

CS for EHB 1535

THE STATE SENATE
Wednesday, March 30, 2005

Committee Substitute for
ENGROSSED

House Bill No. 1535

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1535 - By:
PETERSON (Ron) of the House and LASTER of the Senate.

An Act relating to insurance; amending 36 O.S. 2001, Sections 348.1, as amended by Section 4, Chapter 307, O.S.L. 2002, 361, as last amended by Section 1, Chapter 131, O.S.L. 2004, Section 3, Chapter 274, O.S.L. 2004, 629, as amended by Section 4, Chapter 274, O.S.L. 2004, and 903, as amended by Section 7, Chapter 519, O.S.L. 2004, 47 O.S. 2001, Section 11-801b, as renumbered by Section 35, Chapter 397, O.S.L. 2002, and 36 O.S. 2001, Sections 987, as amended by Section 19, Chapter 519, O.S.L. 2004, 991, 992, 1204, 1435.35, 1616, 1655, 3639, 4101, 6402, 6418, Section 22, Chapter 390, O.S.L. 2003, Section 6, Chapter 197, O.S.L. 2003, and Section 26, Chapter 197, O.S.L. 2003 (36 O.S. Supp. 2004, Sections 348.1, 361, 615.2, 629, 903, 944, 987, 6821, 6906 and 6926), which relate to the Oklahoma Insurance Code; allowing Commissioner to impose fees along with Board; modifying requirement of the Anti-Fraud Unit to refer certain matters to the Oklahoma State Bureau of Investigation for certain purposes; authorizing the Anti-Fraud Unit to employ certain investigators for certain purposes; requiring health maintenance organizations to maintain certain information; requiring approval from Insurance Commissioner for use of third party; modifying date certain payments must be made; including every insurer in application of rate filing mandates; modifying days required for approval of rates; deleting automatic approval of certain filings; providing reference; modifying type of risk covered; modifying references to certain act; allowing filing and approval by Insurance Commissioner; modifying reference to certain act; allowing investment in certain stocks; setting investment limits; adding certain standards for certain material transactions; reducing percentage of insured's assets that can be used; modifying reference to certain act; removing policy coverage requirement; allowing

1 for filing of rates; removing approval requirement for rates
2 filed; requiring filing of affidavit by certain person;
3 increasing fidelity bond or insurance maximum amount;
4 clarifying exclusion; creating the Health Savings Account
5 Act; stating purpose; defining terms; allowing exemption
6 from certain mandates for certain insurance plans; amending
7 25 O.S. 2001, Section 307.1, as last amended by Section 14,
8 Chapter 5, O.S.L. 2004 (25 O.S. Supp. 2004, Section 307.1),
9 which relates to the Oklahoma Open Meeting Act; allowing
10 certain board to hold meetings by teleconference; amending
11 85 O.S. 2001, Section 64, which relates to employer's
12 insurance; allowing for indemnity benefits to be paid;
13 repealing 36 O.S. 2001, Section 627, which relates to the
14 authorization of insurers; providing for codification; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 36 O.S. 2001, Section 348.1, as
18 amended by Section 4, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2004,
19 Section 348.1), is amended to read as follows:

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

- 23 1. Rating organizations, application fee
24 for issuance of license.....\$200.00
25 2. Miscellaneous:
26 a. Certificate of Insurance Commissioner,
27 under seal.....\$20.00
28 b. Upon each transaction of filing of
29 documents required pursuant to the
30 provisions of Section 3610 of this title:

- 1 (1) For an individual insurer.....\$50.00
- 2 (2) For an approved rating or advisory
- 3 organization:
- 4 (a) Basic fee.....\$50.00
- 5 (b) Additional fee for each member
- 6 or subscriber insurer.....\$10.00,
- 7 not to exceed.....\$500.00
- 8 3. For each rate, loss cost and rule filing request pursuant to
- 9 the provisions of Sections 902.1, 903 et seq., and 981 et seq. of
- 10 this title:
- 11 a. For an individual insurer.....\$100.00
- 12 b. For an approved rating or advisory
- 13 organization:
- 14 (1) Basic fee.....\$100.00
- 15 (2) Additional fee for each member
- 16 or subscriber insurer.....\$10.00,
- 17 not to exceed.....\$500.00.
- 18 B. All fees and licenses collected by the Insurance
- 19 Commissioner as provided in this section shall be paid into the
- 20 State Treasury on a weekly basis to the credit of the Insurance
- 21 Commissioner's Revolving Fund for the purpose of carrying out and
- 22 enforcing the provisions of Article 9 of the Insurance Code.

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

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

13 SECTION 2. AMENDATORY 36 O.S. 2001, Section 361, as last
14 amended by Section 1, Chapter 131, O.S.L. 2004 (36 O.S. Supp. 2004,
15 Section 361), is amended to read as follows:

16 Section 361. A. There is hereby created within the Insurance
17 Department, under the control and direction of the Insurance
18 Commissioner, an "Anti-Fraud Unit" within the Legal and
19 Investigation Division of the Insurance Department.

20 B. The Anti-Fraud Unit, upon inquiry, complaint, or referral
21 shall investigate the extent, if any, to which a violation has
22 occurred of any statute or administrative rule of this state
23 pertaining to insurance fraud and may initiate any necessary

1 investigation. Whenever the Unit determines that a violation of any
2 criminal law of this state may have occurred, it ~~shall~~ may refer the
3 matter to the Oklahoma State Bureau of Investigation for further
4 investigation pursuant to Section 150.5 of Title 74 of the Oklahoma
5 Statutes or the Attorney General pursuant to Section 18b of Title 74
6 of the Oklahoma Statutes. The Insurance Department shall retain the
7 authority to initiate and prosecute any civil action it deems
8 necessary or advisable.

9 C. The Anti-Fraud Unit may employ investigators who are
10 commissioned by the Insurance Commissioner to serve as peace
11 officers, as defined by and pursuant to the guidelines and
12 requirements of Section 3311 of Title 70 of the Oklahoma Statutes
13 and Sections 99 and 99a of Title 21 of the Oklahoma Statutes.

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

1 SECTION 3. AMENDATORY Section 3, Chapter 274, O.S.L.
2 2004 (36 O.S. Supp. 2004, Section 615.2), is amended to read as
3 follows:
4 Section 615.2 All domestic insurers and health maintenance
5 organizations are required to keep biographical information current.
6 ~~A domestic insurer is~~ Domestic insurers and health maintenance
7 organizations are required to provide Biographical Affidavits within
8 thirty (30) days of any change in officers, directors, key
9 management or any person acquiring ten percent (10%) or more
10 controlling interest in a domestic insurer. The information shall
11 be on the National Association of Insurance Commissioners (NAIC)
12 UCAA Biographical Affidavit Form. The Biographical Affidavit is to
13 be certified by an independent third party acceptable to the
14 Insurance Commissioner that has conducted a comprehensive review of
15 the background of the applicant and has indicated that the
16 Biographical Affidavit has no significantly inaccurate or
17 conflicting information and is accepted as the Business Character
18 Report. As used in this section, "independent third party" is one
19 that has no affiliation with the applicant and is in the business of
20 providing background checks or investigations. The Business
21 Character Report must be current and shall not be older than one (1)
22 year.

