, Section 425 of Title 40 of the Oklahoma Statutes, and Section 61.2 of Title 85 of the Oklahoma Statutes.

B. ~~The State Insurance Fund~~ CompSource Oklahoma shall not request and its Board of Managers shall not approve reimbursement for expenses based upon the requirements of ~~Sections 11 through 14 of this act~~ Section 6701 of this title, Section 425 of Title 40 of the Oklahoma Statutes, and Section 61.2 of Title 85 of the Oklahoma Statutes above the limitation on expenses of administration of ~~the State Insurance Fund~~ CompSource Oklahoma specified in Section 139 of Title 85 of the Oklahoma Statutes.

SECTION 18. AMENDATORY 36 O.S. 2001, Section 904, is amended to read as follows:

Section 904. A. All schedules and insurance rates and supporting information filed in accordance with the provisions of this article shall be open to inspection to the public after such filings are made.

B. Every ~~rating~~ advisory organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge

as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

C. Every ~~rating~~ advisory organization and every insurer which makes its own rates shall provide within the state reasonable means whereby any person, aggrieved by the application of its rating system, may be heard, in person or by his authorized representative, on his written request to revise the manner in which such rating system has been applied in connection with the insurance afforded him. If the ~~rating~~ advisory organization or insurer fails to grant or reject such request, within thirty (30) days after it is made, this applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such ~~rating~~ advisory organization or such insurer on such request may, within thirty (30) days after written notice of such action, appeal to the ~~Board~~ Insurance Commissioner, which, after a hearing held upon not less than ten (10) days written notice to the appellant and to such ~~rating~~ advisory organization or insurer, may modify, affirm or reverse such action.

D. No insurer, agent, broker, or ~~rating~~ advisory organization may willfully withhold required information from or give false or misleading information to the ~~Board~~ Commissioner.

E. No insurer, agent, or broker shall fail to furnish to an insured any policy or comparable evidence of insurance to which the insured is entitled.

SECTION 19. AMENDATORY 36 O.S. 2001, Section 907, is amended to read as follows:

Section 907. In addition to any powers hereinbefore expressly enumerated in this law, the ~~Board~~ Commissioner shall have full power and authority to enforce by regulations, orders, or otherwise all and singular, the provisions of this law, and the full intent thereof. In particular it shall have the authority and power:

1. To examine all records of insurers~~,~~ and advisory organizations ~~and rating organizations~~ and to require any insurer, agent, broker~~,~~ and advisory organization~~, and rating organization~~ to furnish under oath such information as it may deem necessary for the administration of this law. The expense of such examination shall be paid by the insurer~~,~~ or advisory organization~~, or rating organization~~ examined. In lieu of such examination, the ~~Board~~ Commissioner may, in ~~its~~ the discretion of the Commissioner, accept a report of examination made by any other insurance supervisory authority;

2. To make and enforce such reasonable orders, rules, and regulations as may be necessary in making this law effective, but such orders, rules and regulations shall not be contrary to or inconsistent with the provisions of this law; and

3. To issue an order, after a full hearing to all parties in interest requiring any insurer, group, association, or organization of insurers and the members and subscribers thereof to cease and desist from any unfair or unreasonable practice.

SECTION 20. AMENDATORY 36 O.S. 2001, Section 907.1, is amended to read as follows:

Section 907.1 A. The ~~Board~~ Insurance Commissioner shall monitor and examine the adequacy of rates of any insurer and ~~rating~~ advisory organization in this state. In so doing, the ~~Board~~ Commissioner shall:

1. Utilize existing relevant information, analytical systems and other sources; or

2. Cause or participate in the development of new relevant information, analytical systems and other sources.

B. The ~~Board~~ Commissioner may require the maintenance and submission of records, memoranda or information relating to rates from such insurers and ~~rating~~ advisory organizations. The ~~Board~~ Commissioner or any authorized representative of the ~~Board~~

Commissioner may examine any such record, memoranda or information concerning rates. The application for the acceptance of any license or permit issued pursuant to the provision of this title shall be deemed consent for the inspection and examination of such records, memoranda or information.

C. The ~~Board~~ Commissioner shall conduct such monitoring and examination required pursuant to this section within the Insurance Department, at the place of business of such insurers and ~~rating~~ advisory organizations, in cooperation with other state insurance departments, through outside contractors or in any other appropriate manner.

D. The cost of such examination and monitoring shall be assessed against insurers and ~~rating~~ advisory organizations on an equitable and practical basis established, after hearing, in a rule promulgated by the ~~Board~~ Commissioner.

E. The monitoring and examinations required pursuant to the provisions of this section, shall be conducted in a reasonably economical manner.

F. Any monies collected from administrative fees, fines, penalties and assessments against insurers and ~~rating~~ advisory organizations pursuant to this act shall be deposited to the credit of the Insurance Commissioner's Revolving Fund for the purpose of carrying out and enforcing the provisions of this article.

SECTION 21. AMENDATORY 36 O.S. 2001, Section 908, is amended to read as follows:

Section 908. The ~~State Board for Property and Casualty Rates~~ Insurance Commissioner may, if ~~it~~ the Commissioner finds that any person or organization has violated the provisions of any statute for which the ~~Board~~ Commissioner has jurisdiction, impose a penalty of not less than One Hundred Dollars ($100.00) nor more than Five Thousand Dollars ($5,000.00) for each such violation. Such penalties may be in addition to any other penalty provided by law.

No penalty shall be imposed except upon a written order of the ~~Board~~ Commissioner, stating ~~its~~ the findings of the Commissioner made after a hearing held not less than ten (10) days after written notice to a person or organization alleged to have violated any statute for which the ~~Board~~ Commissioner has jurisdiction specifying the alleged violation.

SECTION 22. AMENDATORY 36 O.S. 2001, Section 924.2, as amended by Section 1, Chapter 50, O.S.L. 2002 (36 O.S. Supp. 2005, Section 924.2), is amended to read as follows:

Section 924.2 A. Any rate, schedule of rates or rating plan for workers' compensation insurance submitted to or filed with the ~~State Board for Property and Casualty Rates~~ Insurance Commissioner, or fixed by the Board of Managers of CompSource Oklahoma, and premiums, by whatever name, for workers' compensation for self-insureds except for group self-insured associations shall provide for an appropriate reduction in premium charges, by whatever name, for those eligible insured employers who have successfully participated in the occupational safety and health consultation, education and training program administered by the Commissioner of the Department of Labor pursuant to Section 414 of Title 40 of the Oklahoma Statutes.

B. All insurance companies writing workers' compensation insurance in this state, including CompSource Oklahoma, and all self-insureds providing workers' compensation insurance except for group self-insured associations, shall allow an appropriate reduction in premium charges to all eligible employers who qualify for the reduction pursuant to the provisions of this section.

C. Eligible employers shall be those employers:

1. Who are insured by an insurance company writing workers' compensation insurance in this state;

2. Who are self-insured; or

3. Who are insured by CompSource Oklahoma.

D. In order to qualify for the reduction in workers' compensation insurance premium, an employer shall successfully participate annually in the occupational safety and health consultation, education and training program administered by the Department of Labor. Successful participation shall be defined as:

1. Undergoing a safety and health hazard survey of the workplace, including an evaluation of the employer's safety and health program and onsite interviews with employees by the Department's consultant;

2. Correcting all hazards identified during the onsite visit within a reasonable period of time as established by the Department;

3. Establishing an effective workplace safety and health program and implementing program provisions within a reasonable period of time as established by the Department. The program shall include:

a. demonstration of management commitment to worker safety and health,

b. procedures for identifying and controlling workplace hazards,

c. development and communication of safety plans, rules and work procedures, and

d. training for supervisors and employees in safe and healthful work practices;

4. Reducing by one-third (1/3) or more the extent to which the lost workday case rate, as measured by the Department of Labor, was above the national average for the industry at the time the employer elected to participate in the occupational safety and health consultation, education and training program, or maintaining a rate at or below the national average for the industry; and

5. Documenting a reduction in workers' compensation claims for the preceding year by showing one of the following:

a. a ten percent (10%) reduction in the dollar amount of claims,

b. a ten percent (10%) reduction in the severity of claims, or

c. no reported claims,

as a result of attending the occupational safety and health consultation, education and training program administered by the Department of Labor.

E. 1. Upon successful participation in the occupational safety and health consultation, education and training program as defined in subsection D of this section, an employer shall be issued a certificate by the Commissioner of the Department of Labor which shall be the basis of qualification for the reduction in workers' compensation insurance premium, by whatever name. The certificate shall qualify the employer for a premium reduction for a one-year period.

2. Upon issuance of a certificate to an employer, the Commissioner of the Department of Labor shall mail a copy of the certificate to the employer's insurer. Any insurer required by this section to allow an appropriate reduction in premium charges to a qualified employer which willfully fails to allow such reduction after receiving a copy of the certificate shall be subject, after notice and hearing, to an administrative fine, imposed by the Insurance Commissioner, which shall be not less than Ten Thousand Dollars ($10,000.00) or three times the amount of the premium reduction, whichever is greater. The Insurance Commissioner shall promulgate rules necessary to carry out the provisions of this paragraph.

F. The Insurance Commissioner, the Administrator of the Workers' Compensation Court and the CompSource Oklahoma President and Chief Executive Officer shall maintain records documenting reductions in workers' compensation insurance premiums granted

pursuant to this section and shall make an annual report of such reductions to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by May 1 of each year. Insurers shall report such premium reductions in their annual statement.

G. CompSource Oklahoma shall instruct its actuary to continually review the insurance premium credit program, developed and implemented pursuant to Section 142a of Title 85 of the Oklahoma Statutes, to determine if the program is detrimental to the financial stability of CompSource Oklahoma. If the actuary determines that the program contributes detrimentally to the financial stability of CompSource Oklahoma, the actuary shall immediately recommend to the CompSource Oklahoma President and Chief Executive Officer that the safety premium reduction cease for a one-year period.

SECTION 23. AMENDATORY 36 O.S. 2001, Section 924.3, is amended to read as follows:

Section 924.3 The ~~State Board for Property and Casualty Rates~~ Insurance Commissioner shall adopt rules and regulations creating a procedure for an employer to appeal its rating classification for workers' compensation insurance to the ~~Board~~ Commissioner. Any hearings pursuant to this procedure shall be subject to the Administrative Procedures Act.

SECTION 24. AMENDATORY 36 O.S. 2001, Section 932, is amended to read as follows:

Section 932. A. Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto, as herein provided, subject, with respect to joint underwriting, to all other provisions of this act, and with respect to joint reinsurance as provided in this act.

B. If, after a hearing, the ~~Board~~ Insurance Commissioner finds that any activity or practice of any such group, association or other organization, is unfair or unreasonable, or otherwise inconsistent with the provisions of this act, ~~it~~ the Commissioner may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this act, and require the discontinuance, within a reasonable time under the circumstances, of such act or practice.

SECTION 25. AMENDATORY 36 O.S. 2001, Section 937, is amended to read as follows:

Section 937. A. Any insurer or ~~rating~~ advisory organization aggrieved by any order or decision of the ~~Board~~ Insurance Commissioner, made without a hearing, may, within thirty (30) days after notice of the order to the insurer or organization, make written request to the ~~Board~~ Commissioner for a hearing thereon. The ~~Board~~ Commissioner shall hear such party or parties within twenty (20) days after receipt of such request and shall give not less than ten (10) days' written notice of the time and place of the hearing. Within fifteen (15) days after such hearing, the ~~Board~~ Commissioner shall affirm, reverse or modify ~~its~~ the previous action of the Commissioner, specifying its reasons therefor. Pending such hearing and decision thereon, the ~~Board~~ Commissioner may suspend or postpone the effective date of ~~its~~ the previous action of the Commissioner.

