

3 **ENGROSSED**

4 **House Bill No. 2905**

5 **As Amended**

6 ENGROSSED HOUSE BILL NO. 2905 - By: PETERSON (Ron), SHELTON and
7 ROUSSELOT of the House and LASTER of the Senate.

8 **An Act relating to insurance; amending 36 O.S. 2001,**
9 **Sections 107, 121, 301, 307, as amended by Section 3,**
10 **Chapter 355, O.S.L. 2005, 312A, 313, 332, 334.1, 348.1, as**
11 **last amended by Section 1, Chapter 129, O.S.L. 2005, and**
12 **362, as last amended by Section 2, Chapter 131, O.S.L. 2004**
13 **(36 O.S. Supp. 2005, Sections 307, 348.1 and 362), which**
14 **relate to property and casualty; modifying definition;**
15 **deleting references; modifying structure of Insurance**
16 **Department; modifying duties; modifying powers and duties;**
17 **modifying reference; modifying fees; modifying certain fund;**
18 **amending 36 O.S. 2001, Sections 901.2, 901.3, 901.4, 902,**
19 **902.2, as amended by Section 6, Chapter 519, O.S.L. 2004,**
20 **902.3, 903.2, 904, 907, 907.1, 908, 924.2, as amended by**
21 **Section 1, Chapter 50, O.S.L. 2002, 924.3, 932, 937 and 997**
22 **(36 O.S. Supp. 2005, Sections 902.2 and 924.2), which relate**
23 **to the Oklahoma Insurance Rating Act; modifying definitions;**
24 **modifying certification; modifying references; modifying**
25 **certain rate requirements; modifying definition; requiring**
26 **certain funds be treated in fiduciary capacity; directing**
27 **remittance or credit of certain funds after certain time**
28 **period; requiring certain reports; prohibiting certain**
29 **activity; providing penalty therefor; authorizing**
30 **promulgation of rules; amending 36 O.S. 2001, Section 1109,**
31 **which relates to surplus line coverage; modifying**
32 **certification; requiring certain submissions; requiring**
33 **certain documentation; establishing guidelines for certain**
34 **organizations; prohibiting certain activities; permitting**
35 **certain activities; establishing review system; providing**
36 **for certain examinations; mandating certain rules; providing**
37 **for certain penalties; providing for certain disciplinary**
38 **actions; requiring certain filings; defining terms;**
39 **establishing certain procedures regarding military**
40 **personnel; exempting certain entities; permitting certain**

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1 activities; amending 36 O.S. 2001, Section 1204, as amended
2 by Section 10, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2005,
3 Section 1204), which relates to unfair methods; deleting
4 reference; amending 36 O.S. 2001, Sections 1435.6, as last
5 amended by Section 8, Chapter 274, O.S.L. 2004, 1435.8, as
6 amended by Section 15, Chapter 307, O.S.L. 2002, 1435.10,
7 and 1435.23, as amended by Section 19, Chapter 307, O.S.L.
8 2002 (36 O.S. Supp. 2005, Sections 1435.6, 1435.8 and
9 1435.23), which relate to producer licenses; modifying
10 certain examination procedures; defining terms; modifying
11 exemptions; modifying fees; amending 36 O.S. 2001, Section
12 2018, which relates to payment and assessments; modifying
13 reference; amending 36 O.S. 2001, Sections 2403 and 2409,
14 which relate to associations; deleting reference; modifying
15 reference; amending 36 O.S. 2001, Sections 2602, 2616 and
16 2617, which relate to certification; deleting references;
17 amending 36 O.S. 2001, Sections 2723.1 and 2813, which
18 relate to exemptions; deleting references; amending 36 O.S.
19 2001, Section 2908, which relates to reciprocal insurers;
20 modifying certain reciprocal requirements; amending 36 O.S.
21 2001, Section 3639, as amended by Section 14, Chapter 129,
22 O.S.L. 2005 (36 O.S. Supp. 2005, Section 3639), which
23 relates to certain policy requirements; modifying reference;
24 amending 36 O.S. 2001, Section 5004, which relates to title
25 insurance; defining term; amending 36 O.S. 2001, Sections
26 6002, 6058, 6059, 6060.4, as amended by Section 6, Chapter
27 464, O.S.L. 2003, Section 20, Chapter 334, O.S.L. 2004,
28 Section 21, Chapter 334, O.S.L. 2004, Section 30, Chapter
29 334, O.S.L. 2004, and Section 32, Chapter 334, O.S.L. 2004
30 (36 O.S. Supp. 2005, Sections 6060.4, 6470.13, 6470.14,
31 6470.23 and 6470.25), which relate to insurance companies;
32 modifying certain benefits; modifying certain coverage;
33 modifying certain requirements; modifying certain
34 inspections; modifying certain licenses; modifying
35 references; amending 70 O.S. 2001, Section 4312, which
36 relates to insurance on university employees; modifying
37 reference; amending 74 O.S. 2001, Section 1320, which
38 relates to state government; modifying reference; amending
39 76 O.S. 2001, Section 22, which relates to malpractice
40 insurance; modifying reference; amending 85 O.S. 2001,
41 Sections 61, 64, as amended by Section 25, Chapter 129,
42 O.S.L. 2005, and 65 (85 O.S. Supp. 2005, Section 64), which
43 relate to workers' compensation; modifying references;
44 modifying certain policy requirements; repealing 36 O.S.
45 2001, Sections 331, 333 and 346, which relate to property
46 and casualty; repealing 36 O.S. 2001, Sections 901, as

1 amended by Section 4, Chapter 519, O.S.L. 2004, Section 2,
2 Chapter 1, 1st Ex. Sess., O.S.L. 2005, 903, as last amended
3 by Section 5, Chapter 129, O.S.L. 2005, 905, 928, 929, as
4 amended by Section 9, Chapter 519, O.S.L. 2004, 930, 931,
5 933, 934, 935, 936, 991, as amended by Section 8, Chapter
6 129, O.S.L. 2005, 993, and Section 23, Chapter 519, O.S.L.
7 2004 (36 O.S. Supp. 2005, Sections 901, 902.4, 903, 929, 991
8 and 1000), which relate to rates; providing for
9 codification; providing an effective date; and declaring an
10 emergency.

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

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

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

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

23 Section 121. In computing any period of time prescribed or
24 allowed by this title, by the rules of the Commissioner ~~or the State~~
25 ~~Board for Property and Casualty Rates~~, or by any applicable statute,
26 the day of the act, event, or default from which the designated
27 period of time begins to run shall not be included. The last day of
28 the period so computed shall be included, unless it is a Saturday, a

1 Sunday, a legal holiday as defined by the Oklahoma Statutes, or any
2 day when the office of the Commissioner does not remain open for
3 public business until 4:00 p.m., in which event the period runs
4 until the end of the next day when the office of the Commissioner is
5 open until 4:00 p.m. When the period of time prescribed or allowed
6 is less than seven (7) days, intermediate Saturdays, Sundays and
7 legal holidays shall be excluded in the computation.