1 SECTION 4. AMENDATORY 36 O.S. 2001, Section 629, as
2 amended by Section 4, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2004,
3 Section 629), is amended to read as follows:

4 Section 629. A. Every insurance company transacting business
5 in this state whose premium tax, paid with respect to the previous
6 calendar year's premiums, was One Thousand Dollars (\$1,000.00) or
7 more, shall make an estimate each year as provided herein and remit
8 with each estimate a prepayment of its annual premium tax for the
9 current calendar year equal to one-fourth (1/4) of its annual
10 premium tax paid with respect to the previous calendar year's
11 premiums. Estimates, with remittance, shall be made on or before
12 April ~~±~~ 15, June 15, September 15 and December 15, respectively.

13 B. All sums prepaid by an insurance company shall be allowed as
14 credits against its annual return for premium tax payable on or
15 before the first day of March. If sums prepaid exceed the insurance
16 company's annual premium tax payable on or before the first day of
17 March, the excess shall be refunded or shall be allowed as credits
18 against subsequent prepayments of the tax as the insurance company
19 shall elect on the annual return for premium tax filed for the year
20 by the insurance company with respect to which such excess
21 prepayments were made. Provided, in the case of an insurance
22 company which has made prepayments of its premium tax in excess of
23 its annual premium tax payable, the part of the excess prepayments

1 as has not been credited against subsequent prepayments of the tax
2 shall be refunded to the insurance company upon application within
3 one hundred eighty (180) days after application is made.

4 SECTION 5. AMENDATORY 36 O.S. 2001, Section 903, as
5 amended by Section 7, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2004,
6 Section 903), is amended to read as follows:

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

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

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

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

1 b. certification of completion of a filing.

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

4 a. meeting of the Board, and

5 b. hearing conducted by the Board.

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

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

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

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

18 C. Nothing in this act shall be construed to require any filing
19 for approval of rates, rating plans, classifications, schedules,
20 loss cost and other information approved by the Board prior to ~~the~~
21 ~~effective date of this act~~ July 1, 1987.

22 D. Any formal hearing ordered by the Board shall be completed
23 and a written order on the filing issued by the Board within ~~ninety~~

1 ~~(90)~~ one hundred twenty (120) calendar days from the date of the
2 order setting the formal hearing, or the filing shall be deemed
3 approved at the expiration of the ~~ninety-day~~ one-hundred-twenty-day
4 period.

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

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

20 G. When investigating rates to determine whether or not they
21 comply with the provisions of this act, the previously approved
22 filing shall not be changed, altered, amended, or held in abeyance
23 until after completion of the investigation and an opportunity for

1 hearing in accordance with the provisions of this article.
2 Following such hearing, the Board shall enter its order in
3 accordance with the provisions of this act. The effective date of
4 such order shall not be less than thirty (30) days nor more than
5 sixty (60) days after the date of the order unless the Board
6 determines that, in the public interest, a shorter or longer period
7 is appropriate; provided, the filer has adequate time to implement
8 such rate change. Any such order shall apply prospectively only and
9 shall not affect premiums collected on new or renewal policies
10 issued prior to the effective date of this order.

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

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

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

8 SECTION 6. AMENDATORY 47 O.S. 2001, Section 11-801b, as
9 renumbered by Section 35, Chapter 397, O.S.L. 2002 (36 O.S. Supp.
10 2004, Section 944), is amended to read as follows:

11 Section 944. No insurer shall, directly or indirectly, use
12 traffic tickets or convictions for traffic offenses as a basis for
13 cancellation of automobile insurance policies or increasing
14 insurance premium rates for automobile insurance policies where such
15 ticket or conviction is for exceeding the speed limit specified in
16 ~~this act~~ Article 8 of Chapter 11 of Title 47 of the Oklahoma
17 Statutes, but not exceeding the speed limit previously in force
18 where the violation occurred; nor shall any insurer in any way
19 penalize or adversely affect any insured for any such violation or
20 conviction.

21 SECTION 7. AMENDATORY 36 O.S. 2001, Section 987, as
22 amended by Section 19, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2004,
23 Section 987), is amended to read as follows:

1 Section 987. Rate Filings.

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

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

22 In a noncompetitive market, the filing shall be deemed in
23 compliance with the filing provision of this section unless the

1 Commissioner informs the insurer within ten (10) days after receipt
2 of the filings as to what supplementary rate information or
3 supporting information is required to complete the filing.

4 C. Every authorized insurer shall file with the Commissioner,
5 except as to rates for those lines of insurance exempted from the
6 provisions of the Property and Casualty Competitive Loss Cost Rating
7 Act by the Commissioner under subsections E and F of this section
8 and except for those risks designated as special risks under Section
9 997 of this title, all rates, supplementary rate information and any
10 changes and amendments which it proposes to use. An insurer may
11 file its rates by either filing its final rates or by filing a
12 multiplier and, if applicable, an expense constant adjustment to be
13 applied to prospective loss costs that have been filed by an
14 advisory organization as permitted by Section 993 of this title.
15 Such loss cost multiplier filing and expense constant filings made
16 by insurers shall remain in effect until amended or withdrawn by the
17 insurer. Every filing shall state the effective date.

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

22 E. Notwithstanding any other provision of the Property and
23 Casualty Competitive Loss Cost Rating Act, upon the written consent

1 of the insured in a separate written document, a rate in excess of
2 that determined in accordance with the other provisions of the
3 Property and Casualty Competitive Loss Cost Rating Act may be used
4 on a specific ~~commercial~~ risk.

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

9 SECTION 8. AMENDATORY 36 O.S. 2001, Section 991, is
10 amended to read as follows:

11 Section 991. Licensing Advisory Organizations.

12 A. No advisory organization shall provide any service relating
13 to the rates of any insurance subject to the ~~Commercial~~ Property and
14 Casualty Competitive Loss Cost Rating Act, and no insurer shall
15 utilize the services of such organization unless the organization
16 has obtained a license.

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

21 C. 1. An advisory organization applying for a license shall
22 include with its application:

- 1 a. a copy of its constitution, charter, articles of
2 organization, agreement, association or incorporation,
3 and a copy of its bylaws, plan of operation and any
4 other rules or regulations governing the conduct of
5 its business,
6 b. a list of its members and subscribers,
7 c. the name and address of one or more residents of this
8 state upon whom notices, process affecting it, or
9 orders of the Commissioner may be served,
10 d. a statement showing its technical qualifications for
11 acting in the capacity for which it seeks a license,
12 e. a biography of the ownership and management of the
13 organization, and
14 f. any other relevant information and documents that the
15 Commissioner may require.

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

21 3. If the Commissioner finds that the applicant and the natural
22 persons through whom it acts are competent, trustworthy and
23 technically qualified to provide the services proposed, and that all

1 requirements of the law are met, he or she shall issue a license
2 specifying the authorized activity of the applicant. The
3 Commissioner shall not issue a license if the proposed activity
4 would tend to create a monopoly or to substantially lessen the
5 competition in the market.

6 4. Licenses issued pursuant to this section shall remain in
7 effect unless suspended or revoked. The Commissioner may at any
8 time, after a hearing, revoke or suspend the license of any advisory
9 organization which does not comply with the requirements and
10 standards of the ~~Commercial~~ Property and Casualty Competitive Loss
11 Cost Rating Act.

12 SECTION 9. AMENDATORY 36 O.S. 2001, Section 992, is
13 amended to read as follows:

14 Section 992. Insurers and Advisory Organization; Prohibited
15 Activity.

16 A. No insurer or advisory organization shall:

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

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

21 3. Except as set forth in subsection B of this section, agree
22 to mandate adherence to or to mandate use of any rate, prospective
23 loss cost, rating plan, rating schedule, rating rule, policy or bond

1 form, rate classification, rate territory, underwriting rule,
2 survey, inspection or similar material. Insurers and advisory
3 organizations may agree to develop and adhere to statistical plans
4 permitted by Section ~~13~~ 993 of this ~~act~~ title.