B. Nothing contained in this act shall require the observance at any hearing, of formal rules of pleading or evidence.

C. Except as otherwise provided in this act, any order or decision of the ~~State Board for Property and Casualty Rates~~ Commissioner made pursuant to this act shall be subject to review by appeal to the Supreme Court of Oklahoma at the instance of any party in interest. Such party in interest may appeal from such order or decision by filing with the Clerk of the Supreme Court, within

thirty (30) days from the date of such order or decision, a petition in error with a copy of the order or decision appealed from. The time limit prescribed herein for filing the petition in error may not be extended. The Supreme Court shall prescribe, by rule, the manner in which the record of the proceedings, sought to be reviewed, shall be perfected and the time for its completion. The appeal shall not stay the execution of any order or decision of the ~~Board~~ Commissioner unless the Supreme Court shall, for cause shown, order that said decision or order be stayed pending such appeal, in which event the Court shall determine the terms and conditions upon which the same shall be stayed; provided, premiums collected prior to the effective date of the order of the Court imposing a stay shall be retained by the insurer unless the Court finds that such premiums were obtained by fraud, or unless otherwise ordered by the Court.

The Court may, in disposing of the issue before it, determine all issues of law and fact, and may modify, affirm or reverse the order or decisions of the ~~Board~~ Commissioner in whole or in part.

SECTION 26. AMENDATORY 36 O.S. 2001, Section 997, is amended to read as follows:

Section 997. Commercial Special Risks.

A. The following categories of commercial lines risks, excluding employer's liability line, workers' compensation and excess workers' compensation, are special risks and are exempted from the filing and review requirements set forth in ~~Sections 7~~ Section 987 ~~and 8~~ of this ~~act~~ title:

1. Risks which are written on an excess or umbrella basis;

2. Those commercial lines insurance risks, or portions thereof which are not rated according to manuals, rating plans, or schedules including "a" rates;

3. Commercial lines insurance risks which produce a minimum annual premium total of Ten Thousand Dollars ($10,000.00); and

4. Specifically designated special risks, including:

a. risks insured under the provisions of the Highly Protected Risks Rating Plan,

b. all commercial insurance aviation risks,

c. all credit insurance risks,

d. all boiler and machinery risks,

e. all inland marine risks,

f. all fidelity and surety risks, and

g. any other risk that the Commissioner determines to fall within the special risk category.

B. Underwriting files, premiums, loss and expense statistics, financial and other records with regard to special risks written by an insurer shall be maintained by the insurer and shall be subject to examination by the Commissioner.

SECTION 27. AMENDATORY 36 O.S. 2001, Section 1109, is amended to read as follows:

Section 1109. A. Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with this article shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

B. Insurance contracts procured as surplus line coverage shall contain in bold-face type notification stamped <u>by the broker or unauthorized insurer</u> on the declaration page of the policy that such contracts are not subject to the protection of any guaranty association in the event of liquidation or receivership of the insurer.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1125 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary

commissioner, shall annually submit the opinion of an appointed actuary entitled "Statement of Actuarial Opinion". This opinion shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions.

B. 1. Every property and casualty insurance company domiciled in this state that is required to submit a Statement of Actuarial Opinion shall annually submit an actuarial opinion summary written by the company's appointed actuary. This actuarial opinion summary shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be considered as a document supporting the actuarial opinion required in subsection A of this section.

2. A company licensed but not domiciled in this state shall provide the actuarial opinion summary upon request.

C. 1. An actuarial report and underlying workpapers as required by the appropriate NAIC Property and Casualty Annual Statement Instructions shall be prepared to support each actuarial opinion.

2. If the insurance company fails to provide a supporting actuarial report and/or workpapers at the request of the Insurance Commissioner or the Commissioner determines that the supporting actuarial report or workpapers provided by the insurance company are otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting actuarial report or workpapers.

D. The appointed actuary shall not be liable for damages to any person, other than the insurance company and the Commissioner, for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the appointed actuary.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1126 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Statement of Actuarial Opinion shall be provided with the annual statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be treated as a public document.

B. 1. Documents, materials or other information in the possession or control of the Insurance Department that are considered an actuarial report, workpapers or actuarial opinion summary provided in support of the opinion, and any other material provided by the company to the Insurance Commissioner in connection with the actuarial report, workpapers or actuarial opinion summary, shall be confidential by law and privileged, shall not be subject to the Oklahoma Open Records Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

2. This provision shall not be construed to limit the Commissioner's authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is required for the purpose of professional disciplinary proceedings and the ABCD establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents, nor shall this section be construed to limit the Commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.

C. Neither the Commissioner nor any person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential

documents, materials or information subject to subsection B of this section.

D. In order to assist in the performance of the Commissioner's duties, the Commissioner:

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

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

3. May enter into agreements governing sharing and use of information consistent with subsections B through D of this section.

E. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection D of this section.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1140 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. "Advisory organization" means a corporation, an unincorporated association, a partnership or an individual, whether located inside or outside of this state, organized and licensed for the purpose of making rates, loss costs, rating plans, statistical collection, furnishing statistical data, policy forms and endorsements or rating systems.

B. The term "advisory organization" shall be synonymous with the terms "bureau", "statistical agent" and "rating organization".

C. No advisory organization shall provide any service relating to the loss costs, rates, rating plans, manual rules, rating systems or policy forms of any property and casualty insurance products subject to the provisions of the Oklahoma Insurance Code and no insurer shall utilize the services of such organization unless the organization has obtained a license.

D. No advisory organization shall refuse to supply any services for which it is licensed in this state to any insurer authorized to do business in this state and offering to pay the usual compensation for the services.

E. 1. An advisory organization applying for a license shall include with its application:

a. a copy of its constitution, charter, articles of organization, agreement, association or incorporation, and a copy of its bylaws, plan of operation and any other rules or regulations governing the conduct of its business,

b. a list of its members and subscribers,

c. the name and address of one or more residents of this state upon whom notices, process affecting it, or orders of the Insurance Commissioner may be served,

d. a statement showing its technical qualifications for acting in the capacity for which it seeks a license,

e. a biography of the ownership and management of the organization, and

f. any other relevant information and documents that the Commissioner may require.

2. Every organization which has applied for a license shall notify the Commissioner of every material change in the facts or in the documents on which its application was based. Any amendment to a document filed under this section shall be filed at least thirty (30) days before it becomes effective.

3. If the Commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy and technically qualified to provide the services proposed, and that all requirements of the law are met, the Commissioner shall issue a license specifying the authorized activity of the applicant. The Commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in the market.

4. Licenses issued pursuant to this section shall remain in force for one (1) year unless suspended or revoked. The Commissioner may at any time, after a hearing, revoke or suspend the license of any advisory organization that does not comply with the requirements and standards of the applicable provisions of the Insurance Code.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1141 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No advisory organization shall:

1. Attempt to monopolize, or combine or conspire with any person or persons to monopolize, an insurance market;

2. Engage in a boycott, on a concerted basis, of an insurance market; and

3. Except as set forth in subsection B of this section, agree to mandate adherence to or to mandate use of any rate, prospective loss cost, rating plan, rating schedule, rating rule, policy or bond form, rate classification, rate territory, underwriting rule, survey, inspection or similar material. Insurers and advisory organizations may agree to develop and adhere to statistical plans permitted by the applicable provisions of the Oklahoma Insurance Code.

B. Except as specifically permitted under the applicable provisions of the Insurance Code, no advisory organization shall compile or distribute recommendations relating to rates that include expenses, other than loss adjustment expenses or loss-based taxes and assessments, or profit.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1142 of Title 36, unless there is created a duplication in numbering, reads as follows:

Any licensed advisory organization, in addition to other activities not prohibited, is authorized on behalf of its members and subscribers to:

1. Develop statistical plans including territorial and class definitions;

2. Collect statistical data from members, subscribers or any other source;

3. Prepare, file and distribute prospective loss costs which may include provisions for special assessments and taxes;

4. Prepare, file and distribute factors, calculations or formulas pertaining to classification, territory, increased limits and other variables;

5. Prepare, file and distribute manuals of rating rules, rating schedules and other supplementary rating information that does not

include final rates, expense provisions, profit provisions or minimum premiums;

6. Distribute information that is required or directed to be filed with the Commissioner;

7. Conduct research and on-site inspections in order to prepare classifications of public fire defenses;

8. Consult with public officials regarding public fire protection as it would affect members, subscribers and others;

9. Conduct research and collect statistics in order to discover, identify and classify information relating to causes or prevention of losses;

10. Conduct research and collect information to determine the impact of statutory and other law changes upon prospective loss costs and special assessments;

11. Prepare, file and distribute policy forms and endorsements and consult with members, subscribers and others relative to their use and application;

12. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures;

13. Conduct on-site inspections to determine rating classifications for individual insureds;

14. Collect, compile and publish past and current prices of individual insurers; provided, such information is also made available to the general public for a reasonable price;

15. Collect and compile exposure and loss experience for the purpose of individual risk experience ratings;

16. File final rates for residual market mechanisms; and

17. Furnish any other services, as approved or directed by the Insurance Commissioner, related to those enumerated in this section.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1143 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Every advisory organization 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 Insurance 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. The Commissioner, after a hearing, shall affirm or reverse the action of the advisory organization.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1144 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner shall make or cause to be made, at least once in five (5) years, an examination of each advisory organization licensed in this state as provided in this act, and the Commissioner may, as often as it may deem expedient, make or cause to be made an examination of each advisory organization referred to in this act, and of each group, association, or other organization referred to in this act. The reasonable cost of any such examination shall be paid by the organization examined, upon presentation of a detailed account of such costs.

B. The officers, managers, agents and employees of such advisory organization may be examined, at any time, under oath, and shall exhibit all books, records, accounts, documents or agreements governing its method of operation.

C. In lieu of any such examination, the Commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1145 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner shall promulgate rules and statistical plans adapted to each of the rating systems on file, which may be modified, from time to time, and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available, at least annually, in such form and detail as may be necessary to aid it in determining whether rating systems comply with the standards set forth in this act.

1. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible to determination by a prorating of countrywide expense experience.

2. In promulgating such rules and plans, the Commissioner shall give due consideration to the rating system on file and, in order that such 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.

3. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it.

4. The Commissioner may designate one or more advisory organizations or other agencies to assist it in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the Commissioner, to insurers and advisory organizations.

B. Reasonable rules and plans may be promulgated by the Commissioner for the interchange of data necessary for the 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 rating organizations in other states and may consult with them with respect to ratemaking and the application of rating systems.

D. The Commissioner may make reasonable rules and regulations necessary to effect the purposes of this act.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1146 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No person shall willfully withhold information from, or knowingly give false or misleading information to, the Insurance Commissioner, or any advisory organization designated by the Commissioner, which will affect the rates or premiums chargeable under this act.