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

10 Section 301. The Insurance Department of the State of Oklahoma
11 is hereby created. The ~~Department shall consist of the Insurance~~
12 ~~Commissioner~~ and the State Board for Property and Casualty Rates
13 **Insurance Commissioner shall be the chief executive officer of the**
14 **Insurance Department.** The powers and duties of the Insurance
15 Commissioner shall be those created by ~~this~~ the Oklahoma Insurance
16 ~~Code and not reserved to the Board and such powers and duties of the~~
17 ~~Board as the Board may request the Commissioner to perform. The~~
18 ~~powers and duties of the State Board for Property and Casualty Rates~~
19 ~~shall be those created by the applicable provisions of the Insurance~~
20 ~~Code.~~ The Insurance Department shall be situated in one area in the
21 State Capitol or some other location conveniently accessible to the
22 general public subject to the provisions of Sections 63 and 94 of

1 Title 74 of the Oklahoma Statutes and Section 580:20-13-5 of the
2 Oklahoma Administrative Code.

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

6 Section 307. The Insurance Commissioner shall be charged with
7 the duty of administration and enforcement of the provisions of ~~this~~
8 the Oklahoma Insurance Code and of any requirements placed on an
9 insurance company pursuant to subsection L of section 1111 of Title
10 47 of the Oklahoma Statutes, ~~except those duties specifically~~
11 ~~assigned to the State Board for Property and Casualty Rates. The~~
12 ~~Insurance Commissioner shall provide such administrative and staff~~
13 ~~support as required by the Board.~~ The Insurance Commissioner shall
14 have jurisdiction over complaints against all persons engaged in the
15 business of insurance, and shall hear all matters either in person,
16 by authorized disinterested employees, or by hearing examiners
17 appointed by the Commissioner for that purpose. It shall be the
18 duty of the Insurance Commissioner to file and safely keep all books
19 and papers required by law to be filed with the Insurance
20 Department, and to keep and preserve in permanent form a full record
21 of proceedings, including a concise statement of the conditions of
22 such insurers and other entities reported and examined by the
23 Department and its examiners. The Commissioner shall, annually, at

1 the earliest practicable date after returns are received from the
2 several authorized insurers and other organizations, make a report
3 to the Governor of the State of Oklahoma of the affairs of the
4 Office of the Insurance Commissioner, which report shall contain a
5 tabular statement and synopsis of the several statements, as
6 accepted by the Insurance Commissioner, which shall include with
7 respect to each insurance company the admitted assets, liabilities
8 except capital, capital and surplus, Oklahoma premium income, amount
9 of claims paid in Oklahoma, and such other matters as may be of
10 benefit to the public. The Commissioner may educate consumers and
11 make recommendations regarding the subject of insurance in this
12 state, and shall set forth in a statement the various sums received
13 and disbursed by the Department, from and to whom and for what
14 purpose. Such report shall be published by and subject to the order
15 of the said Insurance Commissioner. The Insurance Commissioner
16 shall, upon retiring from office, deliver to the qualified successor
17 all furniture, records, papers and property of the office.

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

20 Section 312A. Civil penalties and fees imposed pursuant to the
21 provisions of ~~Title 36 of the Oklahoma Statutes~~ this title may be
22 enforced in the same manner in which civil judgments may be
23 enforced. All final orders of the Insurance Commissioner ~~or State~~

1 ~~Board for Property and Casualty Rates~~ imposing administrative
2 charges, fees, civil penalties or fines may be recorded in the
3 office of the Clerk of the District Court of Oklahoma County and,
4 upon such recording, all appropriate writs and process shall issue
5 and shall be enforced by the judges of said court upon application.

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

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

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

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

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

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

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

16 D. B. The Insurance Commissioner ~~on behalf of the Board~~ shall
17 have the authority to employ actuaries, statisticians, accountants,
18 attorneys, auditors, investigators or any other technicians as the
19 Insurance Commissioner may deem necessary or beneficial to examine
20 any filings for rate revisions made by insurers or ~~rating~~ advisory
21 organizations and to examine such records of the insurers or ~~rating~~
22 advisory organizations as may be deemed appropriate in conjunction
23 with the filing for a rate revision in order to determine that the

1 rates or other filings are consistent with the terms, conditions,
2 requirements and purposes of the Insurance Code, and to verify,
3 validate and investigate the information upon which the insurer or
4 ~~rating~~ advisory organization relies to support such filing.

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

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

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

22 1. Any insurer examined pursuant to the provisions of this
23 section shall pay all reasonable charges incurred in such

1 examination, including the actual expense of the Commissioner or the
2 expenses and compensation of the authorized representative of the
3 Commissioner and the expense and compensation of assistants and
4 examiners employed therein.

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

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

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

16 SECTION 9. AMENDATORY 36 O.S. 2001, Section 348.1, as
17 last amended by Section 1, Chapter 129, O.S.L. 2005 (36 O.S. Supp.
18 2005, Section 348.1), is amended to read as follows:

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

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

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

- 4 (1) Basic fee.....\$100.00
- 5 (2) Additional fee for each member
- 6 or subscriber insurer.....\$ 10.00,
- 7 not to exceed.....\$500.00.

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

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

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

4 SECTION 10. AMENDATORY 36 O.S. 2001, Section 362, as
5 last amended by Section 2, Chapter 131, O.S.L. 2004 (36 O.S. Supp.
6 2005, Section 362), is amended to read as follows:

7 Section 362. A. There is hereby created in the State Treasury
8 a revolving fund for the Insurance Commissioner to be designated the
9 "Insurance Department Anti-Fraud Revolving Fund". The fund shall be
10 a continuing fund, not subject to fiscal year limitations and shall
11 consist of all monies received and collected by the Insurance
12 Department pursuant to subsection B of this section and all other
13 monies designated to the fund by law. All monies accruing to the
14 credit of said fund are hereby appropriated and may be budgeted and
15 expended by the Insurance Commissioner for the purposes of
16 investigation of suspected insurance fraud and civil or
17 administrative action in cases involving suspected insurance fraud.
18 Expenditures from said fund shall be made upon warrants issued by
19 the State Treasurer against claims filed as prescribed by law with
20 the Director of State Finance for approval and payment.

21 B. The following shall pay an annual fee of Seven Hundred Fifty
22 Dollars (\$750.00) to the Insurance Department which shall be payable
23 quarterly in the amount of One Hundred Eighty-seven Dollars and

1 fifty cents (\$187.50): Life, accident and health insurers; property
2 and casualty insurers; county mutual fire insurers; mutual benefit
3 associations; fraternal benefit societies; reciprocal insurers;
4 motor service clubs; title insurers; nonprofit insurers; health
5 maintenance organizations (HMOs); service warranty associations;
6 surplus lines carriers; multiple employer welfare arrangements
7 (MEWAs); trusts which write surety policies; prepaid dental plan
8 organizations; and accredited reinsurers. The payments shall be due
9 on or before the last day of the month following each calendar
10 quarter. Within sixty (60) days after each calendar quarter, the
11 Commissioner shall transfer:

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

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

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

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

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

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

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

11 ~~4.~~ 3. "Department" means the Insurance Department of the State
12 of Oklahoma;

13 ~~5.~~ 4. "Rate" means the cost of insurance per exposure unit,
14 whether expressed as a single number or as a prospective loss cost
15 and an adjustment to account for the treatment of expenses, profit
16 and variations in loss experience, prior to any application of
17 individual risk variations based on loss or expense considerations,
18 and does not include minimum premiums:

19 a. "prospective loss cost", as used in this paragraph,
20 means that portion of a rate that does not include
21 provisions for expenses, other than loss adjustment
22 expenses, or profit, and are based on historical
23 aggregate losses and loss adjustment expenses adjusted

1 through development to their ultimate value and
2 projected through trending to a future point in time,
3 and

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

8 ~~6-~~ 5. "Rating organization, advisory organization or
9 statistical organization" means any two or more insurers acting in
10 cooperation or in concert for the purpose of making rates, rating
11 plans or rating systems.