5 B. The fact that two or more insurers, whether or not members
6 or subscribers of an advisory organization, use consistently or
7 intermittently the same rates, prospective loss costs, rating plans,
8 rating schedules, rating rules, policy or bond forms, rate
9 classifications, rate territories, underwriting rules, surveys or
10 inspections or similar materials is not sufficient in itself to
11 support a finding that an agreement exists.

12 C. Two or more insurers having a common ownership or operating
13 in this state under common management or control may act in concert
14 between or among themselves with respect to any matters pertaining
15 to those activities authorized in the ~~Commercial~~ Property and
16 Casualty Competitive Loss Cost Rating Act as if they constituted a
17 single insurer.

18 D. Except as specifically permitted under Section ~~13~~ 993 of
19 this ~~act~~ title, no advisory organization shall compile or distribute
20 recommendations relating to rates that include expenses (other than
21 loss adjustment expenses or loss-based taxes and assessments) or
22 profit.

1 SECTION 10. AMENDATORY 36 O.S. 2001, Section 1204, is
2 amended to read as follows:

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

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

22 2. False information and advertising generally. Making,
23 publishing, disseminating, circulating, or placing before the

1 public, or causing, directly or indirectly, to be made, published,
2 disseminated, circulated, or placed before the public, in a
3 newspaper, magazine, or other publication, or in the form of a
4 notice, circular, pamphlet, letter or poster, or over any radio or
5 television station, or in any other way an advertisement,
6 announcement or statement containing any assertion, representation
7 or statement with respect to the business of insurance or with
8 respect to any person in the conduct of his insurance business which
9 is untrue, deceptive or misleading. No insurance company shall
10 issue, or cause to be issued, any policy of insurance of any type or
11 description upon life, or property, real or personal, whenever such
12 policy of insurance is to be furnished or delivered to the purchaser
13 or bailee of any property, real or personal, as an inducement to
14 purchase or bail said property, real or personal, and no other
15 person shall advertise, offer or give free insurance, insurance
16 without cost or for less than the approved or customary rate, in
17 connection with the sale or bailment of real or personal property,
18 except as provided in subsection B, Section 4101 of Article 41
19 (Group Life Insurance and Group Annuity Contracts). No person that
20 is not an insurer shall assume or use any name which deceptively
21 infers or suggests that it is an insurer.

22 3. Defamation. Making, publishing, disseminating, or
23 circulating, directly or indirectly, or aiding, abetting or

1 encouraging the making, publishing, disseminating or circulating of
2 any oral or written statement or any pamphlet, circular, article or
3 literature which is false, or maliciously critical of or derogatory
4 to the financial condition of an insurer, and which is calculated to
5 injure any person engaged in the business of insurance.

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

11 5. False financial statements. Filing with any supervisory or
12 other public official, or making, publishing, disseminating,
13 circulating or delivering to any person, or placing before the
14 public or causing directly or indirectly, to be made, published,
15 disseminated, circulated, delivered to any person or placed before
16 the public, any false statement of financial condition of an insurer
17 with intent to deceive.

18 Making any false entry in any book, report or statement of any
19 insurer with intent to deceive any agent or examiner lawfully
20 appointed to examine into its condition or into any of its affairs,
21 or any public official to whom such insurer is required by law to
22 report, or who has authority by law to examine into its condition or
23 into any of its affairs, or, with like intent, willfully omitting to

1 make a true entry of any material fact pertaining to the business of
2 such insurer in any book, report or statement of such insurer.

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

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

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

21 (c) As to kinds of insurance other than life and accident and
22 health, no person shall make or permit any unfair discrimination in
23 favor of particular persons, or between insureds or subjects of

1 insurance having substantially like insuring, risk, and exposure
2 factors, or expense elements, in the terms or conditions of any
3 insurance contract, or in the rate or amount of premium charged
4 therefor. This subsection shall not apply as to any premium rate in
5 effect pursuant to Article 9 of the Insurance Code.

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

1 advantage in the dividends or other benefit to accrue thereon, or
2 any valuable consideration or inducement not specified in the
3 contract.

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

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

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

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

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

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

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

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

13 9. Coercion prohibited. Requiring as a condition precedent to
14 the purchase of, or the lending of money upon the security of, real
15 or personal property, that any insurance covering such property, or
16 liability arising from the ownership, maintenance or use thereof, be
17 procured by or on behalf of the vendee or by the borrower in
18 connection with such purchase or loan through any particular person
19 or agent or in any particular insurer, or requiring the payment of a
20 reasonable fee as a condition precedent to the replacement of
21 insurance coverage on mortgaged property at the anniversary date of
22 the policy; provided, however, that this provision shall not prevent
23 the exercise by any such vendor or lender of the right to approve or

1 disapprove any insurer selected to underwrite the insurance; but any
2 disapproval of any insurer shall be on reasonable grounds.

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

9 (a) Any employment.

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

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

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

17 (e) Any special favor, advantage or other benefit in the
18 payment, method of payment or credit for payment of the premium
19 through the use of credit cards, credit card facilities, credit card
20 lists, or wholesale or retail credit accounts of another person.

21 The provisions of this paragraph shall not apply to individual
22 policies insuring against loss resulting from bodily injury or death
23 by accident as defined by Article 44 of the Oklahoma Insurance Code.

1 11. Premature disposal of premium notes prohibited. No insurer
2 or agent thereof shall hypothecate, sell, or dispose of a promissory
3 note received in payment of any part of a premium on a policy of
4 insurance applied for prior to the delivery of the policy.

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

11 SECTION 11. AMENDATORY 36 O.S. 2001, Section 1435.35, is
12 amended to read as follows:

13 Section 1435.35 No insurer, insurance agent, surplus lines
14 insurance broker, or limited insurance representative shall pay,
15 directly or indirectly, any commission, brokerage, or other valuable
16 consideration to any person for services as an insurance agent,
17 surplus lines insurance broker, or limited insurance representative
18 within this state unless the person performing services held at the
19 time said services were performed a valid license for such services
20 as required by the laws of this state. No person other than a
21 person duly licensed by this state as an insurance agent, surplus
22 lines insurance broker, or limited insurance representative at the
23 time said services were performed shall accept any commission,

1 brokerage, or other valuable consideration. Any person duly
2 licensed as an insurance agent pursuant to the provisions of the
3 ~~Insurance Agents~~ Oklahoma Producer Licensing Act, ~~Article 14A of~~
4 ~~this title,~~ may pay or assign his or her commissions or direct that
5 his or her commissions be paid to an entity licensed as an insurance
6 agent pursuant to the provisions of this section of which the
7 licensee is a member, partner, officer, employee, or agent. The
8 provisions of this section shall not prevent payment or receipt of
9 renewal or other deferred commissions to or by any person entitled
10 thereto pursuant to the provisions of this section. Any person duly
11 licensed as a limited insurance representative may pay or assign his
12 or her commissions or direct that his or her commissions be paid to
13 a financial institution or supervised lender licensed and regulated
14 pursuant to the laws of this state or of any state or of the United
15 States, or to any principal, corporation, partnership or other
16 entity which is the credit granting party in any credit transaction
17 involved, its parent, affiliate, successor or assign, or to a
18 partnership or corporation licensed as a limited insurance
19 representative of which the licensee is a member, officer, employee
20 or agent.