B. A person convicted of violating this section shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars ($1,000.00) nor more than Ten Thousand Dollars ($10,000.00), or by imprisonment of not more than three (3) years or by both such fine and imprisonment.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1147 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Insurance Commissioner may suspend the license of any advisory organization which fails to comply with an order of the Commissioner within the time limit established by such order, or any extension thereof which the Commissioner may grant. The Commissioner shall not suspend the license of any advisory organization for failure to comply with an order until the time prescribed for judicial review has expired or if an action for judicial review has been commenced, until the order has been affirmed or the action has been dismissed. The Commissioner may determine when a suspension of license shall become effective and when it shall terminate, unless it modifies or rescinds the suspension, or until the order upon which the suspension is based is modified, rescinded or reversed.

B. No license shall be suspended or revoked except upon a written order of the Commissioner, stating its findings of fact and conclusions of law, made after a hearing held upon not less than ten (10) days' written notice, to the person or legal entity, specifying the alleged violation.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1148 of Title 36, unless there is created a duplication in numbering, reads as follows:

Applicable to workers' compensation insurance only, every member of, or subscriber to, a licensed advisory organization shall adhere to the loss cost filings made on its behalf by such organization within ninety (90) days of the effective date of the loss cost filing.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1161 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. “Adverse tier placement” means being subject to the rates of any tier with less coverage or higher premiums than the tier within which the insured is currently insured;

2. “Federal government-sponsored health insurance program” means the TriCare program providing coverage for civilian dependents of military personnel;

3. “Health plan” means any insurance company or health maintenance organization which issues individual coverage to a resident of this state;

4. “Individual coverage” means health insurance or health maintenance organization coverage issued on other than a group or blanket basis, including an individual coverage containing coverage for a spouse, dependent, or both;

5. “Insureds” means persons enrolled under individual coverage issued by a health plan. Insureds include persons covered under a policy of personal insurance; and

6. “Personal insurance” means private passenger automobile, motorcycle, mobile homeowners, homeowners, renters and noncommercial-dwelling fire insurance policies and boat, personal watercraft, snowmobile and recreational vehicle policies.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1162 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. No Oklahoma resident activated for military service, and no spouse or any dependents of such a resident who become eligible for a federal government-sponsored health insurance program as a result of such activation, shall be denied reinstatement into the same individual coverage with the same health plan that such resident lapsed as a result of activation or becoming covered by the federal government-sponsored health insurance program. Such resident will have the right to reinstatement in the same individual coverage without medical underwriting and in the same rating tier that the

resident held prior to activation or becoming covered under the federal government-sponsored health insurance program, subject to payment of the current premium charged to other persons of the same age and gender that are covered under the same individual coverage. Except in the case of birth or adoptions that occur during the period of activation, reinstatement must be into the same membership type, or a membership type covering fewer persons, as such resident held prior to lapsing the individual coverage, and at the same or higher deductible level. The reinstatement rights shall not be available to an insured or dependents if the activated person is discharged from the military under other than honorable conditions.

B. The health plan with which the reinstatement is being requested must receive a request for such reinstatement no later than thirty (30) days following the later of deactivation or loss of coverage under the federal government-sponsored health insurance program. The health plan may request proof of loss and the timing of the loss of such government-funded coverage in order to determine eligibility for reinstatement into the individual coverage. The effective date of the individual coverage will be the first of the month following receipt of the notice requesting reinstatement.

C. All health plans must provide written notice to the policyholder of individual coverage of the rights described in subsection A of this section and amendments thereto. In lieu of the inclusion of such notice in the individual coverage policy, an insurance company will satisfy the notification requirement by providing a single written notice either:

1. To a policyholder enrolling into the individual coverage initially after the effective date of this act, in conjunction with the enrollment process; or

2. By mailing written notice to policyholders whose coverage was effective prior to the effective date of this act no later than ninety (90) days following the effective date of this act.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1163 of Title 36, unless there is created a duplication in numbering, reads as follows:

The provisions of Section 40 of this act and amendments thereto shall not apply to any policy or certificate providing coverage for any specified disease, specified accident or accident-only coverage, credit, dental, disability income, hospital indemnity, long-term care, as defined by Article 44 of Title 36 of the Oklahoma Statutes and any amendments thereto, Medicare supplement, as defined by the Insurance Commissioner by rules and regulations, vision care, short-term nonrenewable health policy or other limited-benefit supplemental insurance, nor any coverage issued as a supplement to any liability insurance, workers' compensation or similar insurance, or any insurance under which benefits are payable with or without regard to fault, whether written on a group, blanket or individual basis.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1164 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Nothing herein shall require a health plan to reinstate such resident if the health plan requires residency in an enrollment area and those residency requirements are not met after deactivation or loss of coverage under the federal government-sponsored health insurance program.

B. All terms, conditions and limitations of the individual coverage into which reinstatement is made will apply equally to all insureds enrolled in such coverage.

C. No personal insurance issued to an Oklahoma resident on active military deployment beyond the borders of the United States of America, or the spouse or any dependent of such Oklahoma resident, shall be subject to cancellation, nonrenewal, denial of coverage, premium increase or adverse tier placement for the term of

their deployment based solely upon said Oklahoma resident's military deployment.

D. The Insurance Commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this act.

SECTION 43. AMENDATORY 36 O.S. 2001, Section 1204, as amended by Section 10, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2005, Section 1204), is amended to read as follows:

Section 1204. The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

1. Misrepresentations and false advertising of policy contracts. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

2. False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a

notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading. No insurance company shall issue, or cause to be issued, any policy of insurance of any type or description upon life, or property, real or personal, whenever such policy of insurance is to be furnished or delivered to the purchaser or bailee of any property, real or personal, as an inducement to purchase or bail said property, real or personal, and no other person shall advertise, offer or give free insurance, insurance without cost or for less than the approved or customary rate, in connection with the sale or bailment of real or personal property, except as provided in subsection B, Section 4101 of Article 41 (Group Life Insurance and Group Annuity Contracts). No person that is not an insurer shall assume or use any name which deceptively infers or suggests that it is an insurer.

3. Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

4. Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

5. False financial statements. Filing with any supervisory or other public official, or making, publishing, disseminating,

circulating or delivering to any person, or placing before the public or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

6. Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

7. Unfair discrimination. (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(c) As to kinds of insurance other than life and accident and health, no person shall make or permit any unfair discrimination in favor of particular persons, or between insureds or subjects of insurance having substantially like insuring, risk, and exposure factors, or expense elements, in the terms or conditions of any insurance contract, or in the rate or amount of premium charged therefor. This subsection shall not apply as to any premium rate in effect pursuant to Article 9 of the Oklahoma Insurance Code.

8. Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of insurance or agreement as to such contract other than as plainly expressed in the contract issued thereon; or paying or allowing, or giving or offering to pay, allow or give, directly or indirectly, as inducement to any contract of insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; except in accordance with an applicable rate filing, rating plan or rating system ~~filed with and approved by the Board or~~ filed with and approved by the Insurance Commissioner; or giving or selling or purchasing or offering to give, sell, or purchase as inducement to such insurance, or in connection therewith, any stocks, bonds or other securities of any company, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract or receiving or accepting as inducement to contracts of insurance, any rebate of premium payable on the contract, or any special favor or advantage in the dividends or other benefit to accrue thereon, or any valuable consideration or inducement not specified in the contract.

(b) Nothing in subsection 7 or paragraph (a) of this subsection shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided, that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the company and its policyholders;

(2) In the case of life or accident and health insurance policies issued on the industrial debit or weekly premium plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Making a readjustment of the rate of premium for a policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) In the case of life insurance companies, allowing its bona fide employees to receive a commission on the premiums paid by them on policies on their own lives;

(5) Issuing life or accident and health policies on a salary saving or payroll deduction plan at a reduced rate commensurate with the savings made by the use of such plan; and

(6) Paying commissions or other compensation to duly licensed agents or brokers, or allowing or returning to participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits.

(c) As used in this section, the word "insurance" includes suretyship and the word "policy" includes bond.

9. Coercion prohibited. Requiring as a condition precedent to the purchase of, or the lending of money upon the security of, real or personal property, that any insurance covering such property, or liability arising from the ownership, maintenance or use thereof, be

procured by or on behalf of the vendee or by the borrower in connection with such purchase or loan through any particular person or agent or in any particular insurer, or requiring the payment of a reasonable fee as a condition precedent to the replacement of insurance coverage on mortgaged property at the anniversary date of the policy; provided, however, that this provision shall not prevent the exercise by any such vendor or lender of the right to approve or disapprove any insurer selected to underwrite the insurance; but any disapproval of any insurer shall be on reasonable grounds.

10. Inducements. No insurer, agent, broker, solicitor, or other person shall, as an inducement to insurance or in connection with any insurance transaction, provide in any policy for or offer, sell, buy, or offer or promise to buy, sell, give, promise, or allow to the insured or prospective insured or to any other person in his behalf in any manner whatsoever:

(a) Any employment.

(b) Any shares of stock or other securities issued or at any time to be issued or any interest therein or rights thereto.

(c) Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for, or promising any special profits.

(d) Any prizes, goods, wares, merchandise, or tangible property of an aggregate value in excess of Twenty-five Dollars ($25.00).

(e) Any special favor, advantage or other benefit in the payment, method of payment or credit for payment of the premium through the use of credit cards, credit card facilities, credit card lists, or wholesale or retail credit accounts of another person. The provisions of this paragraph shall not apply to individual policies insuring against loss resulting from bodily injury or death by accident as defined by Article 44 of the Oklahoma Insurance Code.

11. Premature disposal of premium notes prohibited. No insurer or agent thereof shall hypothecate, sell, or dispose of a promissory

note received in payment of any part of a premium on a policy of insurance applied for prior to the delivery of the policy.

12. Fraudulent statement in application; penalty. Any insurance agent, examining physician, or other person who knowingly or willfully makes a false or fraudulent statement or representation in or relative to an application for insurance, or who makes any such statement to obtain a fee, commission, money, or benefit shall be guilty of a misdemeanor.

SECTION 44. AMENDATORY 36 O.S. 2001, Section 1435.6, as last amended by Section 8, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2005, Section 1435.6), is amended to read as follows:

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

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

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

D. After completion and filing of the application with the Insurance Commissioner, except as provided in Section 1435.10 of this title, the Commissioner shall subject each applicant for license as an insurance agent, insurance consultant, limited insurance representative, or customer service representative to an

examination approved by the Commissioner as to competence to act as a licensee, which each applicant shall personally take and pass to the satisfaction of the Commissioner. The Commissioner may accept examinations administered by a testing service as satisfying the examination requirements of persons seeking license as agents, solicitors, counselors, or adjusters under ~~this~~ the Oklahoma Insurance Code. The Commissioner may negotiate agreements with such testing services to include performance of examination development, test scheduling, examination site arrangements, test administration, grading, reporting, and analysis. The Commissioner may require such testing services to correspond directly with the applicants with regard to the administration of such examinations and that such testing services collect fees for administering such examinations directly from the applicants. The Commissioner may stipulate that any agreements with such testing services provide for the administration of examinations in specific locales and at specified frequencies. The Commissioner shall retain the authority to establish the scope and type of all examinations.

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

F. Each examination for a license shall be approved for use by the Commissioner and shall reasonably test the knowledge of the applicant as to the lines of insurance, policies, and transactions to be handled pursuant to the license applied for, the duties and responsibilities of the licensee, and the pertinent insurance laws of this state.