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

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

- 19 1. A memorandum briefly summarizing the gist of the filing;
- 20 2. An index to the filing;
- 21 3. A clear and concise statement of the action desired to be
22 taken by the ~~State Board for Property and Casualty Rates~~
23 Commissioner;

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

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

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

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

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

18 C. If a filing is incomplete, the Commissioner shall notify the
19 filer, in writing, of the necessary materials required by this
20 article, by rules of the ~~Board~~ Commissioner or by orders adopted by
21 the ~~Board~~ Commissioner to complete the filing ~~for certification.~~
22 ~~The time for certification of the filing shall be tolled pending~~
23 ~~receipt of such information from the filer. Upon receipt of the~~

1 ~~required information the time for completion of certification shall~~
2 ~~again begin to run.~~

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

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

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

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

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

10 B. Hearings shall be open to the public.

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

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

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

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

9 F. Following a hearing on a filing made pursuant to this act,
10 the ~~Board~~ Commissioner may take the matter under advisement for up
11 to thirty (30) calendar days, subject to the provisions of Section
12 903 of ~~Title 36 of the Oklahoma Statutes~~ this title.

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

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

17 2. Solicit proposals for independent analysis of the filing by
18 qualified technicians, such technicians to be chosen pursuant to the
19 provisions of Section 332 of ~~Title 36 of the Oklahoma Statutes~~ this
20 title;

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

1 4. Conduct other or additional investigations including
2 additional hearings.

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

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

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

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

- 18 1. An excessive rate is one which:
- 19 a. is unreasonably high for the insurance provided, or
 - 20 b. is unreasonable because (1) a reasonable degree of
21 competition does not exist in the area with respect to
22 the classification to which such rate is applicable

1 and (2) the rate is unreasonably high for the
2 insurance provided.

3 2. An inadequate rate is one which:

4 a. is (1) unreasonably low for the insurance provided and
5 (2) the continued use of such rate endangers, or if
6 continued would endanger, the solvency of the insurer,
7 or

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

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

16 3. A rate shall not be unfairly discriminatory.

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

20 (1) the size of the risk,

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

23 (3) the individual experience of the risk,

1 (4) the location or dispersion of the risk, or
2 (5) any other reasonable consideration attributable
3 to the risk.

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

13 c. A rate shall be deemed unfairly discriminatory as to a
14 risk or group of risks if the application of premium
15 discounts, credits, or surcharges among such risks
16 does not bear a reasonable relationship to the
17 expected loss and expense experience among the various
18 risks.

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

21 B. The systems of expense provisions included in the rates for
22 use by any insurer or group of insurers may differ from those of
23 other insurers or groups of insurers to reflect the requirements of

1 the operating methods of any such insurer or group with respect to
2 any kind of insurance or subdivision or combination thereof for
3 which subdivision or combination separate expense provisions are
4 applicable.

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

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

12 ~~E. No insurer, agent, or broker shall make, issue, or deliver,~~
13 ~~or knowingly permit the making, issuance, or delivery of any policy~~
14 ~~of insurance within the scope of this law contrary to pertinent~~
15 ~~filings which are in effect for the insurer as provided in this~~
16 ~~article, except upon the written application of the insured stating~~
17 ~~his reasons therefor and filed with the Board, a rate in excess of~~
18 ~~that provided by a filing otherwise applicable may be used on any~~
19 ~~specific risk. In the event of noncompliance with this subsection,~~
20 ~~the Board may, in addition to any other penalty provided by law,~~
21 ~~order a return of premium to the policyholder; plus interest thereon~~
22 ~~at an annual rate equal to the average United States Treasury Bill~~
23 ~~rate of the preceding calendar year as certified by the State~~

1 ~~Treasurer on the first regular business day in January of each year,~~
2 ~~plus four percentage points.~~

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

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

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

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

- 18 1. Past loss experience within and outside this state;
- 19 2. Prospective loss experience within and outside this state;
- 20 3. Physical hazards insured;
- 21 4. Safety and loss prevention programs;
- 22 5. Underwriting practices and judgment;
- 23 6. Catastrophe hazards;

- 1 7. Reasonable underwriting profit and contingencies;
- 2 8. Dividends, savings or unabsorbed premium deposits allowed or
- 3 returned to policyholders;
- 4 9. Past expenses within and outside this state;
- 5 10. Prospective expenses within and outside this state;
- 6 11. Existence of classification rates for a given risk;
- 7 12. Investment income within and outside this state;
- 8 13. Rarity or peculiarity of the risks within and outside this
- 9 state;
- 10 14. In the case of workers' compensation rates, differences in
- 11 the hazard levels of different geographical regions of the state;
- 12 15. All other relevant factors within and outside this state;
- 13 and
- 14 16. Whether existing rates continue to meet the standards of
- 15 this article.

16 B. The ~~Board~~ Commissioner shall determine the weight to be

17 accorded each of the factors contained in subsection A of this

18 section.

19 C. Past or prospective expenses within or outside this state

20 pursuant to paragraphs 9 and 10 of subsection A of this section

21 shall not include prohibited expenses for advertising or prohibited

22 expenses for membership in organizations.

23 ~~1-~~ For the purpose of this subsection:

1 ~~a.~~ ~~"prohibited"~~

2 1. "Prohibited expenses for advertising" means the cost of
3 advertising in any media the purpose of which is to influence
4 legislation or to advocate support for or opposition to a candidate
5 for public office;

6 ~~b.~~ ~~"prohibited"~~

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

8 ~~(1)~~ a. any communication to customers and the public of
9 information regarding an insurer's insurance
10 products,

11 ~~(2)~~ b. any communication to customers and the public of
12 safety, safety education or loss prevention
13 information,

14 ~~(3)~~ c. periodic publications or reports to stockholders
15 or members required by the certificate or bylaws
16 of the insurer,

17 ~~(4)~~ d. any communication with customers and the public
18 which provides instruction in the use of the
19 insurer's products and services, or

20 ~~(5)~~ e. any communication with customers and the public
21 for giving notice or information required by law
22 or otherwise necessary;

23 ~~e.~~ ~~"prohibited"~~

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

6 ~~d. "prohibited~~

7 4. "Prohibited expenses for membership" shall not mean the cost
8 of membership in ~~rating~~ advisory organizations or other
9 organizations the primary purpose of which is to provide statistical
10 information on losses.

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

13 SECTION 16. AMENDATORY 36 O.S. 2001, Section 902.3, is
14 amended to read as follows:

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

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

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

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

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

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

13 5. Adopt rules by January 1, 1996, to become effective on July
14 1, 1996, unless disapproved by the Legislature, to equalize, as
15 nearly as is practicable, expected losses and expenses as a
16 percentage of workers' compensation premiums for high_ and low_wage-
17 paying employers in the same job classification. If the effect is
18 found to be primarily seen in certain types of job classifications,
19 the rules shall be adopted to apply only to such types of job
20 classifications. The adopted rules shall be subject to legislative
21 review and shall be promulgated as permanent rules pursuant to the
22 Administrative Procedures Act. The agency rule report required by
23 the Administrative Procedures Act shall include a rule impact

1 statement together with an actuarial analysis of the proposed rule
2 describing in detail the classes of persons who most likely will be
3 affected by the proposed rules; the classes of persons who will
4 benefit from the adopted rules; and the probable economic impact of
5 the proposed rules upon the affected classes of persons. The
6 actuarial analysis shall be prepared by an independent actuary
7 selected by the ~~State Board of Property and Casualty Rates~~ Insurance
8 Commissioner. The rules shall not be invalidated on the ground that
9 the contents of the rule impact statement or the actuarial analysis
10 are insufficient or inaccurate.

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

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

17 Section 903.2 A. No insurance company shall request and the
18 ~~State Board for Property and Casualty Rates~~ Insurance Commissioner
19 shall not approve an increase for the expense portion of insurance
20 company rate filings based upon the requirements of Sections ~~11~~
21 ~~through 14 of this act~~ 6701 and 6702 of this title, Section 425 of
22 Title 40 of the Oklahoma Statutes, and Section 61.2 of Title 85 of
23 the Oklahoma Statutes.