21 SECTION 12. AMENDATORY 36 O.S. 2001, Section 1616, is
22 amended to read as follows:

1 Section 1616. A. Any domestic ~~company~~ investor, in addition to
2 other investments permitted by this article, may invest ~~an amount~~
3 ~~not to exceed its capital and surplus if a stock company, and if a~~
4 ~~company other than stock an amount not to exceed its surplus over~~
5 ~~all liabilities, directly or indirectly, in the shares of one or~~
6 ~~more insurance companies where such companies operate as companion~~
7 ~~companies or are under substantially the same management. The stock~~
8 ~~of another insurance company shall not be used by any company as~~
9 ~~assets in meeting the minimum requirements for organization of an~~
10 ~~insurance company~~ in common stock, preferred stock, debt
11 obligations, and other securities of one or more subsidiaries,
12 excluding investments in insurance subsidiaries, in amounts which do
13 not exceed the lesser of ten percent (10%) of the assets of the
14 insurer or fifty percent (50%) of the surplus of the insurer in
15 regard to policyholders except instances where a greater investment
16 has been approved by the Commissioner.

17 B. Except with the consent of the Insurance Commissioner, no
18 domestic life insurer shall, in addition to other investments
19 permitted by this article, invest an amount equal in the aggregate
20 to more than ten percent (10%) of its assets, or in the case of a
21 domestic nonlife insurer, an amount equal in the aggregate to more
22 than twenty percent (20%) of its assets in the shares of solvent
23 corporations created or existing under the laws of the United States

1 or of any state, including the shares of a substantially owned or
2 wholly owned subsidiary corporation. Investing in the shares of
3 mutual funds that invest only in bonds or preferred stocks shall be
4 considered as investing in bonds or preferred stocks, and investing
5 in mutual funds that invest in common stocks shall be considered as
6 investing in common stocks. However, investments in the shares of
7 subsidiaries or companion insurance companies shall be governed by
8 paragraph A of this section.

9 C. For the purpose of determining the investment limitation
10 imposed by this article, the insurer shall value securities
11 purchased pursuant to the provisions of this article at the cost of
12 the security or at the market value of the security, whichever is
13 lower.

14 SECTION 13. AMENDATORY 36 O.S. 2001, Section 1655, is
15 amended to read as follows:

16 Section 1655. (a) Transactions with Affiliates. Material
17 transactions by registered insurers with their affiliates shall be
18 subject to the provisions of Section 1604 of this title. The board
19 of directors will be charged with exercising that degree of care
20 which a prudent person would have exercised under similar
21 circumstances. Material transactions shall be subject to the
22 following standards:

23 (1) the terms shall be fair and reasonable;

- 1 (2) charges or fees for services performed shall be
2 reasonable;
- 3 (3) expenses incurred and payment received shall be
4 allocated to the insurer in conformity with customary
5 insurance accounting practices consistently applied;
- 6 (4) the books, accounts and records of each party to all
7 such transactions shall be so maintained as to clearly
8 and accurately disclose the precise nature and details
9 of the transaction including such accounting
10 information as is necessary to support the
11 reasonableness of the charges or fees to the
12 respective parties; and
- 13 ~~(3)~~
- 14 (5) the insurer's surplus as regards policyholders
15 following any dividends or distributions to
16 shareholder affiliates shall be reasonable in relation
17 to the insurer's outstanding liabilities and adequate
18 to meet its financial needs.

19 (b) Insurance Commissioner's Approval Required.

- 20 (1) The prior written approval of the Commissioner shall
21 be required for the following transactions between a
22 domestic insurer and its affiliates: sales,
23 guarantees, purchases, exchanges, loans or extensions

1 of credit or investments which, based upon an annual
2 aggregate, involve more than ~~five percent (5%)~~ three
3 percent (3%) of the insurer's admitted assets or
4 twenty-five percent (25%) of the insurer's surplus as
5 regards policyholders, whichever is less, as of the
6 latest statutory financial statement filed with the
7 Commissioner; provided, however, that the Commissioner
8 must either approve or disapprove within thirty (30)
9 days after receiving written notification from the
10 insurer of the proposed transaction and failure to
11 disapprove the proposed transaction within thirty (30)
12 days shall constitute approval of the transaction;

13 (2) The prior written approval of the Commissioner shall
14 be required for any transactions between a domestic
15 insurer and its affiliates where the insurer is found
16 by the Commissioner to be in unsound condition or in
17 such condition as to render its further transaction of
18 insurance in Oklahoma hazardous to its policyholders
19 or to the people of Oklahoma; provided, however, that
20 the Commissioner must either approve or disapprove
21 within ninety (90) days after written notification by
22 the insurer and failure to disapprove the proposed

1 transaction within ninety (90) days shall constitute
2 approval of the transaction;

3 (3) The following transactions involving a domestic
4 insurer and any person in its holding company system
5 may not be entered into unless the insurer has
6 notified the Commissioner in writing of its intention
7 to enter into such transaction at least thirty (30)
8 days prior thereto, or such shorter period as the
9 Commissioner may permit, and the Commissioner has not
10 disapproved it within such period.

11 (i) loans or extensions of credit to any person who
12 is not an affiliate, where the insurer makes such
13 loans or extensions of credit with the agreement
14 or understanding that the proceeds of such
15 transactions, in whole or in substantial part,
16 are to be used to make loans or extensions of
17 credit to, to purchase assets of, or to make
18 investments in, any affiliate of the insurer
19 making such loans or extensions of credit
20 provided such transactions are equal to or
21 exceed: (a) with respect to nonlife insurers,
22 the lesser of three percent (3%) of the insurer's
23 admitted assets or twenty-five percent (25%) of

1 surplus as regards policyholders; (b) with
2 respect to life insurers, three percent (3%) of
3 the insurer's admitted assets; each as of the
4 31st day of December next preceding;

5 (ii) reinsurance agreements or modifications thereto
6 in which the reinsurance premium or a change in
7 the insurer's liabilities equals or exceeds five
8 percent (5%) of the insurer's surplus as regards
9 policyholders, as of the 31st day of December
10 next preceding, including those agreements which
11 may require as consideration the transfer of
12 assets from an insurer to a nonaffiliate, if an
13 agreement or understanding exists between the
14 insurer and nonaffiliate that any portion of such
15 assets will be transferred to one or more
16 affiliates of the insurer;

17 (iii) all management agreements, service contracts and
18 all cost-sharing arrangements; and

19 (4) The Insurance Commissioner shall promulgate reasonable
20 rules and regulations governing the form and content
21 of the notice required pursuant to subsection (b) of
22 this section.

1 (c) Nothing in this section shall supersede approvals granted
2 under other sections of this title or transactions occurring prior
3 to the effective date of this section.

4 (d) Adequacy of Surplus. For purposes of Section 1651 et seq.
5 of this title, in determining whether an insurer's surplus as
6 regards policyholders is reasonable in relation to the insurer's
7 outstanding liabilities and adequate to its financial needs, the
8 following factors, among others, shall be considered:

- 9 (1) the size of the insurer as measured by its assets,
10 capital and surplus, reserves, premium writing,
11 insurance in force and other appropriate criteria;
- 12 (2) the extent to which the insurer's business is
13 diversified among the several lines of insurance;
- 14 (3) the number and size of risks insured in each line of
15 business;
- 16 (4) the extent of the geographical dispersion of the
17 insurer's insured risks;
- 18 (5) the nature and extent of the insurer's reinsurance
19 program;
- 20 (6) the quality, diversification, and liquidity of the
21 insurer's investment portfolio;
- 22 (7) the recent past and projected future trend in the size
23 of the insurer's investment portfolio;

- 1 (8) the surplus as regards policyholders maintained by
2 other comparable insurers;
- 3 (9) the adequacy of the insurer's reserves;
- 4 (10) the quality and liquidity of investments in
5 subsidiaries made pursuant to Section 1652 of this
6 title. The Commissioner may treat any such investment
7 as a disallowed asset for purposes of determining the
8 adequacy of surplus as regards policyholders whenever
9 in his judgment such investment so warrants; and
- 10 (11) the quality of the insurer's earnings and the extent
11 to which the reported earnings include extraordinary
12 items.