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

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

I. The applicant shall pass the examination with a grade determined by the Commissioner to indicate satisfactory knowledge and understanding of the line or lines of insurance for which the applicant seeks qualification. Within ten (10) days after the examination, the Commissioner shall inform the applicant and the appointing insurer, when applicable, as to whether or not the applicant has passed. Formal evidence of licensing shall be issued by the Commissioner to the licensee within a reasonable time.

J. An applicant who has failed to pass the first examination for the license applied for may take a second examination within thirty (30) days following the first examination. Examination fees for subsequent examinations shall not be waived.

K. An applicant who has failed to pass the first two examinations for the license applied for shall not be permitted to take a subsequent examination until the expiration of thirty (30) days after the last previous examination. An applicant shall take and pass the examination within one hundred eighty (180) days of the date of the initial application. If applicant fails to pass the examination within the specified time period, the applicant shall submit a new application accompanied by any applicable fees. Examination fees for subsequent examinations shall not be waived.

SECTION 45. AMENDATORY 36 O.S. 2001, Section 1435.8, as amended by Section 15, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2005, Section 1435.8), is amended to read as follows:

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

1. Life - insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of

death or dismemberment by accident and benefits for disability income;

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

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

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

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

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

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

8. Credit - limited line credit insurance;

9. Title insurance – insurance coverage that insures or guarantees the title to real or personal property or any interest therein or encumbrance thereon;

10. Aircraft title insurance – insurance coverage that protects an aircraft owner or lender against loss of the aircraft or priority security position in the event of a successful adverse claim on the title to an aircraft; and

~~10.~~ 11. Any other line of insurance permitted under state laws or regulations.

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

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

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

E. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date and any other information the Insurance Commissioner deems necessary.

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

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

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

SECTION 46. AMENDATORY 36 O.S. 2001, Section 1435.10, is amended to read as follows:

Section 1435.10 The following are exempt from the requirement for an examination, if the Insurance Commissioner determines, in accordance with rules adopted by the Commissioner, that the applicant is cognizant of and capable of fulfilling the responsibilities of the license:

1. Any limited lines producer; ~~and~~

2. A surplus lines insurance broker; and

3. A title insurance producer licensed prior to November 1, 2006, who is an applicant for an aircraft title producer license.

A person licensed as an insurance producer in another state who moves to this state shall make application to become a resident licensee within ninety (90) days of establishing legal residence in Oklahoma. No examination or continuing education shall be required of that person to obtain resident licensing for any line of authority held by the licensee in the prior state on the date legal residency was established in this state, except where the Insurance Commissioner determines otherwise by regulation.

SECTION 47. AMENDATORY 36 O.S. 2001, Section 1435.23, as amended by Section 19, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2005, Section 1435.23), is amended to read as follows:

Section 1435.23 A. All applications shall be accompanied by the applicable fees. An appointment may be deemed by the Commissioner to have terminated upon failure by the insurer to pay the prescribed renewal fee. The Commissioner may also by order impose a civil penalty equal to double the amount of the unpaid renewal fee.

The Insurance Commissioner shall collect in advance the following fees and licenses:

1. For filing appointment of Insurance Commissioner as agent for service of process .....$ 20.00

2. Miscellaneous:

   a. Certificate and Clearance of Commissioner .....$ 3.00

   b. Insurance producer's study manual:

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

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

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

3. Examination for license:

   For each examination covering laws and one or more lines of insurance..... not to exceed $100.00

4. Licenses:

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

b. Insurance producer’s biennial license for sale or solicitation of separate accounts or agreements, as provided for in Section 6061 of this title.....$ 60.00

c. Limited lines producer biennial license.....$ 40.00

d. Temporary license as agent.....$ 20.00

e. Managing general agent's biennial license.....$ 60.00

f. Surplus lines broker's biennial license.....$100.00

g. Insurance vending machine, each machine, biennial fee.....$100.00

h. Insurance consultant's biennial license, resident or nonresident.....$100.00

i. Customer service representative biennial license.....$ 40.00

5. Biennial fee for each appointed insurance producer, managing general agent, or limited lines producer by insurer, each license of each insurance producer or representative. ....$ 40.00

6. Renewal fee for all licenses shall be the same as the current initial license fee.

7. The fee for a duplicate license shall be one-half (1/2) the fee of an original license.

8. The renewal of a license shall require a fee of double the current original license fee if the application for renewal is late, or incomplete on the renewal deadline.

B. 1. The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 1, 2, 7 and 8 of subsection A of this section shall be deposited with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund for the purpose of fulfilling and accomplishing the conditions and purposes of the Oklahoma

Producer Licensing Act, including the use of postal mail facilities for the Department.

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

C. There is hereby created in the State Treasury the State Insurance Commissioner Revolving Fund which shall be a continuing fund not subject to fiscal year limitations. The revolving fund shall consist of fees and monies received by the Insurance Commissioner as required by law to be deposited in said fund and any other funds not dedicated in the Oklahoma Insurance Code. The revolving fund shall be used to fund the general operations of the Insurance Commissioner's Office for the purpose of fulfilling and accomplishing the conditions and purposes of the Oklahoma Producer Licensing Act. All expenditures from said revolving fund shall be on claims approved by the Insurance Commissioner and filed with the Director of State Finance for payment.

D. All fees, fines, monies, and license fees authorized by the provisions of this section and not dedicated by the provisions of subsection B of this section to the State Insurance Commissioner Revolving Fund shall be paid into the State Treasury to the credit of the General Revenue Fund of this state.

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

<u>F. The Insurance Commissioner, by order, may waive licensing fees in extraordinary circumstances for a class of producers where the Commissioner deems that the public interest will be best served.</u>

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1435.13a of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The provisions of this section shall apply only to property and casualty insurance producers. All premiums belonging to insurers and all unearned premiums belonging to insureds received by an insurance producer licensee under this article shall be treated by the insurance producer licensee in a fiduciary capacity.

1. All premiums received less commissions, if authorized, shall be remitted by the insurance producer licensee to the insurer or its agent entitled thereto on or before the contractual due date or, if there is no contractual due date, within forty-five (45) days after receipt.

2. All returned premiums received from insurers or credited by insurers to the account of the insurance producer licensee shall be remitted to or credited to the account of the licensee entitled thereto within thirty (30) days after receipt or credit.

3. An insurer or its agent shall promptly report to the Commissioner in writing the failure of any insurance producer to account for any collected premium to the insurer entitled to the accounting or to the insurer's agent entitled thereto for more than forty-five (45) days after the contractual due date or, if there is no contractual due date, more than ninety (90) days after receipt.

B. Every insurer shall remit unearned premiums to the insured or the proper agent or shall otherwise credit the account of the proper insurance producer licensee as soon as is practicable after entitlement thereto has been established but in no event more than forty-five (45) days after the effective date of any cancellation or termination effected by the insurer or after the date of entitlement thereto as established by notification of cancellation or of termination or as otherwise established. Any insurance producer licensee having knowledge of a failure on the part of any insurer to

comply with this subsection shall promptly report such failure to the Commissioner in writing.

C. No insurance producer licensee under this article shall commingle premiums belonging to insurers and returned premiums belonging to insureds with the personal funds of the insurance producer licensee or with any other funds except those directly connected with the producer licensee's insurance business.

D. Any insurer that delivers in this state a policy of insurance to an insurance producer licensee representing the interest of an insured upon the application or request of the insurance producer licensee shall be deemed to have authorized the producer to receive any premium due upon issuance or delivery of the policy on behalf of the insurer.

E. 1. An insurance producer licensee or surplus line producer convicted of knowingly misappropriating or knowingly converting to his or her own use or wrongfully withholding fiduciary moneys in the amount of One Hundred Fifty Dollars ($150.00) or less is guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for a term not to exceed one year or by both such fine and imprisonment.

2. An insurance producer licensee or surplus line producer with a second or subsequent conviction for knowingly misappropriating or knowingly converting to his or her own use or wrongfully withholding fiduciary moneys in the amount of One Hundred Fifty Dollars ($150.00) or less or who is convicted of knowingly misappropriating or knowingly converting to his or her own use or wrongfully withholding premiums in an amount in excess of One Hundred Fifty Dollars ($150.00) is guilty of a felony punishable by a fine not to exceed Five Thousand Dollars ($5,000.00) or by imprisonment in the custody of the Department of Corrections for a term not to exceed five (5) years or by both such fine and imprisonment.

F. The Commissioner may promulgate rules for the implementation of this section.

SECTION 49. AMENDATORY 36 O.S. 2001, Section 2018, is amended to read as follows:

Section 2018. Any member insurer who has paid an assessment pursuant to the Oklahoma Property and Casualty Insurance Guaranty Association Act shall include amounts sufficient to recoup a sum equal to the amounts paid to the Association by the member insurer, less any amounts returned to the member insurer by the Association. Such rates shall not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer in its next filing for a rate increase or decrease before the ~~Board for Property and Casualty Rates~~ Insurance Commissioner.

SECTION 50. AMENDATORY 36 O.S. 2001, Section 2403, is amended to read as follows:

Section 2403. A. Associations, companies or corporations organized as mutual benefit associations shall be carried on for the benefit of their members or their beneficiaries and not for profit, and shall make provisions for the payment of benefits in case of death and make provision for payment of benefits in case of permanent physical disability, as a result of accident, or old age, provided that the period of life at which the payment of physical disability benefits on account of old age is to commence, shall not be under seventy (70) years, all subject to compliance by its members with its constitution and bylaws. The funds from which the expenses, benefits, aids and other charges of such associations shall be defrayed shall be derived from assessments and dues collected from its members, provided that such association may if so stipulated in its bylaws as they now exist or as they may be hereafter amended, make provision for the payment of old age benefits at age seventy (70) or more, regardless of disability by

levying special old age benefit assessments, beginning at an age of not less than fifty (50) years, in such sum and at such times as the association may determine to be necessary to provide an old age benefit fund sufficient to meet the promised old age benefit when the same matures, but such fund shall be separately maintained and used for no other purpose. The payment of death benefits shall be confined to wife, husband, relative by blood or marriage, children by legal adoption, to a person or persons dependent upon the member, or to his or her estate; provided, that if after the issuance of the original certificate the member shall become dependent upon a charitable institution, he or she shall have the privilege, with the consent of such association, to make such institution his or her beneficiary. Within the above restrictions each member shall have the right to designate his or her beneficiary, and, from time to time, have the same changed in accordance with the laws, rules and regulations of the association and no beneficiary shall have or obtain any vested interest in any death benefit until the same has become due and payable upon the death of said member; provided, that any association may, by its laws, further limit the scope of beneficiaries with the above classes. And such association may create, maintain, disburse, and apply reserve or emergency funds in accordance with its constitution and bylaws. The term "mutual benefit association" whenever used in any law of this state shall be construed to mean association such as is defined by this section.

B. The provisions of this article apply only to mutual benefit associations and such associations shall be governed by this article to the extent provided herein. Such associations shall be exempt from all other provisions of the insurance laws of this state except that the provisions of Articles 1 (Scope of Title), 3 (Insurance Department~~;~~ and Insurance Commissioner~~; State Insurance Board~~), 12 (Unfair Practices and Frauds), 16 (Investments), 17 (Administration of Deposits), 18 (Rehabilitation and Liquidation), 44 (Individual

Accident and Health Insurance) and Sections 4002, 4024, 4028 and 4029 of Article 40 (Life Insurance and Annuities) shall apply to such associations to the extent that such provisions are not in conflict with the provisions of this article. No law relating to insurance hereafter enacted shall apply to such associations unless they be expressly designated therein.