1 B. ~~The State Insurance Fund~~ CompSource Oklahoma shall not
2 request and its Board of Managers shall not approve reimbursement
3 for expenses based upon the requirements of Sections ~~11 through 14~~
4 ~~of this act~~ 6701 and 6702 of this title, Section 425 of Title 40 of
5 the Oklahoma Statutes, and Section 61.2 of Title 85 of the Oklahoma
6 Statutes above the limitation on expenses of administration of ~~the~~
7 ~~State Insurance Fund~~ CompSource Oklahoma specified in Section 139 of
8 Title 85 of the Oklahoma Statutes.

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

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

15 B. Every ~~rating~~ advisory organization and every insurer which
16 makes its own rates shall, within a reasonable time after receiving
17 written request therefor and upon payment of such reasonable charge
18 as it may make, furnish to any insured affected by a rate made by
19 it, or to the authorized representative of such insured, all
20 pertinent information as to such rate.

21 C. Every ~~rating~~ advisory organization and every insurer which
22 makes its own rates shall provide within the state reasonable means
23 whereby any person, aggrieved by the application of its rating

1 system, may be heard, in person or by his authorized representative,
2 on his written request to revise the manner in which such rating
3 system has been applied in connection with the insurance afforded
4 him. If the ~~rating~~ advisory organization or insurer fails to grant
5 or reject such request, within thirty (30) days after it is made,
6 this applicant may proceed in the same manner as if his application
7 had been rejected. Any party affected by the action of such ~~rating~~
8 advisory organization or such insurer on such request may, within
9 thirty (30) days after written notice of such action, appeal to the
10 ~~Board~~ Insurance Commissioner, which, after a hearing held upon not
11 less than ten (10) days written notice to the appellant and to such
12 ~~rating~~ advisory organization or insurer, may modify, affirm or
13 reverse such action.

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

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

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

22 Section 907. In addition to any powers hereinbefore expressly
23 enumerated in this law, the ~~Board~~ Commissioner shall have full power

1 and authority to enforce by regulations, orders, or otherwise all
2 and singular, the provisions of this law, and the full intent
3 thereof. In particular it shall have the authority and power:

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

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

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

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

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

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

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

9 B. The ~~Board~~ Commissioner may require the maintenance and
10 submission of records, memoranda or information relating to rates
11 from such insurers and ~~rating~~ advisory organizations. The ~~Board~~
12 Commissioner or any authorized representative of the ~~Board~~
13 Commissioner may examine any such record, memoranda or information
14 concerning rates. The application for the acceptance of any license
15 or permit issued pursuant to the provision of this title shall be
16 deemed consent for the inspection and examination of such records,
17 memoranda or information.

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

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

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

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

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

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

22 No penalty shall be imposed except upon a written order of the
23 ~~Board~~ Commissioner, stating ~~its~~ the findings of the Commissioner

1 made after a hearing held not less than ten (10) days after written
2 notice to a person or organization alleged to have violated any
3 statute for which the ~~Board~~ Commissioner has jurisdiction specifying
4 the alleged violation.

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

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

20 B. All insurance companies writing workers' compensation
21 insurance in this state, including CompSource Oklahoma, and all
22 self-insureds providing workers' compensation insurance except for
23 group self-insured associations, shall allow an appropriate

1 reduction in premium charges to all eligible employers who qualify
2 for the reduction pursuant to the provisions of this section.

3 C. Eligible employers shall be those employers:

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

6 2. Who are self-insured; or

7 3. Who are insured by CompSource Oklahoma.

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

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

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

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

- 1 a. demonstration of management commitment to worker
- 2 safety and health,
- 3 b. procedures for identifying and controlling workplace
- 4 hazards,
- 5 c. development and communication of safety plans, rules
- 6 and work procedures, and
- 7 d. training for supervisors and employees in safe and
- 8 healthful work practices;

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

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

- 17 a. a ten percent (10%) reduction in the dollar amount of
- 18 claims,
- 19 b. a ten percent (10%) reduction in the severity of
- 20 claims, or
- 21 c. no reported claims,

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

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

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

1 F. The Insurance Commissioner, the Administrator of the
2 Workers' Compensation Court and the CompSource Oklahoma President
3 and Chief Executive Officer shall maintain records documenting
4 reductions in workers' compensation insurance premiums granted
5 pursuant to this section and shall make an annual report of such
6 reductions to the President Pro Tempore of the Senate and the
7 Speaker of the House of Representatives by May 1 of each year.
8 Insurers shall report such premium reductions in their annual
9 statement.

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

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

22 Section 924.3 ~~The State Board for Property and Casualty Rates~~
23 Insurance Commissioner shall adopt rules and regulations creating a

1 procedure for an employer to appeal its rating classification for
2 workers' compensation insurance to the ~~Board~~ Commissioner. Any
3 hearings pursuant to this procedure shall be subject to the
4 Administrative Procedures Act.

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

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

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

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

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

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

17 C. Except as otherwise provided in this act, any order or
18 decision of the ~~State Board for Property and Casualty Rates~~
19 Commissioner made pursuant to this act shall be subject to review by
20 appeal to the Supreme Court of Oklahoma at the instance of any party
21 in interest. Such party in interest may appeal from such order or
22 decision by filing with the Clerk of the Supreme Court, within
23 thirty (30) days from the date of such order or decision, a petition

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

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

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

20 Section 997. Commercial Special Risks.

21 A. The following categories of commercial lines risks,
22 excluding employer's liability line, workers' compensation and
23 excess workers' compensation, are special risks and are exempted

1 from the filing and review requirements set forth in Sections 7 987
2 and ~~§~~ 988 of this ~~act~~ title:

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

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

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

9 4. Specifically designated special risks, including:

10 a. risks insured under the provisions of the Highly

11 Protected Risks Rating Plan,

12 b. all commercial insurance aviation risks,

13 c. all credit insurance risks,

14 d. all boiler and machinery risks,

15 e. all inland marine risks,

16 f. all fidelity and surety risks, and

17 g. any other risk that the Commissioner determines to

18 fall within the special risk category.

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

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

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

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

14 **SECTION 28. NEW LAW A new section of law to be codified**
15 **in the Oklahoma Statutes as Section 998.1 of Title 36, unless there**
16 **is created a duplication in numbering, reads as follows:**

17 A. All premiums belonging to insurers and all unearned premiums
18 belonging to insureds received by an insurance producer licensee
19 under this article shall be treated by such insurance producer in a
20 fiduciary capacity. The Commissioner may promulgate such rules as
21 are necessary and proper relating to the treatment of such premiums.

22 1. All premiums received, less commissions if authorized, shall
23 be remitted to the insurer or its agent entitled thereto on or

1 before the contractual due date or, if there is no contractual due
2 date, within forty-five (45) days after receipt.

3 2. All returned premiums received from insurers or credited by
4 insurers to the account of the licensee shall be remitted to or
5 credited to the account of the person entitled thereto within thirty
6 days (30) after such receipt or credit.

7 3. If any insurance producer has failed to account for any
8 collected premium to the insurer to whom it is owing or to its agent
9 entitled thereto for more than forty-five (45) days after the
10 contractual due date or, if there is no contractual due date, more
11 than ninety days (90) after receipt, the insurer or its agent shall
12 promptly report such failure to the commissioner in writing.

13 B. Every insurer shall remit unearned premiums to the insured
14 or the proper agent, or shall otherwise credit the account of the
15 proper licensee, as soon as is practicable after entitlement thereto
16 has been established, but in no event more than forty-five (45) days
17 after the effective date of any cancellation or termination effected
18 by the insurer or after the date of entitlement thereto as
19 established by notification of cancellation or of termination or as
20 otherwise established. It shall be the responsibility of any
21 insurance producer having knowledge of a failure on the part of any
22 insurer to comply with this subsection to promptly report such
23 failure to the Commissioner in writing.