13 (e) Dividends and Other Distributions. No insurer subject to
14 registration under Section 1654 of this title shall pay any
15 extraordinary dividend or make any other extraordinary distribution
16 to its shareholders until (i) thirty (30) days after the
17 Commissioner has received notice of the declaration thereof and has
18 not within such period disapproved such payment, or (ii) the
19 Commissioner shall have approved such payment within such thirty-day
20 period.

21 For purposes of this section, an extraordinary dividend or
22 distribution includes any dividend or distribution of cash or other
23 property, whose fair market value together with that of other

1 dividends or distributions made within the preceding twelve months
2 exceeds the greater of (i) ten percent (10%) of such insurer's
3 surplus as regards policyholders as of the 31st day of December next
4 preceding, or (ii) the net gain from operations of such insurer, if
5 such insurer is a life insurer, or the net income, if such insurer
6 is not a life insurer, not including realized capital gains, for the
7 twelve-month period ending the 31st day of December next preceding,
8 but shall not include pro rata distributions of any class of the
9 insurer's own securities.

10 Notwithstanding any other provision of law, an insurer may
11 declare an extraordinary dividend or distribution which is
12 conditional upon the Commissioner's approval thereof, and such a
13 declaration shall confer no rights upon shareholders until (i) the
14 Commissioner has approved the payment of such dividend or
15 distribution or (ii) the Commissioner has not disapproved such
16 payment within the thirty-day period referred to above.

17 SECTION 14. AMENDATORY 36 O.S. 2001, Section 3639, is
18 amended to read as follows:

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

22 B. As used in this section:

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

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

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

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

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

21 C. After coverage has been in effect for more than forty-five
22 (45) business days or after the effective date of the renewal of a
23 commercial property, commercial casualty or commercial fire

1 insurance policy, a notice of cancellation shall not be issued by
2 any licensed insurer or surplus or excess lines insurer unless it is
3 based on at least one of the following reasons with at least ten
4 (10) days notice to the insured:

5 1. Nonpayment of premium;

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

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

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

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

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

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

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

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

22 If an insurer provides the notice required by this subsection
23 and thereafter the insurer extends the policy for ninety (90) days

1 or less, an additional notice of nonrenewal is not required with
2 respect to the extension.

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

19 This subsection shall not apply to:

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

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

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

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

9 SECTION 15. AMENDATORY 36 O.S. 2001, Section 4101, is
10 amended to read as follows:

11 Section 4101. No policy of group life insurance shall be
12 delivered in this state unless it conforms to one of the following
13 descriptions:

14 1. A policy issued to an employer, or to the trustees of a fund
15 established by an employer, which employer or trustees shall be
16 deemed the policyholder, to insure employees of the employer for the
17 benefit of persons other than the employer, subject to the following
18 requirements:

19 a. The employees eligible for insurance under the policy
20 shall be all of the employees of the employer, or all
21 of any class or classes thereof determined by
22 conditions pertaining to their employment. The policy
23 may provide that the term "employees" shall include

1 the employees of one or more subsidiary corporations,
2 and the employees, individual proprietors and partners
3 of one or more affiliated corporations, proprietors or
4 partnerships if the business of the employer and of
5 such affiliated corporations, proprietors or
6 partnerships is under common control through stock
7 ownership or contract, or otherwise. The policy may
8 provide that the term "employees" shall include the
9 individual proprietor or partners if the employer is
10 an individual proprietor or a partnership. The policy
11 may provide that the term "employees" shall include
12 retired employees. No director of a corporate
13 employer shall be eligible for insurance under the
14 policy unless such a person is otherwise eligible as a
15 bona fide employee of the corporation by performing
16 services other than the usual duties of a director.
17 No individual proprietor or partner shall be eligible
18 for insurance under the policy unless he is actively
19 engaged in and devotes a substantial part of his time
20 to the conduct of the business of the proprietor or
21 partnership. The policy may provide that the term
22 "employees" shall include the trustees or their
23 employees, or both, if their duties are principally

1 connected with such trusteeship. A policy issued to
2 insure the employees of a public body may provide that
3 the term "employee" shall include elected or appointed
4 officials.

5 b. The premium for the policy shall be paid by the
6 policyholder, either wholly from the employer's funds
7 or funds contributed by him, or partly from such funds
8 and partly from funds contributed by the insured
9 employees, or from funds contributed wholly by the
10 insured employees. A policy on which part or all of
11 the premium is to be derived from funds contributed by
12 the insured employees may be placed in force only if
13 at least seventy-five percent (75%) of the then
14 eligible employees, excluding any as to whom evidence
15 of individual insurability is not satisfactory to the
16 insurer, elect to make the required contributions. A
17 policy on which no part of the premium is to be
18 derived from funds contributed by the insured
19 employees must insure all eligible employees, or all
20 except any as to whom evidence of insurability is not
21 satisfactory to the insurer.

22 ~~c. The policy must cover at least ten employees as of~~
23 ~~date of issue.~~

1 ~~d.~~ The amounts of insurance under the policy must be
2 based upon some plan precluding individual selection
3 either by the employees or by the employer or trustee;

4 2. A policy issued to a creditor, who shall be deemed to be the
5 policyholder, to insure debtors of the creditor. Credit unions and
6 associations formed for the purpose of making loans to their members
7 shall be deemed to be creditors within the meaning of this section.
8 Policies issued to a creditor to insure debtors of the creditor are
9 subject to the following requirements:

10 a. The debtors eligible for insurance under the policy
11 shall be all of the debtors of the creditor or all of
12 any class or classes thereof determined by conditions
13 pertaining to the indebtedness or to the purchase
14 giving rise to the indebtedness. The policy may
15 provide that the term "debtors" shall include the
16 debtors of one or more subsidiary corporations, and
17 the debtors of one or more affiliated corporations,
18 proprietors or partnerships if the business of the
19 policyholder and of such affiliated corporations,
20 proprietors or partnerships is under common control
21 through stock ownership, contract or otherwise.

22 b. The premium for the policy shall be paid by the
23 policyholder, either from the creditor's funds, or

1 from charges collected from the insured debtors, or
2 from both. A policy on which part or all of the
3 premium is to be derived from the collection from the
4 insured debtors of identifiable charges not required
5 of uninsured debtors shall not include, in the class
6 or classes of debtors eligible for insurance, debtors
7 under obligation outstanding at its date of issue
8 without evidence of individual insurability unless at
9 least seventy-five percent (75%) of the then eligible
10 debtors elect to pay the required charges. A policy
11 on which no part of the premium is to be derived from
12 the collection of such identifiable charges must
13 insure all eligible debtors, or all except any as to
14 whom evidence of individual insurability is not
15 satisfactory to the insurer.

16 c. The policy may be issued only if the group of eligible
17 debtors is then receiving new entrants at the rate of
18 at least one hundred persons yearly, or may reasonably
19 be expected to receive at least one hundred new
20 entrants during the first policy year, and only if the
21 policy reserves to the insurer the right to require
22 evidence of individual insurability if less than

1 seventy-five percent (75%) of the new entrants become
2 insured.