SECTION 51. AMENDATORY 36 O.S. 2001, Section 2409, is amended to read as follows:

Section 2409. No mutual benefit association shall employ paid agents without first filing notice of appointment with the ~~State~~ Insurance ~~Board~~ Commissioner and paying the fees therefor stated in Section 348.1, Article 3 of this Code; provided, that nothing herein shall prevent such associations granting members inducements to procure new members, as provided by law relating to fraternal beneficiary associations.

SECTION 52. AMENDATORY 36 O.S. 2001, Section 2602, is amended to read as follows:

Section 2602. Such a corporation may issue contracts to its subscribers only when the Insurance Commissioner has, by certificate of authority, authorized it so to do. Application for such certificate of authority shall be made on forms supplied or approved by the Commissioner, containing such information as he shall deem necessary. Each application for such certificate of authority shall be accompanied by the fee prescribed by Article 3 (Insurance Department~~,~~ and Insurance Commissioner~~; Insurance Board~~) of this Code and copies of the following documents:

1. Articles of incorporation;

2. Bylaws;

3. Proposed contracts, if any, between the applicant and participating hospitals and physicians, showing the terms under which service is to be furnished to subscribers;

4. Proposed contracts to be issued to subscribers;

5. A table of rates to be charged to subscribers;

6. Financial statement of the corporation, including the amounts of contributions paid or agreed to be paid to the corporation for working capital and the name or names of each contributor and the terms of each contribution; and

7. A statement of the area in which the corporation proposes to operate.

SECTION 53. AMENDATORY 36 O.S. 2001, Section 2616, is amended to read as follows:

Section 2616. The provisions of this article apply only to not-for-profit hospital service and indemnity and medical service and indemnity corporations and such corporations shall be governed by this article to the extent provided herein. Such corporations shall be exempt from all other provisions of the insurance laws of this state except that the provisions of Articles 1 (Scope of Title), 3 (Insurance Department~~,~~ and Insurance Commissioner~~; Insurance Board~~), 12 (Unfair Practices and Frauds), 15 (Assets and Liabilities), 16 (Investments), 16A (Subsidiaries of Insurers), 17 (Administration of Deposits), 18 (Supervision and Conservatorship of Insurers), 19 (Rehabilitation and Liquidation) and the provisions of Sections 624 through 626 of this title and 628 through 631 of this title shall apply to such corporations to the extent that such provisions are not in conflict with the provisions of this article. No law relating to insurance hereafter enacted shall apply to such corporations unless they be expressly designated therein.

SECTION 54. AMENDATORY 36 O.S. 2001, Section 2617, is amended to read as follows:

Section 2617. Every corporation doing business pursuant to this article is hereby declared to be a not-for-profit institution and to be exempt from state, county, district, municipal and school tax, including the taxes prescribed by this Code, and excepting only the fees prescribed by Article 3 of the Insurance Code (Insurance

Department~~;~~ and Insurance Commissioner~~; Insurance Board~~), the premium tax levied pursuant to Article 6 of the Insurance Code (Authorization of Insurers and General Requirements), and taxes on real and tangible personal property situate within this state.

SECTION 55. AMENDATORY 36 O.S. 2001, Section 2723.1, is amended to read as follows:

Section 2723.1 The provisions of this act apply only to fraternal benefit societies, and societies shall be governed by this act to the extent provided herein. Societies shall be exempt from all other provisions of the insurance laws of this state except that the provisions of Article 1 (Scope of Title), Article 3 (Insurance Department~~;~~ and Insurance Commissioner~~; Insurance Board~~), Sections 606, 610, 612.1, 616, 617, 620 and 628 of Article 6 (Authorization of Insurers and General Requirements), Article 16 (Investments), Article 17 (Administration of Deposits), and Article 19 (Rehabilitation and Liquidation), of the Insurance Code, shall apply to societies to the extent that such provisions are not in conflict with the provisions of this article. No law relating to insurance hereafter enacted shall apply to societies unless they are expressly designated therein.

SECTION 56. AMENDATORY 36 O.S. 2001, Section 2813, is amended to read as follows:

Section 2813. The provisions of this article apply only to farmers' mutual fire insurance associations and such associations shall be governed by this article to the extent provided herein. Such associations shall be exempt from all other provisions of the insurance laws of this state except that the provisions of ~~articles~~ Articles 1 (Scope of Title), 3 (Insurance Department~~;~~ and Insurance Commissioner~~; Insurance Board~~), 6 (Authorization of Insurers and General Requirements - except that the inclusion of theft insurance coverage shall require a minimum capital or surplus of One Hundred Fifty Thousand Dollars ($150,000.00) under the provisions of Section

10 of such article 6), 12 (Unfair Practices and Frauds), 15 (Assets and Liabilities), 16 (Investments), 16A (Subsidiaries of Insurers), 17 (Administration of Deposits), 18 (Rehabilitation and Liquidation), 21 (Domestic Stock and Mutual Insurers; Organization and Corporate Procedures), and 48 (Property Insurance) shall apply to such associations to the extent that such provisions are not in conflict with the provisions of this article. No law relating to insurance hereafter enacted shall apply to such associations unless they be expressly designated therein.

SECTION 57. AMENDATORY 36 O.S. 2001, Section 2908, is amended to read as follows:

Section 2908. A. ~~Twenty-five~~ Two or more persons domiciled in Oklahoma may organize a domestic reciprocal insurer and make application to the Insurance Commissioner for a certificate of authority to transact insurance.

B. The proposed attorney shall fulfill the requirements of and shall execute and file with the Insurance Commissioner, when applying for a certificate of authority, a declaration setting forth:

1. The name of the insurer;

2. The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

3. The kinds of insurance proposed to be transacted;

4. The names and addresses of the original subscribers;

5. The designation and appointment of the proposed attorney and a copy of the power of attorney;

6. The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

7. The powers of the subscribers' advisory committee, and the names and terms of office of the members thereof;

8. That all monies paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

9. A copy of the subscribers' agreement;

10. A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six (6) months at an adequate rate theretofore filed with and approved by the Insurance ~~Board~~ Commissioner;

11. A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by Section 2907 of this article is on hand; and

12. A copy of each policy, endorsement, and application form it then proposes to issue or use.

Such declaration shall be acknowledged by the attorney in the manner required for the acknowledgement of deeds.

SECTION 58. AMENDATORY 36 O.S. 2001, Section 3604, is amended to read as follows:

Section 3604. A. 1. Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. Except as provided in subsection D of this section, no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under the contract are payable to the individual insured or a personal representatives, or to a person having, at the time when the contract was made, an insurable interest in the individual insured.

2. In the absence of an agreement to the contrary, a policy procured and owned by a corporation, partnership, association,

limited liability company, or other legal entity on the life or body of an officer, director, manager, member, or employee, other than a sole proprietor, upon the termination of the insurable interest, the owner of the policy shall, if permitted by the terms of the policy, offer to sell, transfer, or assign the policy to the insured in exchange for the cash surrender value of the policy or, if there is no cash value, in exchange for an amount equal to the total of any premiums paid for the policy, minus any dividends received, plus interest. This offer shall be made in writing to the insured after termination of the insurable interest. The offer shall state the time for acceptance which shall not be less than thirty (30) days after receipt of the offer by the insured. If the insured rejects the offer or fails to accept the offer in the time provided, the owner of the policy may continue to own the policy subject to its terms.

B. If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disability, or injury of the individual insured, the individual insured or an executor or administrator, as the case may be, may maintain an action to recover such benefits from the person receiving them.

C. "Insurable interest" with reference to personal insurance includes only interests as follows:

1. In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

2. In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disability, or injury of the individual insured;

3. An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business

partnership or firm, or of shares of stock of a closed corporation or of an interest in such shares, has an insurable interest in the life of each individual party to the contract and for the purposes of the contract only, in addition to any insurable interest which may otherwise exist as to the life of the individual; ~~and~~

4. The trustee of a trust heretofore or hereafter established by an individual has an insurable interest in the life of the individual and the same insurable interest in the life of any other individual as does any person who is treated as the owner of the trust for federal income tax purposes;

5. The trustee of a trust heretofore or hereafter established has the same insurable interest in the life of any individual as does any person entitled to receive any portion of the proceeds of insurance on the life of the individual that are allocable to the person's interest in the trust;

6. If multiple beneficiaries of a trust heretofore or hereafter established have an insurable interest in the life of the same individual, then the trustee of the trust has the same aggregate insurable interest in the life of the individual as the beneficiaries with respect to any portion of the proceeds of insurance on the life of the individual that are allocable in the aggregate to the beneficiaries' interest in the trust; and

7. a. An employer, or a trust which is sponsored by an employer for the benefit of its employees, shall have an insurable interest in each of the lives of the employees, directors, or retired employees of the employer. Notwithstanding paragraph 2 of this subsection ~~C of this section~~ or Section 4101 of this title, and amendments thereto, the employer or trust may insure the life of any employee, director, or retired employee for the benefit of the employer or

trust on an individual or group basis only with the written consent of the insured.

b. The consent requirement of Section 3607 of this title shall be accomplished as follows:

(1) the employer shall notify the employee, director, or retired employee by a written notice that the employer or trust would like to obtain life insurance coverage with respect to the person's life, and

(2) if the employee, director, or retired employee fails to provide written consent to the employer or trust, the employer or trust shall not purchase or obtain such insurance.

c. It shall be unlawful for the employer or trust to retaliate against any person for refusing to consent to the issuance of insurance on the person.

d. The insurable interest of the employer or trust in nonmanagement and retired employees shall be limited to an amount agreed to by the employee or, in the absence of an agreement, an amount of aggregate projected death benefits commensurate with the aggregate projected liabilities to the employee under all employee welfare benefit plans, as defined in Section 1002(1) of Title 29 of the United States Code. Calculations of life insurance benefits and welfare benefit liabilities shall be made in accordance with generally accepted actuarial principles. Matching of life insurance benefits and welfare benefit liabilities may be done on cash flow, present value, or other appropriate basis.

e. For purposes of this section:

(1) "employer" means any individual, sole proprietorship, partnership, limited liability company, corporation, or other legal entity that is legally doing business in this state; the term shall also include all entities or persons which are controlled by or affiliated with any of the foregoing. The determination of whether any entity or person is controlled by or affiliated with another shall be made by applying the principles set forth in subsection (b) or (c) of Section 414 of Title 26 of the United States Code, as in effect on January 1, 1993, except that all references therein to eighty percent (80%) shall be changed to fifty-one percent (51%), and

(2) “employee” means any common law employee of an employer.

f. This section shall not be interpreted to limit other insurable interests which may exist by statute or at common law.

g. Determination of the existence and extent of the insurable interest under any life insurance policy shall be made at the time the contract of insurance becomes effective, provided however, the insurable interest need not exist at the time the loss occurs.

D. Life insurance contracts may be entered into in which the person paying the consideration for the insurance has no insurable interest in the life of the individual insured, where charitable, benevolent, educational or religious institutions, or their agencies, are designated as the beneficiaries thereof. In no event shall an individual be named as a beneficiary. In making these contracts, the person paying the premium shall make and sign the

application therefor as owner and shall designate a charitable, benevolent, educational, or religious institution, or an agency thereof, as the beneficiary or beneficiaries of the contract. The application or any subsequent change of beneficiary designation shall be signed by the individual whose life is to be insured. These contracts shall be valid and binding among the parties, notwithstanding the absence otherwise of an insurable interest in the life of the individual insured.