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

6 D. Any insurer that delivers, in this state, a policy of
7 insurance to an insurance producer representing the interest of the
8 insured upon the application or request of such producer shall be
9 deemed to have authorized such producer to receive on the insurer's
10 behalf any premium due upon issuance or delivery of the policy; and
11 the insurer shall be deemed to have so authorized the producer.

12 E. If an insurance producer or surplus line producer knowingly
13 misappropriates or knowingly converts to his or her own use or
14 illegally withholds fiduciary moneys in the amount of One Hundred
15 Fifty Dollars (\$150.00) or less, he or she is guilty of a
16 misdemeanor for a first offense and a felony for subsequent
17 conversions, misappropriations, and withholdings of that nature. If
18 an insurance producer or surplus line producer knowingly
19 misappropriates or knowingly converts to his or her own use or
20 illegally withholds premiums in excess of One Hundred Fifty Dollars
21 (\$150.00), he or she is guilty of a felony.

22 F. The Commissioner may promulgate rules for the implementation
23 and administration of this section.

1 SECTION 29. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1125 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Every property and casualty insurance company doing business
5 in this state, unless otherwise exempted by the domiciliary
6 commissioner, shall annually submit the opinion of an appointed
7 actuary entitled "Statement of Actuarial Opinion". This opinion
8 shall be filed in accordance with the appropriate NAIC Property and
9 Casualty Annual Statement Instructions.

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

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

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

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

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

14 SECTION 30. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1126 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

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

21 B. 1. Documents, materials or other information in the
22 possession or control of the Insurance Department that are
23 considered an actuarial report, workpapers or actuarial opinion

1 summary provided in support of the opinion, and any other material
2 provided by the company to the Insurance Commissioner in connection
3 with the actuarial report, workpapers or actuarial opinion summary,
4 shall be confidential by law and privileged, shall not be subject to
5 the Oklahoma Open Records Act, shall not be subject to subpoena, and
6 shall not be subject to discovery or admissible in evidence in any
7 private civil action.

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

18 C. Neither the Commissioner nor any person who received
19 documents, materials or other information while acting under the
20 authority of the Commissioner shall be permitted or required to
21 testify in any private civil action concerning any confidential
22 documents, materials or information subject to subsection B of this
23 section.

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

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

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

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

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

8 SECTION **31.** NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 1140 of Title 36, unless there
10 is created a duplication in numbering, reads as follows:

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

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

19 C. No advisory organization shall provide any service relating
20 to the loss costs, rates, rating plans, manual rules, rating systems
21 or policy forms of any property and casualty insurance products
22 subject to the provisions of the Oklahoma Insurance Code and no

1 insurer shall utilize the services of such organization unless the
2 organization has obtained a license.

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

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

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

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

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

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

20 **SECTION 32.** NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1141 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

23 A. No advisory organization shall:

1 1. Attempt to monopolize, or combine or conspire with any
2 person or persons to monopolize, an insurance market;
3 2. Engage in a boycott, on a concerted basis, of an insurance
4 market; and
5 3. Except as set forth in subsection B of this section, agree
6 to mandate adherence to or to mandate use of any rate, prospective
7 loss cost, rating plan, rating schedule, rating rule, policy or bond
8 form, rate classification, rate territory, underwriting rule,
9 survey, inspection or similar material. Insurers and advisory
10 organizations may agree to develop and adhere to statistical plans
11 permitted by the applicable provisions of the Oklahoma Insurance
12 Code.

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

18 SECTION 33. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1142 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

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

- 1 1. Develop statistical plans including territorial and class
2 definitions;
- 3 2. Collect statistical data from members, subscribers or any
4 other source;
- 5 3. Prepare, file and distribute prospective loss costs which
6 may include provisions for special assessments and taxes;
- 7 4. Prepare, file and distribute factors, calculations or
8 formulas pertaining to classification, territory, increased limits
9 and other variables;
- 10 5. Prepare, file and distribute manuals of rating rules, rating
11 schedules and other supplementary rating information that does not
12 include final rates, expense provisions, profit provisions or
13 minimum premiums;
- 14 6. Distribute information that is required or directed to be
15 filed with the Commissioner;
- 16 7. Conduct research and on-site inspections in order to prepare
17 classifications of public fire defenses;
- 18 8. Consult with public officials regarding public fire
19 protection as it would affect members, subscribers and others;
- 20 9. Conduct research and collect statistics in order to
21 discover, identify and classify information relating to causes or
22 prevention of losses;

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

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

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

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

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

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

16 16. File final rates for residual market mechanisms; and

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

19 **SECTION 34.** NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1143 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. Every advisory organization which makes its own rates shall
23 provide within this state reasonable means whereby any insured

1 aggrieved by the application of its rating system may, upon that
2 insured's written request, be heard in person or by the insured's
3 authorized representative to review the manner in which such rating
4 system has been applied in connection with the insurance afforded
5 the aggrieved insurer.

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

11 C. Within thirty (30) days, the Commissioner shall review the
12 application and, if the Commissioner finds that the application is
13 made in good faith and that it sets forth on its face grounds which
14 reasonably justify holding a hearing, the Commissioner shall conduct
15 a hearing held not less than ten (10) days after written notice to
16 the applicant and to the advisory organization. The Commissioner,
17 after a hearing, shall affirm or reverse the action of the advisory
18 organization.

19 SECTION 35. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1144 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The Insurance Commissioner shall make or cause to be made,
23 at least once in five (5) years, an examination of each advisory

1 organization licensed in this state as provided in this act, and the
2 Commissioner may, as often as it may deem expedient, make or cause
3 to be made an examination of each advisory organization referred to
4 in this act, and of each group, association, or other organization
5 referred to in this act. The reasonable cost of any such
6 examination shall be paid by the organization examined, upon
7 presentation of a detailed account of such costs.

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

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

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

18 A. The Insurance Commissioner shall promulgate rules and
19 statistical plans adapted to each of the rating systems on file,
20 which may be modified, from time to time, and which shall be used
21 thereafter by each insurer in the recording and reporting of its
22 loss and countrywide expense experience, in order that the
23 experience of all insurers may be made available, at least annually,

1 in such form and detail as may be necessary to aid it in determining
2 whether rating systems comply with the standards set forth in this
3 act.

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

8 2. In promulgating such rules and plans, the Commissioner shall
9 give due consideration to the rating system on file and, in order
10 that such rules and plans may be as uniform as is practicable among
11 the several states, to the rules and to the form of the plans used
12 for such rating systems in other states.

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

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

21 B. Reasonable rules and plans may be promulgated by the
22 Commissioner for the interchange of data necessary for the
23 application of rating plans.

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

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

9 SECTION 37. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1146 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

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

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

1 SECTION 38. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1147 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

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

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

1 SECTION 39. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1148 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

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

9 SECTION 40. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1161 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

12 As used in this act:

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

16 2. "Federal government-sponsored health insurance program"
17 means the TriCare program providing coverage for civilian dependents
18 of military personnel;

19 3. "Health plan" means any insurance company or health
20 maintenance organization which issues individual coverage to a
21 resident of this state;

22 4. "Individual coverage" means health insurance or health
23 maintenance organization coverage issued on other than a group or

1 blanket basis, including an individual coverage containing coverage
2 for a spouse, dependent, or both;

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

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

10 SECTION **41.** NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1162 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A. No Oklahoma resident activated for military service, and no
14 spouse or any dependents of such a resident who become eligible for
15 a federal government-sponsored health insurance program as a result
16 of such activation, shall be denied reinstatement into the same
17 individual coverage with the same health plan that such resident
18 lapsed as a result of activation or becoming covered by the federal
19 government-sponsored health insurance program. Such resident will
20 have the right to reinstatement in the same individual coverage
21 without medical underwriting and in the same rating tier that the
22 resident held prior to activation or becoming covered under the
23 federal government-sponsored health insurance program, subject to

1 payment of the current premium charged to other persons of the same
2 age and gender that are covered under the same individual coverage.
3 Except in the case of birth or adoptions that occur during the
4 period of activation, reinstatement must be into the same membership
5 type, or a membership type covering fewer persons, as such resident
6 held prior to lapsing the individual coverage, and at the same or
7 higher deductible level. The reinstatement rights shall not be
8 available to an insured or dependents if the activated person is
9 discharged from the military under other than honorable conditions.