3 d. The amount of insurance on the life of any debtor
4 shall at no time exceed the amount owed by him which
5 is repayable to the creditor, or One Hundred Thousand
6 Dollars (\$100,000.00), whichever is less, provided
7 further, no company licensed to do business in this
8 state shall issue in excess of One Hundred Thousand
9 Dollars (\$100,000.00) group credit life insurance on
10 one individual in the State of Oklahoma.

11 e. The insurance shall be payable to the policyholder.
12 Such payment shall reduce or extinguish the unpaid
13 indebtedness of the debtor to the extent of such
14 payment;

15 3. A policy issued to a labor union, which shall be deemed the
16 policyholder, to insure members of such union for the benefit of
17 persons other than the union or any of its officials,
18 representatives or agents, subject to the following requirements:

19 a. The members eligible for insurance under the policy
20 shall be all of the members of the union, or all of
21 any class or classes thereof determined by conditions
22 pertaining to their employment, or to membership in
23 the union, or both.

- 1 b. The premium for the policy shall be paid by the
2 policyholder, either wholly from the union's funds, or
3 partly from such funds and partly from funds
4 contributed by the insured members specifically for
5 their insurance, or from funds contributed wholly by
6 the insured members. A policy on which part or all of
7 the premium is to be derived from funds contributed by
8 the insured members specifically for their insurance
9 may be placed in force only if at least seventy-five
10 percent (75%) of the then eligible members, excluding
11 any as to whom evidence of individual insurability is
12 not satisfactory to the insurer, elect to make the
13 required contributions. A policy on which no part of
14 the premium is to be derived from funds contributed by
15 the insured members specifically for their insurance
16 must insure all eligible members or all except any as
17 to whom evidence of individual insurability is not
18 satisfactory to the insurer.
- 19 c. The policy must cover at least ten members at date of
20 issue.
- 21 d. The amount of insurance under the policy must be based
22 upon some plan precluding individual selection either
23 by the members or by the union;

1 4. A policy issued to the trustees of a fund established in
2 this state by two or more employers in the same industry, provided a
3 majority of the employees to be insured of each employer are located
4 within this state, or to the trustees of a fund established by one
5 or more labor unions, or by one or more employers in the same
6 industry and one or more labor unions or by one or more employers
7 and one or more labor unions whose members are in the same or
8 related occupation or trades, or by an association of persons,
9 licensed by the State of Oklahoma to engage in a recognized
10 profession, which trustees shall be deemed the policyholder to
11 insure employees of the employers or members of the unions or
12 members of an association of persons, licensed by the State of
13 Oklahoma to engage in a recognized profession, for the benefit of
14 persons other than the employers or the unions, or the association
15 of persons, licensed by the State of Oklahoma to engage in a
16 recognized profession, subject to the following requirements:

17 a. The persons eligible for insurance shall be all of the
18 employees of the employers or all of the members of
19 the union, or all the members of an association of
20 persons, licensed by the State of Oklahoma to engage
21 in a recognized profession, or all of any class or
22 classes thereof determined by conditions pertaining to
23 their employment, or to membership in the unions, or

1 to both, or pertaining to membership in the
2 association of persons, licensed by the State of
3 Oklahoma to engage in a recognized profession. The
4 policy may provide that the term "employees" shall
5 include the individual proprietor or partners if any
6 employer is an individual proprietor or a partnership.
7 The policy may provide that the term "employees" shall
8 include retired employees. No director of a corporate
9 employer shall be eligible for insurance under the
10 policy unless such person is otherwise eligible as a
11 bona fide employee of the corporation by performing
12 services other than the usual duties of a director.
13 No individual proprietor or a partner shall be
14 eligible for insurance under the policy unless he is
15 actively engaged in and devotes a substantial part of
16 his time to the conduct of the business of the
17 proprietor or partnership. The policy may provide
18 that the term "employees" shall include the trustees
19 or their employees, or both if their duties are
20 principally connected with such trusteeship, and that
21 the term "members of an association" shall include
22 employees of members.

1 b. The premium for the policy shall be paid by the
2 trustees wholly from funds contributed by the employer
3 or employers of the insured persons, or by the union
4 or unions, or by both, or by an association of
5 persons, licensed by the State of Oklahoma to engage
6 in a recognized profession, or from funds contributed
7 wholly or in part by the insured persons. A policy on
8 which part of the premium is to be derived from funds
9 contributed by the insured persons specifically for
10 their insurance may be placed in force only if at
11 least seventy-five percent (75%) of the then eligible
12 persons, excluding any as to whom evidence of
13 insurability is not satisfactory to the insurer, elect
14 to make the required contributions. A policy issued
15 to the trustees of a fund established by an
16 association of persons, licensed by the State of
17 Oklahoma to engage in a recognized profession, on
18 which part or all the premium is to be derived from
19 funds contributed by the insured persons specifically
20 for their insurance, may be placed in force only if
21 the total number of persons covered at the date of
22 issue exceeds six hundred or seventy-five percent
23 (75%) of the eligible persons, whichever is less,

1 excluding any as to whom evidence of insurability is
2 not satisfactory to the insurer, elect to make the
3 required contribution. A policy on which no part of
4 the premium is to be derived from funds contributed by
5 the insured persons specifically for their insurance
6 must insure all eligible persons, or all except any as
7 to whom evidence of individual insurability is not
8 satisfactory to the insurer.

9 c. The policy must cover at date of issue at least one
10 hundred persons; and if the fund is established by the
11 members of an association of employers the policy may
12 be issued only if (a) either (i) the participating
13 employers constitute at date of issue at least sixty
14 percent (60%) of those employer members whose
15 employees are not already covered by group life
16 insurance or (ii) the total number of persons covered
17 at date of issue exceeds six hundred; and (b) the
18 policy shall not require that if a participating
19 employer discontinues membership in the association,
20 the insurance of his employees shall cease solely by
21 reason of such discontinuance.

22 d. The amounts of insurance under the policy must be
23 based upon some plan precluding individual selection

1 either by the insured persons or by the policyholder,
2 employers, or unions;

3 5. A policy issued to any nonprofit industrial association to
4 insure the executives of employer members of a nonprofit industrial
5 association, which is now and has been actively functioning for a
6 period of not less than ten (10) years, such policy to be issued to
7 such association which shall be deemed to be the employer for the
8 purposes of this article, or to the association and executives of
9 such employer members jointly and insuring only all of such
10 executives for amounts of insurance based upon some plan which will
11 preclude individual selection, for the benefit of persons other than
12 such association, and the premium on which shall be paid by the
13 employer members or the employer members and the executives of such
14 employer members jointly;

15 6. A policy issued to a credit union which shall be deemed the
16 policyholder, to insure eligible members for the benefit of someone
17 other than the credit union or its officials and subject to the
18 following requirements:

19 a. The members eligible for insurance under the policy
20 shall be all the members of the credit union or all of
21 any class or classes thereof.

22 b. The premiums for the policy shall be paid by the
23 policyholder, either wholly from the credit union's

1 funds, or partly from such funds and partly from funds
2 contributed by the insured members specifically for
3 their insurance. A policy on which no part of the
4 premium is to be derived from funds contributed by the
5 insured members specifically for their insurance must
6 insure all eligible members or all except any as to
7 whom evidence of individual insurability is not
8 satisfactory to the insurer.