E. Life insurance contracts may be entered into in which the members of an alumni association of an institution of higher education accredited by the Oklahoma State Regents for Higher Education are insured under a group insurance policy and either the institution is the designated beneficiary thereof or the association is the designated beneficiary with the stipulation that the association will use the proceeds of the policies for direct grants to the institution or for scholarships for students of such institutions. In no event shall an individual be named as a beneficiary to such a policy. In making such contracts, the person paying the premium shall make and sign the application therefor as owner and shall designate an institution or alumni association as the beneficiary or beneficiaries of such contract. The application or any subsequent change of beneficiary designation shall be signed also by the individual whose life is to be insured. These contracts shall be valid and binding among the parties thereto, notwithstanding the absence of an insurable interest in the life of the individual insured.

SECTION 59. AMENDATORY 36 O.S. 2001, Section 3639, as amended by Section 14, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2005, Section 3639), is amended to read as follows:

Section 3639. A. The provisions of this section apply to commercial property insurance policies, commercial casualty insurance policies, and commercial fire insurance policies.

B. As used in this section:

1. "Renewal" or "to renew" means the issuance or offer of issuance by an insurer of a policy succeeding a policy previously issued and delivered by the same insurer or an insurer within the same group of insurers, or the issuance of a certificate or notice extending the term of an existing policy for a specified period beyond its expiration date;

2. "Nonpayment of premium" means the failure or inability of the named insured to discharge any obligation in connection with the payment of premiums on a policy of insurance subject to this section, whether such payments are payable directly to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit;

3. "Cancellation" means termination of a policy at a date other than its expiration date;

4. "Expiration date" means the date upon which coverage under a policy ends. It also means, for a policy written for a term longer than one (1) year or with no fixed expiration date, each annual anniversary date of such policy; and

5. "Nonrenewal" or "refusal to renew" means termination of a policy at its expiration date.

C. After coverage has been in effect for more than forty-five (45) business days or after the effective date of the renewal of a commercial property, commercial casualty or commercial fire insurance policy, a notice of cancellation shall not be issued by any licensed insurer or surplus or excess lines insurer unless it is based on at least one of the following reasons with at least ten (10) days notice to the insured:

1. Nonpayment of premium;

2. Discovery of fraud or material misrepresentation in the procurement of the insurance or with respect to any claims submitted thereunder;

3. Discovery of willful or reckless acts or omissions on the part of the named insured which increase any hazard insured against;

4. The occurrence of a change in the risk which substantially increases any hazard insured against after insurance coverage has been issued or renewed;

5. A violation of any local fire, health, safety, building, or construction regulation or ordinance with respect to any insured property or the occupancy thereof which substantially increases any hazard insured against;

6. A determination by the Commissioner that the continuation of the policy would place the insurer in violation of the insurance laws of this state;

7. Conviction of the named insured of a crime having as one of its necessary elements an act increasing any hazard insured against; or

8. Loss of or substantial changes in applicable reinsurance.

D. An insurer may refuse to renew a policy if the insurer gives to the first-named insured at the address shown on the policy written notice that the insurer will not renew the policy. Such notice shall be given at least forty-five (45) days before the expiration date. If notice is given by mail, said notice shall be deemed to have been given on the day said notice is mailed. If the notice is mailed less than forty-five (45) days before expiration, coverage shall remain in effect until forty-five (45) days after notice is mailed. Earned premium for any period of coverage that extends beyond the expiration date shall be considered pro rata based upon the previous year's rate. For purposes of this section, the transfer of a policyholder between companies within the same insurance group is not a refusal to renew. In addition, changing deductibles, changes in premium, changes in the amount of insurance, or reductions in policy limits or coverage are not refusals to renew.

Notice of nonrenewal shall not be required if the insurer or a company within the same insurance group has offered to issue a renewal policy or, if the named insured has obtained replacement coverage or has agreed in writing to obtain replacement coverage.

If an insurer provides the notice required by this subsection and thereafter the insurer extends the policy for ninety (90) days or less, an additional notice of nonrenewal is not required with respect to the extension.

E. An insurer shall give to the named insured at the mailing address shown on the policy, written notice of premium increase, change in deductible, reduction in limits or coverage at least forty-five (45) days prior to the expiration date of the policy. If the insurer fails to provide such notice, the premium, deductible, limits and coverage provided to the named insured prior to the change shall remain in effect until notice is given or until the effective date of replacement coverage obtained by the named insured, whichever first occurs. If notice is given by mail, said notice shall be deemed to have been given on the day said notice is mailed. If the insured elects not to renew, any earned premium for the period of extension of the terminated policy shall be calculated pro rata at the lower of the current or previous year's rate. If the insured accepts the renewal, the premium increase, if any, and other changes shall be effective the day following the prior policy's expiration or anniversary date.

This subsection shall not apply to:

1. Changes in a rate or plan filed with or approved by the ~~State Board for Property and Casualty Rates~~ Insurance Commissioner or filed pursuant to the Property and Casualty Competitive Loss Cost Rating Act and applicable to an entire class of business; or

2. Changes based upon the altered nature of extent of the risk insured; or

3. Changes in policy forms filed with or approved by the Insurance Commissioner and applicable to an entire class of business.

F. Proof of mailing of notice of cancellation, or of nonrenewal or of premium or coverage changes, to the named insured at the address shown in the policy, shall be sufficient proof of notice.

SECTION 60. AMENDATORY 36 O.S. 2001, Section 5004, is amended to read as follows:

Section 5004. A. A "title insurance policy" is any written instrument purporting to show the title to real or personal property or any interest therein or encumbrance thereon, or to furnish such information relative to real property, which written instrument in express terms purports to insure or guarantee such title or the correctness of such information.

B. An "aircraft title insurance policy" is any written instrument purporting to show title to aircraft or any interest therein or encumbrance thereon, which written instrument in express terms protects an aircraft owner or lender against loss of the aircraft or priority security position in the event of a successful adverse claim on the title to an aircraft.

SECTION 61. AMENDATORY 36 O.S. 2001, Section 6002, is amended to read as follows:

Section 6002. No form or plan of insurance covering any group or combination of persons or risks shall be written or delivered within or outside of this state to cover Oklahoma persons or risks at any preferred rate or form other than that offered to persons not in such group, and the public generally, unless such form, plan or policy and the rates or premiums to be charged therefor have been submitted to and filed or approved by the ~~State Board for Property and Casualty Rates~~ Insurance Commissioner.

SECTION 62. AMENDATORY 36 O.S. 2001, Section 6058, is amended to read as follows:

Section 6058. A. All individual and group health insurance policies providing coverage on an expense incurred, fixed, or capitated basis, and all individual and group insurance policies, certificates, service or indemnity type contracts issued by ~~a~~ insurance companies, health maintenance organizations, nonprofit ~~corporation~~ corporations, or charitable and benevolent corporations established for the purpose of operating a nonprofit hospital service, indemnity, fixed or capitated plan, or a nonprofit medical or indemnity plan, and all self-insurers which provide coverage for a family member of the insured or subscriber shall, as to such family member's coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

B. The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. Such coverage shall also include transportation necessary for the provision of medical care for such newly born children when (1) the newly born is transported to the nearest hospital capable of providing the medically necessary treatment on a timely basis, and (2) the mode of transportation is the most economical consistent with the well-being of the newly born. Transportation coverage shall not exceed the reasonable costs of providing such service and an itemized statement of costs shall accompany each claim.

The provisions of this subsection shall not apply to policies involving Medicare and supplements to Medicare.

C. If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth and payment of the required premium or fees must be furnished to the insurer or nonprofit

service or indemnity corporation within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one-day period.

SECTION 63. AMENDATORY 36 O.S. 2001, Section 6059, is amended to read as follows:

Section 6059. A. All individual and group health insurance policies providing coverage on an expense incurred, fixed, or capitated basis, and all individual and group insurance policies, certificates, service or indemnity type contracts issued by ~~a~~ insurance companies, health maintenance organizations, nonprofit ~~corporation~~ corporations, ~~a~~ charitable and benevolent ~~corporation~~ corporations established for the purposes of operating a nonprofit hospital service or indemnity plan and/or a nonprofit medical or indemnity, fixed, or capitated plan, and all self-insurers which provide coverage for a family member of the insured or subscriber shall, as to such family member's coverage, also provide that the health insurance benefits applicable for any natural child of the insured or subscriber shall be payable with respect to any adopted child of the insured or subscriber from the date of placement of the child in the custody of the insured or subscriber, provided the insurer is notified within thirty-one (31) days in writing. Coverage shall include the necessary care and treatment of medical conditions existing prior to the date of placement of the child in the custody of the insured or subscriber. Nothing in this section shall be construed to require coverage of costs incurred for such medical conditions prior to the date of placement of the child in the custody of the insured or subscriber.

B. Subject to the terms and conditions of the policy, contract or agreement, coverage shall also include the actual and documented medical costs associated with the birth of an adopted child who is eighteen (18) months of age or younger. If requested, the insured shall provide copies of medical bills and records associated with

the birth of the adopted child and proof that the insured paid or is responsible for payment of the medical bills associated with the birth and that the cost of the birth was not covered by another health care plan including Medicaid. Any reference to the name of the natural parents of the adopted child shall be deleted from the records so provided. The coverage required by this subsection shall be subject to the same annual deductibles and coinsurance as may be deemed appropriate and as are consistent with those established for other covered benefits. The coverage shall also be subject to the terms of the insurers contract, if any, with hospitals and physicians.

C. As used in this section, "placement" means the assumption by the insured or subscriber of the physical custody of the adopted child and the financial responsibility for the support and care of the adopted child.

D. For purposes of this section, a child who is in the custody of the insured, pursuant to an interlocutory decree issued under Section 7505-6.1 of Title 10 of the Oklahoma Statutes vesting temporary care of the child in the insured, is an adopted child during the pendency of the adoption proceeding, regardless of whether a final decree of adoption is ultimately issued.

SECTION 64. AMENDATORY 36 O.S. 2001, Section 6060.4, as amended by Section 6, Chapter 464, O.S.L. 2003 (36 O.S. Supp. 2005, Section 6060.4), is amended to read as follows:

Section 6060.4 A. A health benefit plan delivered, issued for delivery or renewed in this state on or after January 1, 1998, that provides benefits for the dependents of an insured individual shall provide coverage for each child of the insured, from birth through the date such child is eighteen (18) years of age for:

1. Immunization against:

a. diphtheria,

b. hepatitis B,

c. measles,

d. mumps,

e. pertussis,

f. polio,

g. rubella,

h. tetanus,

i. varicella,

j. haemophilus influenzae type B, and

k. hepatitis A; and

2. Any other immunization subsequently required for children by the State Board of Health.

B. Benefits required pursuant to subsection A of this section shall not be subject to a deductible, co-payment, or coinsurance requirement.

C. 1. For purposes of this section, "health benefit plan" means a plan that:

a. provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, and

b. is offered by any insurance company, group hospital service corporation, the State and Education Employees Group Insurance Board, or health maintenance organization that delivers or issues for delivery an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an evidence of coverage, or, to the extent permitted by the Employee Retirement Income Security Act of 1974, 29 U.S.C., Section 1001 et seq., by a multiple employer welfare arrangement as defined in Section 3 of the Employee Retirement Income Security Act of 1974, or any other analogous benefit

arrangement, whether the payment is fixed or by indemnity.