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

19 C. All health plans must provide written notice to the
20 policyholder of individual coverage of the rights described in
21 subsection A of this section and amendments thereto. In lieu of the
22 inclusion of such notice in the individual coverage policy, an

1 insurance company will satisfy the notification requirement by
2 providing a single written notice either:

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

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

9 SECTION **42.** NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1163 of Title 36, unless there
11 is created a duplication in numbering, reads as follows:

12 The provisions of Section 40 of this act and amendments thereto
13 shall not apply to any policy or certificate providing coverage for
14 any specified disease, specified accident or accident-only coverage,
15 credit, dental, disability income, hospital indemnity, long-term
16 care, as defined by Article 44 of Title 36 of the Oklahoma Statutes
17 and any amendments thereto, Medicare supplement, as defined by the
18 Insurance Commissioner by rules and regulations, vision care, short-
19 term nonrenewable health policy or other limited-benefit
20 supplemental insurance, nor any coverage issued as a supplement to
21 any liability insurance, workers' compensation or similar insurance,
22 or any insurance under which benefits are payable with or without

1 regard to fault, whether written on a group, blanket or individual
2 basis.

3 SECTION **43.** NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1164 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

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

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

14 C. No personal insurance issued to an Oklahoma resident on
15 active military deployment beyond the borders of the United States
16 of America, or the spouse or any dependent of such Oklahoma
17 resident, shall be subject to cancellation, nonrenewal, denial of
18 coverage, premium increase or adverse tier placement for the term of
19 their deployment based solely upon said Oklahoma resident's military
20 deployment.

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

1 SECTION **44.** AMENDATORY 36 O.S. 2001, Section 1204, as
2 amended by Section 10, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2005,
3 Section 1204), is amended to read as follows:

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

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

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

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

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

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

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

1 report, or who has authority by law to examine into its condition or
2 into any of its affairs, or, with like intent, willfully omitting to
3 make a true entry of any material fact pertaining to the business of
4 such insurer in any book, report or statement of such insurer.

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

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

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

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

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

1 thereon, or anything of value whatsoever not specified in the
2 contract or receiving or accepting as inducement to contracts of
3 insurance, any rebate of premium payable on the contract, or any
4 special favor or advantage in the dividends or other benefit to
5 accrue thereon, or any valuable consideration or inducement not
6 specified in the contract.

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

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

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

22 (3) Making a readjustment of the rate of premium for a policy
23 based on the loss or expense experience thereunder, at the end of

1 the first or any subsequent policy year of insurance thereunder,
2 which may be made retroactive only for such policy year;

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

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

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

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

15 9. Coercion prohibited. Requiring as a condition precedent to
16 the purchase of, or the lending of money upon the security of, real
17 or personal property, that any insurance covering such property, or
18 liability arising from the ownership, maintenance or use thereof, be
19 procured by or on behalf of the vendee or by the borrower in
20 connection with such purchase or loan through any particular person
21 or agent or in any particular insurer, or requiring the payment of a
22 reasonable fee as a condition precedent to the replacement of
23 insurance coverage on mortgaged property at the anniversary date of

1 the policy; provided, however, that this provision shall not prevent
2 the exercise by any such vendor or lender of the right to approve or
3 disapprove any insurer selected to underwrite the insurance; but any
4 disapproval of any insurer shall be on reasonable grounds.

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

11 (a) Any employment.

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

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

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

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

23 The provisions of this paragraph shall not apply to individual

1 policies insuring against loss resulting from bodily injury or death
2 by accident as defined by Article 44 of the Oklahoma Insurance Code.

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

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

13 SECTION 45. AMENDATORY 36 O.S. 2001, Section 1435.6, as
14 last amended by Section 8, Chapter 274, O.S.L. 2004 (36 O.S. Supp.
15 2005, Section 1435.6), is amended to read as follows:

16 Section 1435.6 A. A resident individual applying for an
17 insurance producer license shall pass a written examination unless
18 exempt pursuant to Section 1435.10 of this title. The examination
19 shall test the knowledge of the individual concerning the lines of
20 authority for which application is made, the duties and
21 responsibilities of an insurance producer and the insurance laws and
22 regulations of this state. Examinations required by this section

1 shall be developed and conducted under rules and regulations
2 prescribed by the Insurance Commissioner.

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

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

10 D. After completion and filing of the application with the
11 Insurance Commissioner, except as provided in Section 1435.10 of
12 this title, the Commissioner shall subject each applicant for
13 license as an insurance agent, insurance consultant, limited
14 insurance representative, or customer service representative to an
15 examination approved by the Commissioner as to competence to act as
16 a licensee, which each applicant shall personally take and pass to
17 the satisfaction of the Commissioner. The Commissioner may accept
18 examinations administered by a testing service as satisfying the
19 examination requirements of persons seeking license as agents,
20 solicitors, counselors, or adjusters under ~~this~~ the Oklahoma
21 Insurance Code. The Commissioner may negotiate agreements with such
22 testing services to include performance of examination development,
23 test scheduling, examination site arrangements, test administration,

1 grading, reporting, and analysis. The Commissioner may require such
2 testing services to correspond directly with the applicants with
3 regard to the administration of such examinations and that such
4 testing services collect fees for administering such examinations
5 directly from the applicants. The Commissioner may stipulate that
6 any agreements with such testing services provide for the
7 administration of examinations in specific locales and at specified
8 frequencies. The Commissioner shall retain the authority to
9 establish the scope and type of all examinations.

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

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

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

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

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

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

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

1 SECTION 46. AMENDATORY 36 O.S. 2001, Section 1435.8, as
2 amended by Section 15, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2005,
3 Section 1435.8), is amended to read as follows:

4 Section 1435.8 A. Unless denied licensure pursuant to Section
5 1435.13 of this title, persons who have met the requirements of
6 Sections 1435.6 and 1435.7 of this title shall be issued an
7 insurance producer license. An insurance producer may receive
8 qualification for a license in one or more of the following lines of
9 authority:

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

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

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

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

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

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

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

9 8. Credit - limited line credit insurance;

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

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

17 ~~10.~~ 11. Any other line of insurance permitted under state laws
18 or regulations.

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

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

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

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

19 F. Licensees shall inform the Insurance Commissioner by any
20 means acceptable to the Insurance Commissioner of a change of
21 address within thirty (30) days of the change. Failure to timely
22 inform the Insurance Commissioner of a change in legal name or

1 address shall result in a penalty pursuant to Section 1435.13 of
2 this title.

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

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

1 SECTION 47. AMENDATORY 36 O.S. 2001, Section 1435.10, is
2 amended to read as follows:

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

- 8 1. Any limited lines producer; ~~and~~
- 9 2. A surplus lines insurance broker; and
- 10 3. A title insurance producer licensed prior to November 1,
11 2006, who is an applicant for an aircraft title producer license.