9 c. The amount of insurance under the policy may be based
10 on the amount of the member's savings in the credit
11 union or upon some other plan precluding individual
12 selection either by the members or by the credit
13 union;

14 7. A policy issued to a charitable, benevolent, educational or
15 religious institution, or their agencies, to insure the members
16 thereof for the purpose set forth in subsection D of Section 3604 of
17 this title;

18 8. A policy issued to an alumni association of an institution
19 of higher education accredited by the Oklahoma State Regents for
20 Higher Education, to insure the members thereof for the purpose set
21 forth in subsection E of Section 3604 of this title;

22 9. A policy to an association, which has a constitution and
23 bylaws and which has been organized and is maintained in good faith

1 for purposes other than that of obtaining insurance, that insures at
2 least ten members, employees, or employees of members of the
3 association or its officers or trustees. The term "employees" as
4 used in this paragraph shall include retired employees.

5 "Association" means, with respect to life insurance coverage
6 offered, an association which:

- 7 a. has been actively in existence for at least five (5)
8 years,
- 9 b. has been formed and maintained in good faith for
10 purposes other than obtaining insurance,
- 11 c. does not condition membership in the association on
12 any health status-related factor relating to an
13 individual, including an employee of an employer or a
14 dependent of an employee or association member,
- 15 d. makes life insurance coverage offered through the
16 association available to all members regardless of any
17 health status-related factor relating to such member
18 or individuals eligible for coverage through a member,
- 19 e. does not make life insurance coverage offered through
20 the association available other than in connection
21 with a member of the association, and
- 22 f. meets such additional requirements as may be imposed
23 under state law;

1 10. A policy issued to cover any other group subject to the
2 following requirements:

3 a. no such group life insurance policy shall be delivered
4 in this state unless the Commissioner of Insurance
5 finds that:

6 (1) the issuance of such group policy is not contrary
7 to the best interest of the public,

8 (2) the issuance of the group policy would result in
9 economies of acquisition or administration, and

10 (3) the benefits are reasonable in relation to the
11 premiums charged, and

12 b. the premium for the policy shall be paid either from
13 the policyholder's funds or from funds contributed by
14 the covered person or from both; or

15 11. A policy issued to cover any other substantially similar
16 group which, in the discretion of the Insurance Commissioner, may be
17 subject to the issuance of a group life policy or contract.

18 SECTION 16. AMENDATORY 36 O.S. 2001, Section 6402, is
19 amended to read as follows:

20 Section 6402. The rates for such custom harvesting insurance
21 shall be those rates on file with the ~~Board for Property and~~
22 ~~Casualty Rates~~ Insurance Commissioner ~~on the effective date of this~~
23 ~~act~~ May 15, 1986, or if such rates are not on file and need to be

1 ~~filed and approved, such rates shall not be subject to the time~~
2 ~~constraints for rating approval as provided in the Insurance Code.~~
3 ~~Such rates may be immediately used pending approval by the Board for~~
4 ~~Property and Casualty Rates~~ submitted or filed with the Insurance
5 Commissioner.

6 SECTION 17. AMENDATORY 36 O.S. 2001, Section 6418, is
7 amended to read as follows:

8 Section 6418. Each member insurer shall use the filed ~~and~~
9 ~~approved~~ rate for the liability and homeowners' insurance being
10 written ~~or those rates effective by Section 924 of this Code.~~ Any
11 variance from such rate, including a variance based upon debit,
12 shall be ~~approved prior to use, by the State Board for Property and~~
13 ~~Casualty Rates~~ submitted or filed with the Insurance Commissioner.

14 SECTION 18. AMENDATORY Section 22, Chapter 390, O.S.L.
15 2003 (36 O.S. Supp. 2004, Section 6821), is amended to read as
16 follows:

17 Section 6821.

18 MEDICAL PROFESSIONAL LIABILITY RATE SETTING

19 A. No rate shall be approved or remain in effect which is
20 excessive, inadequate, unfairly discriminatory or otherwise in
21 violation of this section. Notwithstanding any other provision of
22 law, in considering whether a rate is excessive, inadequate or
23 unfairly discriminatory, no consideration shall be given to the

1 degree of competition and the Insurance Commissioner shall consider
2 whether the rate mathematically reflects the insurance company's
3 investment income.

4 B. Notwithstanding any other provision of law, every medical
5 professional liability insurer which desires to change any rate
6 shall file a rate application with the Commissioner. A complete
7 rate application shall include the factors enumerated in Section
8 902.2 of ~~Title 36 of the Oklahoma Statutes~~ this title and such other
9 information as the Commissioner may require. The applicant shall
10 have the burden of proving that the requested rate change is
11 justified and meets the requirements of this section.

12 C. The ~~Commissioner~~ insurer shall notify the policyholders of
13 any application by an insurer for a rate change. The insurer shall
14 file an affidavit signed by the individual responsible for the rate
15 change application with the Commissioner certifying that
16 policyholders were notified pursuant to this section. The
17 application shall be deemed approved forty-five (45) days after
18 notice unless:

19 1. A policyholder or the policyholder's representative requests
20 a hearing within forty-five (45) days of the notice and the
21 Commissioner, within fifteen (15) days thereafter, grants the
22 hearing, or determines not to grant the hearing and issues written
23 findings in support of that decision; or

1 2. The Commissioner on his or her own motion determines to hold
2 a hearing.

3 In any event, a rate change application shall be deemed approved
4 ninety (90) days after the rate application is received by the
5 Commissioner unless that application has been disapproved by a final
6 order of the Commissioner subsequent to a hearing or extraordinary
7 circumstances exist. For purposes of this paragraph "received"
8 means the date delivered to the Insurance Department.

9 D. For purposes of subsection C of this section, "extraordinary
10 circumstances" include the following:

11 1. Rate change application hearings commenced during the
12 ninety-day period provided by subsection C of this section. If a
13 hearing is commenced during the ninety-day period, the rate change
14 application shall be deemed approved upon expiration of the ninety-
15 day period or thirty (30) days after the close of the record of the
16 hearing, whichever is later, unless disapproved prior to that date.

17 2. The hearing has been continued. The ninety-day period
18 provided by subsection C of this section shall be tolled during any
19 period of which a hearing is continued. A continuance shall be
20 decided on a case by case basis. If the hearing is commenced or
21 continued during the ninety-day period, the rate change application
22 shall be deemed approved upon the expiration of the ninety-day

1 period or thirty (30) days after the close of the record of the
2 hearing, whichever is later, unless disapproved prior to that date.

3 E. No medical professional liability insurer shall cancel or
4 refuse to renew coverage of a policyholder on the basis of a
5 policyholder's exercise of any right pursuant to this section.

6 F. Nothing in this section shall apply to policies insuring any
7 nursing home licensed pursuant to Section 1-1903 of Title 63 of the
8 Oklahoma Statutes.

9 SECTION 19. AMENDATORY Section 6, Chapter 197, O.S.L.
10 2003 (36 O.S. Supp. 2004, Section 6906), is amended to read as
11 follows:

12 Section 6906. A. A director, officer, employee or partner of a
13 health maintenance organization who receives, collects, disburses or
14 invests funds in connection with the activities of the organization
15 shall be responsible for the funds in a fiduciary relationship to
16 the organization.

17 B. A health maintenance organization shall maintain in force a
18 fidelity bond or fidelity insurance on such employees, officers,
19 directors and partners in an amount that is not less than Two
20 Hundred Fifty Thousand Dollars (\$250,000.00) for each health
21 maintenance organization, or a maximum of ~~Five Thousand Dollars~~
22 ~~(\$5,000.00)~~ Five Million Dollars (\$5,000,000.00) in aggregate
23 maintained on behalf of health maintenance organizations owned by a

1 common parent corporation, or the sum prescribed by the Insurance
2 Commissioner.