2. The term "health benefit plan" shall not include:

a. a plan that provides coverage:

(1) only for a specified disease,

(2) only for accidental death or dismemberment,

(3) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury, or

(4) as a supplement to liability insurance,

b. a Medicare supplemental policy as defined by Section 1882(g)(1) of the Social Security Act (42 U.S.C., Section 1395ss),

c. worker's compensation insurance coverage,

d. medical payment insurance issued as part of a motor vehicle insurance policy,

e. a long-term care policy, including a nursing home fixed indemnity policy, unless a determination is made that the policy provides benefit coverage so comprehensive that the policy meets the definition of a health benefit plan, or

f. short-term health insurance issued on a nonrenewable basis with a duration of six (6) months or less.

SECTION 65. AMENDATORY Section 20, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2005, Section 6470.13), is amended to read as follows:

Section 6470.13 A. At least once in three (3) years, and whenever the Insurance Commissioner determines it to be prudent, the ~~Insurance~~ Commissioner personally, or ~~by~~ a competent person appointed by the ~~Insurance~~ Commissioner, shall ~~visit each captive insurance company and thoroughly inspect and examine its affairs to ascertain its financial condition, its ability to fulfill its~~

~~obligations, and~~ conduct an examination under Sections 309.1 through 309.7 of this title, as well as determine whether ~~it~~ the captive insurer has complied with the Oklahoma Captive Insurance Company Act. The ~~Insurance~~ Commissioner upon application, in his or her discretion, may enlarge the three-year period to five (5) years, if a captive insurance company is subject to a comprehensive annual audit during that period of a scope satisfactory to the ~~Insurance~~ Commissioner by independent auditors approved by the ~~Insurance~~ Commissioner. The expenses and charges of the examination must be paid ~~to the state by the company or companies examined, and the Department shall issue its warrants for the proper charges incurred in all examinations~~ in accordance with the payment provisions of Sections 309.1 through 309.7 of this title.

B. All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies of documents produced by, obtained by, or disclosed to the ~~Insurance~~ Commissioner or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the ~~Insurance~~ Commissioner or an employee or agent of the ~~Insurance~~ Commissioner without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection prevents the ~~Insurance~~ Commissioner from using this information in furtherance of the regulatory authority of the ~~Insurance~~ Commissioner under the Oklahoma Captive Insurance Company Act. The ~~Insurance~~ Commissioner may grant access to this information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of this state or any other state or agency of the federal government at any time, so long as the officers receiving the information agree in writing to hold it in a manner consistent with this section.

C. 1. This section applies to all business written by a captive insurance company; however, the examination for a branch captive insurance company must be of branch business and branch operations only, as long as the branch captive insurance company provides annually to the ~~Insurance~~ Commissioner a certificate of compliance, or its equivalent, issued by or filed with the licensing authority of the jurisdiction in which the branch captive insurance company is formed and demonstrates to the satisfaction of the ~~Insurance~~ Commissioner that it is operating in sound financial condition in accordance with all applicable laws and regulations of that jurisdiction.

2. As a condition of licensure, the alien captive insurance company shall grant authority to the ~~Insurance~~ Commissioner for examination of the affairs of the alien captive insurance company in the jurisdiction in which the alien captive insurance company is formed.

SECTION 66. AMENDATORY Section 21, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2005, Section 6470.14), is amended to read as follows:

Section 6470.14 A. The license of a captive insurance company to conduct an insurance business in this state may be suspended or revoked by the Insurance Commissioner for:

1. Insolvency or impairment of capital or surplus;

2. Failure to meet the requirements of Sections ~~13~~ 6470.6 and ~~15~~ 6470.8 of this ~~act~~ title;

3. Refusal or failure to submit an annual report, as required by Section ~~18~~ 6470.11 of this ~~act~~ title, or any other report or statement required by law or by lawful order of the ~~Insurance~~ Commissioner;

4. Failure to comply with its own charter, bylaws, or other organizational document;

5. Failure to submit to examination or any legal obligation relative to an examination, as required by this section;

6. Refusal or failure to pay the cost of examination;

7. Use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or to its policyholders; or

8. Failure otherwise to comply with laws of this state.

B. If the ~~Insurance~~ Commissioner finds, upon examination, hearing, or other evidence, that a captive insurance company has committed any of the acts specified in subsection A of this section, the ~~Insurance~~ Commissioner may suspend or revoke such license if the ~~Insurance~~ Commissioner considers it in the best interest of the public and the policyholders of the captive insurance company.

C. In addition to or in lieu of any applicable revocation or suspension of the license of a captive insurer, the Commissioner may fine any captive insurer who violates any provision of the Oklahoma Insurance Code a civil penalty of not more than Five Thousand Dollars ($5,000.00) for each occurrence.

SECTION 67. AMENDATORY Section 30, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2005, Section 6470.23), is amended to read as follows:

Section 6470.23 The terms and conditions set forth in Articles 18 and 19 of the Oklahoma Insurance Code pertaining to insurance ~~reorganizations~~ supervision, conservatorship, rehabilitation, and receiverships~~, and injunctions~~ apply in full to captive insurance companies formed under the Oklahoma Captive Insurance Company Act.

SECTION 68. AMENDATORY Section 32, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2005, Section 6470.25), is amended to read as follows:

Section 6470.25 A. Except as otherwise provided in this section, the terms and conditions set forth in Articles 18 and 19 of

the Oklahoma Insurance Code pertaining to insurance ~~reorganizations~~ supervisions, conservatorship, rehabilitation, and receiverships~~, and injunctions~~ apply in full to captive insurance companies formed or licensed under the Oklahoma Captive Insurance Company Act.

B. In the case of a sponsored captive insurance company:

1. The assets of the protected cell may not be used to pay expenses or claims other than those attributable to the protected cell; and

2. Its capital and surplus at all times must be available to pay expenses of or claims against the sponsored captive insurance company and may not be used to pay expenses or claims attributable to a protected cell.

SECTION 69. AMENDATORY Section 13, Chapter 390, O.S.L. 2003 (36 O.S. Supp. 2005, Section 6812), is amended to read as follows:

Section 6812. A closed claim report required pursuant to Section ~~12~~ 6811 of this ~~act~~ title shall be filed in a form prescribed by the Insurance Commissioner and shall include:

1. The identity of the medical professional liability insurer;

2. The medical professional liability insurance policy, including:

a. the type or types of insurance,

b. the policy limits,

c. whether the policy was an occurrence or claims-made policy,

d. the classification of the insured, and

e. reserves for the claim;

3. A listing of the type of injury or loss by medical specialty; and

4. a. Details of the claims process, including:

(1) whether a lawsuit was filed,

(2) where a lawsuit, if any, was filed,

(3) whether attorneys were involved,

(4) the stage at which the claim was closed,

(5) any court verdict,

(6) any appeal, and

(7) the number of defendants, ~~and~~

~~(8) whether the claim was settled outside of court and, if so, at what stage, and~~

b. the amount paid on the claim, including:

(1) the total amount of a court award or settlement,

(2) the amount paid ~~by the medical professional liability insurer~~ on behalf of each insured or insureds exclusive of attorney fees or case costs,

(3) any amount paid by another insurer, if available to the medical professional liability insurer,

(4) any amount paid by another defendant, if available to the medical professional liability insurer,

(5) any collateral source of payment,

(6) ~~any structured settlement,~~

~~(7) the amount of economic and noneconomic compensatory damages and the method of allocation,~~

~~(8)~~ the amount of prejudgment interest,

~~(9)~~

(7) the amount paid for defense costs,

~~(10)~~

(8) the amount paid for punitive damages, and

~~(11)~~

(9) the amount of allocated loss adjustment expenses.

SECTION 70. AMENDATORY 70 O.S. 2001, Section 4312, is amended to read as follows:

Section 4312. Boards of Regents, institutions and agencies comprising the Oklahoma State System of Higher Education are hereby authorized to carry general public liability insurance on their employees limited to their official assigned duties at said university and to pay the premiums therefor out of non-state-appropriated funds for the following kinds of insurance, not to exceed the limits indicated:

1. Bodily injury liability, Ten Thousand Dollars ($10,000.00) each person, Fifty Thousand Dollars ($50,000.00) each accident;

2. Property damage liability, Ten Thousand Dollars ($10,000.00) each accident; and

3. Medical expense, One Thousand Dollars ($1,000.00).

Such insurance shall be on standard policy forms approved by the ~~Board for Property and Casualty Rates~~ Insurance Commissioner with companies authorized to do business in Oklahoma. To the extent that an insurer has provided indemnity in a contract of insurance to the Board of Regents, an institution or an agency to which the act applies, the said insurer may not plead as a defense in any action involving insurance purchased pursuant to this act the governmental immunity of either the State of Oklahoma or of any political subdivision or agency thereof which has purchased insurance authorized by this act.

SECTION 71. AMENDATORY 74 O.S. 2001, Section 1320, is amended to read as follows:

Section 1320. A. The State and Education Employees Group Insurance Board is authorized to hire and appoint an administrator who shall be in the unclassified service.

The Board may hire a director of internal audit and one attorney licensed to practice law in this state. The attorney hired by the Board shall have not less than five (5) years of experience in matters related to the insurance industry. The Board shall directly supervise the duties of the director of internal audit, and shall

not delegate said supervision to the Administrator or any other employee of the Board. In addition to duties assigned by the Board, the director of internal audit is authorized to audit all records of health providers and pharmacists who enter into any contract with the Board in order to ensure compliance with said contract provisions.

B. The administrator shall employ such persons as are necessary to administer the provisions of the State and Education Employees Group Insurance Act, the State Employees Flexible Benefits Act and the State Employees Disability Program Act. The administrator may employ a maximum of two (2) attorneys. The administrator or one of the deputy administrators shall have not less than seven (7) years of group health insurance administration experience on a senior managerial level.

C. The Board shall not contract for private legal counsel except for extraordinary situations other than normal day to day situations, and when approved by the Attorney General. The Board may contract with a nonemployee consulting actuary, a nonemployee medical consultant and a nonemployee dental consultant subject to competitive bid at least every three (3) years. The Board may contract with health care providers for a level of reimbursement for the payment of claims incurred by the plan participants. The Board may at its request use the services of the office of the Attorney General and the actuarial services of any actuary employed by the ~~State Board for Property and Casualty Rates~~ Insurance Commissioner and may also seek the advice and counsel of the ~~Insurance~~ Commissioner of the State of Oklahoma or any employee of the ~~Insurance Commissioner's office~~ Office of the Commissioner.

SECTION 72. AMENDATORY 76 O.S. 2001, Section 22, is amended to read as follows:

Section 22. ~~The State Insurance Fund~~ CompSource Oklahoma is authorized to offer malpractice insurance and/or reinsurance to

Oklahoma persons, firms and corporations engaged in health care services principally serving Oklahomans based upon the claims and loss ratio experience in Oklahoma at a premium that is calculated without profit or return to the state if such action is deemed in the public interest. Provided, that no such insurance or reinsurance shall be offered by ~~the State Insurance Fund~~ CompSource Oklahoma without the prior approval of the ~~State Board for Property and Casualty Rates~~ Insurance Commissioner. The ~~State Board for Property and Casualty Rates~~ Commissioner shall give such approval only when it finds that ~~the State Insurance Fund~~ CompSource Oklahoma has available reserves sufficient to insure or reinsure such coverage on an actuarially sound basis.