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

20 SECTION 48. AMENDATORY 36 O.S. 2001, Section 1435.23, as
21 amended by Section 19, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2005,
22 Section 1435.23), is amended to read as follows:

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

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

- 9 1. For filing appointment of Insurance Commissioner
10 as agent for service of process\$ 20.00
- 11 2. Miscellaneous:
 - 12 a. Certificate and Clearance of Commissioner
13\$ 3.00
 - 14 b. Insurance producer's study manual:
 - 15 Life, Accident & Health.....not to exceed
16 \$ 40.00
 - 17 Property and Casualty.....not to exceed
18 \$ 40.00
 - 19 c. For filing organizational documents of
20 an entity applying for a license as an
21 insurance producer.....\$ 20.00
- 22 3. Examination for license:
23 For each examination covering laws and

1 insurer, each license of each insurance producer or
2 representative.\$ 40.00

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

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

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

10 B. 1. The fees and monies received by the Insurance
11 Commissioner pursuant to the provisions of paragraphs 1, 2, 7 and 8
12 of subsection A of this section shall be deposited with the State
13 Treasurer, who shall place the same to the credit of the State
14 Insurance Commissioner Revolving Fund for the purpose of fulfilling
15 and accomplishing the conditions and purposes of the Oklahoma
16 Producer Licensing Act, including the use of postal mail facilities
17 for the Department.

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

22 C. There is hereby created in the State Treasury the State
23 Insurance Commissioner Revolving Fund which shall be a continuing

1 fund not subject to fiscal year limitations. The revolving fund
2 shall consist of fees and monies received by the Insurance
3 Commissioner as required by law to be deposited in said fund and any
4 other funds not dedicated in the Oklahoma Insurance Code. The
5 revolving fund shall be used to fund the general operations of the
6 Insurance Commissioner's Office for the purpose of fulfilling and
7 accomplishing the conditions and purposes of the Oklahoma Producer
8 Licensing Act. All expenditures from said revolving fund shall be
9 on claims approved by the Insurance Commissioner and filed with the
10 Director of State Finance for payment.

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

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

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

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

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

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

15 Section 2403. A. Associations, companies or corporations
16 organized as mutual benefit associations shall be carried on for the
17 benefit of their members or their beneficiaries and not for profit,
18 and shall make provisions for the payment of benefits in case of
19 death and make provision for payment of benefits in case of
20 permanent physical disability, as a result of accident, or old age,
21 provided that the period of life at which the payment of physical
22 disability benefits on account of old age is to commence, shall not
23 be under seventy (70) years, all subject to compliance by its

1 members with its constitution and bylaws. The funds from which the
2 expenses, benefits, aids and other charges of such associations
3 shall be defrayed shall be derived from assessments and dues
4 collected from its members, provided that such association may if so
5 stipulated in its bylaws as they now exist or as they may be
6 hereafter amended, make provision for the payment of old age
7 benefits at age seventy (70) or more, regardless of disability by
8 levying special old age benefit assessments, beginning at an age of
9 not less than fifty (50) years, in such sum and at such times as the
10 association may determine to be necessary to provide an old age
11 benefit fund sufficient to meet the promised old age benefit when
12 the same matures, but such fund shall be separately maintained and
13 used for no other purpose. The payment of death benefits shall be
14 confined to wife, husband, relative by blood or marriage, children
15 by legal adoption, to a person or persons dependent upon the member,
16 or to his or her estate; provided, that if after the issuance of the
17 original certificate the member shall become dependent upon a
18 charitable institution, he or she shall have the privilege, with the
19 consent of such association, to make such institution his or her
20 beneficiary. Within the above restrictions each member shall have
21 the right to designate his or her beneficiary, and, from time to
22 time, have the same changed in accordance with the laws, rules and
23 regulations of the association and no beneficiary shall have or

1 obtain any vested interest in any death benefit until the same has
2 become due and payable upon the death of said member; provided, that
3 any association may, by its laws, further limit the scope of
4 beneficiaries with the above classes. And such association may
5 create, maintain, disburse, and apply reserve or emergency funds in
6 accordance with its constitution and bylaws. The term "mutual
7 benefit association" whenever used in any law of this state shall be
8 construed to mean association such as is defined by this section.

9 B. The provisions of this article apply only to mutual benefit
10 associations and such associations shall be governed by this article
11 to the extent provided herein. Such associations shall be exempt
12 from all other provisions of the insurance laws of this state except
13 that the provisions of Articles 1 (Scope of Title), 3 (Insurance
14 Department, and Insurance Commissioner; ~~State Insurance Board~~), 12
15 (Unfair Practices and Frauds), 16 (Investments), 17 (Administration
16 of Deposits), 18 (Rehabilitation and Liquidation), 44 (Individual
17 Accident and Health Insurance) and Sections 4002, 4024, 4028 and
18 4029 of Article 40 (Life Insurance and Annuities) shall apply to
19 such associations to the extent that such provisions are not in
20 conflict with the provisions of this article. No law relating to
21 insurance hereafter enacted shall apply to such associations unless
22 they be expressly designated therein.

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

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

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

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

- 21 1. Articles of incorporation;
- 22 2. Bylaws;

- 1 3. Proposed contracts, if any, between the applicant and
2 participating hospitals and physicians, showing the terms under
3 which service is to be furnished to subscribers;
- 4 4. Proposed contracts to be issued to subscribers;
- 5 5. A table of rates to be charged to subscribers;
- 6 6. Financial statement of the corporation, including the
7 amounts of contributions paid or agreed to be paid to the
8 corporation for working capital and the name or names of each
9 contributor and the terms of each contribution; and
- 10 7. A statement of the area in which the corporation proposes to
11 operate.

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

14 Section 2616. The provisions of this article apply only to not-
15 for-profit hospital service and indemnity and medical service and
16 indemnity corporations and such corporations shall be governed by
17 this article to the extent provided herein. Such corporations shall
18 be exempt from all other provisions of the insurance laws of this
19 state except that the provisions of Articles 1 (Scope of Title), 3
20 (Insurance Department, and Insurance Commissioner, ~~Insurance Board~~),
21 12 (Unfair Practices and Frauds), 15 (Assets and Liabilities), 16
22 (Investments), 16A (Subsidiaries of Insurers), 17 (Administration of
23 Deposits), 18 (Supervision and Conservatorship of Insurers), 19

1 (Rehabilitation and Liquidation) and the provisions of Sections 624
2 through 626 of this title and 628 through 631 of this title shall
3 apply to such corporations to the extent that such provisions are
4 not in conflict with the provisions of this article. No law
5 relating to insurance hereafter enacted shall apply to such
6 corporations unless they be expressly designated therein.

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

9 Section 2617. Every corporation doing business pursuant to this
10 article is hereby declared to be a not-for-profit institution and to
11 be exempt from state, county, district, municipal and school tax,
12 including the taxes prescribed by this Code, and excepting only the
13 fees prescribed by Article 3 of the Insurance Code (Insurance
14 Department, and Insurance Commissioner; ~~Insurance Board~~), the
15 premium tax levied pursuant to Article 6 of the Insurance Code
16 (Authorization of Insurers and General Requirements), and taxes on
17 real and tangible personal property situate within this state.

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

20 Section 2723.1 The provisions of this act apply only to
21 fraternal benefit societies, and societies shall be governed by this
22 act to the extent provided herein. Societies shall be exempt from
23 all other provisions of the insurance laws of this state except that

1 the provisions of Article 1 (Scope of Title), Article 3 (Insurance
2 Department; and Insurance Commissioner; ~~Insurance Board~~), Sections
3 606, 610, 612.1, 616, 617, 620 and 628 of Article 6 (Authorization
4 of Insurers and General Requirements), Article 16 (Investments),
5 Article 17 (Administration of Deposits), and Article 19
6 (Rehabilitation and Liquidation), of the Insurance Code, shall apply
7 to societies to the extent that such provisions are not in conflict
8 with the provisions of this article. No law relating to insurance
9 hereafter enacted shall apply to societies unless they are expressly
10 designated therein.