3 SECTION 20. AMENDATORY Section 26, Chapter 197, O.S.L.
4 2003 (36 O.S. Supp. 2004, Section 6926), is amended to read as
5 follows:

6 Section 6926. A. Except as otherwise provided in the Health
7 Maintenance Organization Act of 2003 or unless expressly made
8 applicable to health maintenance organizations, provisions of the
9 insurance law and provisions of hospital or medical service
10 corporation laws shall not be applicable to a health maintenance
11 organization granted a certificate of authority under the provisions
12 of this act. This provision shall not apply to an insurer or
13 hospital or medical service corporation licensed and regulated
14 pursuant to the insurance law or the hospital or medical service
15 corporation laws of this state except with respect to its health
16 maintenance organization activities authorized and regulated
17 pursuant to this act.

18 B. Solicitation of enrollees by a health maintenance
19 organization granted a certificate of authority, or its
20 representatives, shall not be construed to violate any provision of
21 law relating to solicitation or advertising by health professionals.

22 C. Any health maintenance organization authorized under this
23 act shall not be deemed to be practicing medicine and shall be

1 exempt from the provisions of Title 59 of the Oklahoma Statutes
2 related to the practice of medicine.

3 SECTION 21. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 7001 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 Sections 21 through 23 of this act shall constitute Article 70
7 of the Oklahoma Insurance Code and shall be known and may be cited
8 as the "Health Savings Account Act". The purpose of this act is to
9 enable citizens of Oklahoma to establish health savings accounts as
10 permitted by Section 223 of the Internal Revenue Code as added by
11 Section 1201 of the Medicare Prescription Drug, Improvement, and
12 Modernization Act of 2003, P.L. 108-173.

13 SECTION 22. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 7002 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 As used in the Health Savings Account Act:

17 1. "High deductible health plan" means a health plan which
18 meets the requirements of Section 223(c)(2) of the Internal Revenue
19 Code as added by Section 1201 of the Medicare Prescription Drug,
20 Improvement, and Modernization Act of 2003, P.L. 108-173; and

21 2. "State-mandated health benefits" means coverage for health
22 care services or benefits, required by state law or state
23 regulations, requiring the reimbursement or utilization related to a

1 specific illness, injury, or condition of the covered person, or
2 inclusion of a specific category of licensed health care
3 practitioner to be provided to the covered person in a health
4 benefit plan for a health-related condition of a covered person.
5 Provided, that for the purposes of the options provided by this act,
6 state-mandated health benefits which may be excluded in whole or in
7 part shall not include any health care services or benefits which
8 are mandated by federal law. "State-mandated health benefits" does
9 not mean standard provisions or rights required to be present in a
10 health benefit plan pursuant to state law or state regulations
11 unrelated to a specific illness, injury or condition of the insured,
12 including, but not limited to, those related to continuation of
13 benefits found in Article 45 of the Oklahoma Insurance Code.

14 SECTION 23. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 7003 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 Any insurance company, health maintenance organization or group
18 health service organization that files a high deductible health
19 benefit plan pursuant to Section 223(c)(2) of the Internal Revenue
20 Code as added by Section 1201 of the Medicare Prescription Drug,
21 Improvement, and Modernization Act of 2003, P.L. 108-173, shall not
22 be required to offer coverage for any state-mandated health benefits
23 as defined in Section 22 of this act.

1 SECTION 24. AMENDATORY 25 O.S. 2001, Section 307.1, as
2 last amended by Section 14, Chapter 5, O.S.L. 2004 (25 O.S. Supp.
3 2004, Section 307.1), is amended to read as follows:

4 Section 307.1 A. No public body shall hold meetings by
5 teleconference except:

- 6 1. Oklahoma Futures;
- 7 2. The Oklahoma State Regents for Higher Education;
- 8 3. The State Board of Medical Licensure and Supervision;
- 9 4. The State Board of Osteopathic Examiners;
- 10 5. The Board of Dentistry;
- 11 6. The Variance and Appeals Boards created in Sections 1021.1,
12 1697 and 1850.16 and the Construction Industries Board created in
13 Section 1000.2 of Title 59 of the Oklahoma Statutes;
- 14 7. A public trust whose beneficiary is a municipality; however,
15 no more than twenty percent (20%) of a quorum of the trustees may
16 participate by teleconference and during any such meetings all votes
17 shall be roll call votes;
- 18 8. The Native American Cultural and Educational Authority;
- 19 9. The Corporation Commission;
- 20 10. The State Board of Career and Technology Education;
- 21 11. The Oklahoma Funeral Board; ~~and~~
- 22 12. The District Attorneys Council; and
- 23 13. The State Board of Property and Casualty Rates.

1 B. A board of education of a technology center school district
2 may hold meetings by videoconference where each board member is
3 visible to each other and the public through a video monitor,
4 subject to the following:

5 1. No fewer than three members of a five-member board or four
6 members of a seven-member board shall be present in person at the
7 site of each meeting;

8 2. The public notice posted in advance of the meeting shall
9 indicate such meeting will be conducted via videoconference;

10 3. Each site and room where members of the board are present
11 for a meeting by videoconference shall be open and accessible to the
12 public, and the public shall be allowed into the site and room; and

13 4. The public shall be allowed to participate or have input in
14 a meeting at the videoconference site in the same manner and to the
15 same extent as the public is allowed to participate or have input in
16 a meeting at the site of the meeting.

17 C. No public body authorized to hold meetings by teleconference
18 or videoconference shall conduct an executive session by
19 teleconference or videoconference.

20 SECTION 25. AMENDATORY 85 O.S. 2001, Section 64, is
21 amended to read as follows:

22 Section 64. A. Every policy of insurance covering the
23 liability of the employer for compensation issued by a stock company

1 or by a mutual association or other concern authorized to transact
2 workers' compensation insurance in this state shall contain a
3 provision setting forth the right of the Administrator to enforce in
4 the name of the state, for the benefit of the person entitled to the
5 compensation insured by the policy either by filing a separate
6 application or by making the insurance carrier a party to the
7 original application, the liability of the insurance carrier in
8 whole or in part for the payment of such compensation; provided,
9 however, that payment in whole or in part of the compensation by
10 either the employer or the insurance carrier shall, to the extent
11 thereof, be a bar to the recovery against the other of the amount so
12 paid.

13 B. Every such policy shall contain a provision that, as between
14 the employee and the insurance carrier, the notice to or knowledge
15 of the occurrence of the injury on the part of the employer shall be
16 deemed notice or knowledge, as the case may be on the part of the
17 insurance carrier, that jurisdiction of the employer shall, for the
18 purpose incorporated in this title, be jurisdiction of the insurance
19 carrier, and that the insurance carrier shall in all things be bound
20 by and subject to the orders, findings, decisions or awards rendered
21 against the employer for the payment of compensation under the
22 provisions incorporated in this title.

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

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

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

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

21 4. The insurer shall pay the entire cost of medical bills
22 directly to the provider of the services and then seek reimbursement
23 from the insured employer for the deductible amount.

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

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

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

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

20 F. Every contract or agreement of an employer the purpose of
21 which is to indemnify the employer from loss or damage on account of
22 the injury of an employee by accidental means, or on account of the
23 negligence of such employer or the employer's officer, agent or

1 servant shall be absolutely void unless it shall also cover
2 liability for the payment of the compensation provided for in this
3 title.

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

1 SECTION 26. REPEALER 36 O.S. 2001, Section 627, is
2 hereby repealed.

3 SECTION 27. This act shall become effective November 1, 2005.

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 3-28-05
5 - DO PASS, As Amended.