SECTION 73. AMENDATORY 85 O.S. 2001, Section 61, is amended to read as follows:

Section 61. A. An employer shall secure compensation to his employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation with any stock corporation, mutual association, or other concerns authorized to transact the business of workers' compensation insurance in this state, or by exchanging contracts of indemnity or interinsurance, pursuant to reasonable rules prescribed by the Administrator of Workers' Compensation providing for and securing the payment of the compensation provided for in the Workers' Compensation Act. When an insurer issues a policy to provide workers' compensation benefits pursuant to the provisions of the Workers' Compensation Act, the insurer shall file, or cause to be filed, with the Administrator a notice in such form and detail as the Administrator may prescribe by rule. The notice shall contain the name, address, and principal occupation of the employer, the number, effective date, and expiration date of the policy, and such other information as may be required by the Administrator. The notice shall be filed by the insurer within thirty (30) days after

the effective date of the policy. Any insurer who fails to file the notice required by this subsection shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars ($1,000.00);

2. By obtaining and keeping in force guaranty insurance with any company authorized to do guaranty business in this state. Each company that issues such guaranty insurance shall file a copy of the contract with the Administrator within thirty (30) days after the effective date of the contract. Any company that fails to file a copy of the contract as required by this subsection shall be liable for an administrative violation and subject to a fine by the Administrator of not more than One Thousand Dollars ($1,000.00);

3. By obtaining and keeping in force a workers' compensation equivalent insurance product approved by the Insurance Commissioner ~~and the State Board for Property and Casualty Rates~~ pursuant to Section ~~1~~ 65 of this ~~act~~ title; or

4. By furnishing satisfactory proof to the Administrator of the employer's financial ability to pay such compensation. The Administrator, pursuant to rules adopted by the Court or the Administrator for an individual self-insured or a group self-insurance association, shall require an employer that has:

a. less than one hundred employees or less than One Million Dollars ($1,000,000.00) in net assets to:

(1) deposit with the Administrator securities, an irrevocable letter of credit or a surety bond payable to the state, in an amount determined by the Administrator which shall be at least an average of the yearly claims for the last three (3) years; or

(2) provide proof of excess coverage with such terms and conditions as is commensurate with their

ability to pay the benefits required by the provisions of the Workers' Compensation Act.

b. one hundred or more employees and One Million Dollars ($1,000,000.00) or more in net assets to:

(1) secure a surety bond payable to the state, or an irrevocable letter of credit, in an amount determined by the Administrator which shall be at least an average of the yearly claims for the last three (3) years; or

(2) provide proof of excess coverage with such terms and conditions as is commensurate with their ability to pay the benefits required by the provisions of the Workers' Compensation Act.

The Administrator may waive the requirements of this paragraph in an amount which is commensurate with the ability of the individual self-insured or group self-insurance association to pay the benefits required by the provisions of the Workers' Compensation Act. Irrevocable letters of credit required by this paragraph shall contain such terms as may be prescribed by the Administrator and shall be issued for the benefit of the Workers' Compensation Court by a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

B. An employer, upon application to become a member of a group self-insurance association, shall file with the Administrator of the Workers' Compensation Court a notice, in such form as prescribed by the Administrator of the Court, acknowledging that the employer, by entering into a group self-insurance association, accepts joint and several liability. Such notice shall be submitted to the Workers' Compensation Court with the application for membership.

C. An employer who fails to comply with the provisions of this section shall be subject to the penalty provided for in Section 12 of this title.

D. Any employer that knowingly provides false information to the Administrator for purposes of becoming self-insured or a group self-insurance association shall be subject to the perjury laws of this state.

E. The provisions of this title shall not be construed to limit or restrict the ability of political subdivisions of this state or employers subject to the provisions of the Workers' Compensation Act from joining together to form group self-insurance associations pursuant to law or rules promulgated by the Court or the Administrator.

SECTION 74. AMENDATORY 85 O.S. 2001, Section 64, as amended by Section 25, Chapter 129, O.S.L. 2005 (85 O.S. Supp. 2005, Section 64), is amended to read as follows:

Section 64. A. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association or other concern authorized to transact workers' compensation insurance in this state shall contain a provision setting forth the right of the Administrator to enforce in the name of the state, for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of the compensation by either the employer or the insurance carrier shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

B. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be on the part of the insurance carrier, that jurisdiction of the employer shall, for the

purpose incorporated in this title, be jurisdiction of the insurance carrier, and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions incorporated in this title.

C. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries sustained by an employee during the life of such policy.

D. 1. Every such policy issued to cover a risk in this state shall include provisions giving the insured employer the option of choosing a deductible amount for medical ~~or indemnity~~ benefits in amounts ranging from Five Hundred Dollars ($500.00) to Two Thousand Five Hundred Dollars ($2,500.00) in increments of Five Hundred Dollars ($500.00). The policy issued may also include separate provisions giving the insured employer the option of choosing a deductible amount for indemnity benefits in amounts ranging from Five Hundred Dollars ($500.00) to Two Thousand Five Hundred Dollars ($2,500.00) in increments of Five Hundred Dollars ($500.00). The insured employer, if choosing to exercise the option, shall choose only one deductible amount.

2. If an insured employer exercises the option and chooses a medical benefits deductible or indemnity benefits deductible, the insured employer shall be liable for the amount of the deductible or deductibles for the medical or indemnity benefits paid for each claim of work injury suffered by an injured employee.

3. The Insurance Commissioner, in exercising the authority to approve the form of the policy to be issued, shall not approve any policy form that permits, directly or indirectly, any part of the deductible to be charged to or passed on to the injured worker or insurer.

4. The insurer shall pay the entire cost of medical bills directly to the provider of the services and then seek reimbursement from the insured employer for the deductible amount. The insurer shall pay the entire cost of the indemnity benefits as if no deductible were in place and then seek reimbursement from the insured employer for the deductible amount.

5. If the insured employer does not reimburse the deductible amount directly to the insurer within sixty (60) days of a written demand therefor, the insurer shall pay the compensable medical claim or indemnity benefit and may seek to recover the full amount of such claim from the insured employer.

6. Claim amounts up to Five Hundred Dollars ($500.00) annually which are paid under the medical benefits deductible or indemnity benefits deductible pursuant to this subsection shall be excluded from the calculation of the insured employer's experience modifier.

7. The provisions of this subsection shall be fully disclosed to the prospective purchaser in writing.

E. Every such policy issued to a sole proprietor, partnership, limited liability company, corporation, or other business entity must disclose to the potential purchaser in writing the option to elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members, or any or all stockholder-employees as employees for the purpose of workers' compensation insurance coverage by endorsing the policy in accordance with Section 3 of this title.

F. Every contract or agreement of an employer the purpose of which is to indemnify the employer from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or the employer's officer, agent or servant shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for in this title.

G. No contract of insurance issued by a stock company or mutual association or other concern against the liability arising under this title shall be canceled within the time limited in such contract for its expiration until at least ten (10) days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the Administrator and also served on the employer. Such notice shall be served on the employer by delivering it to the employer or by sending it by mail, by registered letter, addressed to the employer at the employer's last-known place of residence; provided, that if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation, then the notice may be given to any agent or officer of the corporation upon whom legal process may be served. Provided, however, if a contract of insurance has been terminated by an employer insured thereunder who has obtained other compensation insurance, as evidenced by filing in compliance with Section 61 of this title, and no intervening rights of any employee are involved, omission of a predecessor insurer to file notice of time of termination of liability shall not constitute basis for imposition of liability against such predecessor insurer.

SECTION 75. AMENDATORY 85 O.S. 2001, Section 65, is amended to read as follows:

Section 65. A. Notwithstanding any provision of the Oklahoma Statutes to the contrary, an employer may secure workers' compensation to his employees through an approved workers' compensation equivalent insurance product authorized by this section.

B. All workers' compensation equivalent insurance products shall be subject to the approval of the Insurance Commissioner ~~and the State Board for Property and Casualty Rates~~ and shall comply with Articles 9 and 36 of Title 36 of the Oklahoma Statutes and ~~Title 85 of the Oklahoma Statutes~~ this title. No workers'

compensation equivalent insurance product shall be approved unless the following requirements are complied with:

1. The product is issued by an insurance carrier admitted to do business in the state that has a surplus in regard to policyholders of at least Fifty Million Dollars ($50,000,000.00);

2. The benefits provided for injured employees under the product at least equal the benefits required by ~~Title 85 of the Oklahoma Statutes~~ this title;

3. Contributions from employees are prohibited as provided in Section 46 of ~~Title 85 of the Oklahoma Statutes~~ this title;

4. The contract contains all provisions required of a standard policy of workers' compensation insurance issued in this state, including a workers' compensation benefits policy and an employer liability policy, neither of which policies may be canceled independently of the other. All coverage parts and policy contracts must comply with ~~Titles~~ Title 36 ~~and 85~~ of the Oklahoma Statutes and this title;

5. The company providing a workers' compensation equivalent insurance product is required to file statistical data with a designated statistical agency pursuant to Section 934 of Title 36 of the Oklahoma Statutes;

6. The product complies with such other standards consistent with this section as may be prescribed by rules promulgated by the Insurance Commissioner ~~in consultation with the State Board for Property and Casualty Rates~~;

7. The product is a separate policy of insurance from and administered separately from any other insurance offered by the employer and is separate from any employee benefit plan or policy of the employer which employee benefit plan or policy is governed by the provisions of the Employee Retirement Income Security Act, 29 U.S.C., Section 1001 et seq;

8. The employer certifies in writing to the Workers' Compensation Court that the policy is obtained solely to comply with the workers' compensation laws of Oklahoma; and

9. The product is covered by a guaranty fund which provides payment to the claimant in the full amount of a covered claim for benefits under a workers' compensation insurance coverage.

C. It is the intent of the Legislature that any workers' compensation equivalent insurance product which is approved by the Insurance Commissioner ~~and the State Board for Property and Casualty Rates~~ pursuant to this section shall preserve an employer's immunity from civil action in district court resulting from an injury which is compensable under ~~Title 85 of the Oklahoma Statutes~~ this title.

D. On the annual effective date of the approved workers' compensation equivalent insurance product, the insurer shall submit to the ~~State Board for Property and Casualty Rates~~ Insurance Commissioner a current Oklahoma Rate Exhibit (Form A-2) and a current Oklahoma/Countrywide 5-Year Experience and Expense Exhibit.

E. The Insurance Commissioner~~, in consultation with the State Board for Property and Casualty Rates,~~ shall promulgate such rules as may be necessary to implement the provisions of this section.

SECTION 76. REPEALER 36 O.S. 2001, Sections 331, 333 and 346, are hereby repealed.

SECTION 77. REPEALER 36 O.S. 2001, Sections 901, as amended by Section 4, Chapter 519, O.S.L. 2004, Section 2, Chapter 1, 1st Extraordinary Session of the 50th Legislature 2005, O.S.L. 2005, 903, as last amended by Section 5, Chapter 129, O.S.L. 2005, 905, 928, 929, as amended by Section 9, Chapter 519, O.S.L. 2004, 930, 931, 933, 934, 935, 936, 991, as amended by Section 8, Chapter 129, O.S.L. 2005, 993, and Section 23, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2005, Sections 901, 902.4, 903, 929, 991 and 1000), are hereby repealed.

SECTION 78. This act shall become effective July 1, 2006.

SECTION 79. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 26th day of April, 2006.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2006.

_____
Presiding Officer of the House
of Representatives