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

13 Section 2813. The provisions of this article apply only to
14 farmers' mutual fire insurance associations and such associations
15 shall be governed by this article to the extent provided herein.
16 Such associations shall be exempt from all other provisions of the
17 insurance laws of this state except that the provisions of ~~articles~~
18 Articles 1 (Scope of Title), 3 (Insurance Department; and Insurance
19 Commissioner; ~~Insurance Board~~), 6 (Authorization of Insurers and
20 General Requirements - except that the inclusion of theft insurance
21 coverage shall require a minimum capital or surplus of One Hundred
22 Fifty Thousand Dollars (\$150,000.00) under the provisions of Section
23 10 of such article 6), 12 (Unfair Practices and Frauds), 15 (Assets

1 and Liabilities), 16 (Investments), 16A (Subsidiaries of Insurers),
2 17 (Administration of Deposits), 18 (Rehabilitation and
3 Liquidation), 21 (Domestic Stock and Mutual Insurers; Organization
4 and Corporate Procedures), and 48 (Property Insurance) shall apply
5 to such associations to the extent that such provisions are not in
6 conflict with the provisions of this article. No law relating to
7 insurance hereafter enacted shall apply to such associations unless
8 they be expressly designated therein.

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

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

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

- 19 1. The name of the insurer;
- 20 2. The location of the insurer's principal office, which shall
21 be the same as that of the attorney and shall be maintained within
22 this state;
- 23 3. The kinds of insurance proposed to be transacted;

- 1 4. The names and addresses of the original subscribers;
- 2 5. The designation and appointment of the proposed attorney and
3 a copy of the power of attorney;
- 4 6. The names and addresses of the officers and directors of the
5 attorney, if a corporation, or its members, if a firm;
- 6 7. The powers of the subscribers' advisory committee, and the
7 names and terms of office of the members thereof;
- 8 8. That all monies paid to the reciprocal shall, after
9 deducting therefrom any sum payable to the attorney, be held in the
10 name of the insurer and for the purposes specified in the
11 subscribers' agreement;
- 12 9. A copy of the subscribers' agreement;
- 13 10. A statement that each of the original subscribers has in
14 good faith applied for insurance of a kind proposed to be
15 transacted, and that the insurer has received from each such
16 subscriber the full premium or premium deposit required for the
17 policy applied for, for a term of not less than six (6) months at an
18 adequate rate theretofore filed with and approved by the Insurance
19 ~~Board~~ Commissioner;
- 20 11. A statement of the financial condition of the insurer, a
21 schedule of its assets, and a statement that the surplus as required
22 by Section 2907 of this article is on hand; and

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

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

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

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

16 2. In the absence of an agreement to the contrary, a policy
17 procured and owned by a corporation, partnership, association,
18 limited liability company, or other legal entity on the life or body
19 of an officer, director, manager, member, or employee, other than a
20 sole proprietor, upon the termination of the insurable interest, the
21 owner of the policy shall, if permitted by the terms of the policy,
22 offer to sell, transfer, or assign the policy to the insured in
23 exchange for the cash surrender value of the policy or, if there is

1 no cash value, in exchange for an amount equal to the total of any
2 premiums paid for the policy, minus any dividends received, plus
3 interest. This offer shall be made in writing to the insured after
4 termination of the insurable interest. The offer shall state the
5 time for acceptance which shall not be less than thirty (30) days
6 after receipt of the offer by the insured. If the insured rejects
7 the offer or fails to accept the offer in the time provided, the
8 owner of the policy may continue to own the policy subject to its
9 terms.

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

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

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

20 2. In the case of other persons, a lawful and substantial
21 economic interest in having the life, health, or bodily safety of
22 the individual insured continue, as distinguished from an interest

1 which would arise only by, or would be enhanced in value by, the
2 death, disability, or injury of the individual insured;

3 3. An individual heretofore or hereafter party to a contract or
4 option for the purchase or sale of an interest in a business
5 partnership or firm, or of shares of stock of a closed corporation
6 or of an interest in such shares, has an insurable interest in the
7 life of each individual party to the contract and for the purposes
8 of the contract only, in addition to any insurable interest which
9 may otherwise exist as to the life of the individual; ~~and~~

10 4. The trustee of a trust whenever established by an individual
11 has an insurable interest in the life of the individual and the same
12 insurable interest in the life of any other individual as does any
13 person who is treated as the owner of the trust for federal income
14 tax purposes;

15 5. The trustee of a trust whenever established has the same
16 insurable interest in the life of any individual as does any person
17 entitled to receive any portion of the proceeds of insurance on the
18 life of the individual that are allocable to the person's interest
19 in the trust;

20 6. If multiple beneficiaries of a trust whenever established
21 have an insurable interest in the life of the same individual, then
22 the trustee of the trust has the same aggregate insurable interest
23 in the life of the individual as the beneficiaries with respect to

1 any portion of the proceeds of insurance on the life of the
2 individual that are allocable in the aggregate to the beneficiaries'
3 interest in the trust; and

4 7. a. An employer, or a trust which is sponsored by an
5 employer for the benefit of its employees, shall have
6 an insurable interest in each of the lives of the
7 employees, directors, or retired employees of the
8 employer. Notwithstanding paragraph 2 of this
9 ~~subsection C of this section~~ or Section 4101 of this
10 title, and amendments thereto, the employer or trust
11 may insure the life of any employee, director, or
12 retired employee for the benefit of the employer or
13 trust on an individual or group basis only with the
14 written consent of the insured.

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

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

22 (2) if the employee, director, or retired employee
23 fails to provide written consent to the employer

1 or trust, the employer or trust shall not
2 purchase or obtain such insurance.

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

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

20 e. For purposes of this section:

21 (1) "employer" means any individual, sole
22 proprietorship, partnership, limited liability
23 company, corporation, or other legal entity that

1 is legally doing business in this state; the term
2 shall also include all entities or persons which
3 are controlled by or affiliated with any of the
4 foregoing. The determination of whether any
5 entity or person is controlled by or affiliated
6 with another shall be made by applying the
7 principles set forth in subsection (b) or (c) of
8 Section 414 of Title 26 of the United States
9 Code, as in effect on January 1, 1993, except
10 that all references therein to eighty percent
11 (80%) shall be changed to fifty-one percent
12 (51%), and

13 (2) "employee" means any common law employee of an
14 employer.

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

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

1 D. Life insurance contracts may be entered into in which the
2 person paying the consideration for the insurance has no insurable
3 interest in the life of the individual insured, where charitable,
4 benevolent, educational or religious institutions, or their
5 agencies, are designated as the beneficiaries thereof. In no event
6 shall an individual be named as a beneficiary. In making these
7 contracts, the person paying the premium shall make and sign the
8 application therefor as owner and shall designate a charitable,
9 benevolent, educational, or religious institution, or an agency
10 thereof, as the beneficiary or beneficiaries of the contract. The
11 application or any subsequent change of beneficiary designation
12 shall be signed by the individual whose life is to be insured.
13 These contracts shall be valid and binding among the parties,
14 notwithstanding the absence otherwise of an insurable interest in
15 the life of the individual insured.

16 E. Life insurance contracts may be entered into in which the
17 members of an alumni association of an institution of higher
18 education accredited by the Oklahoma State Regents for Higher
19 Education are insured under a group insurance policy and either the
20 institution is the designated beneficiary thereof or the association
21 is the designated beneficiary with the stipulation that the
22 association will use the proceeds of the policies for direct grants
23 to the institution or for scholarships for students of such

1 institutions. In no event shall an individual be named as a
2 beneficiary to such a policy. In making such contracts, the person
3 paying the premium shall make and sign the application therefor as
4 owner and shall designate an institution or alumni association as
5 the beneficiary or beneficiaries of such contract. The application
6 or any subsequent change of beneficiary designation shall be signed
7 also by the individual whose life is to be insured. These contracts
8 shall be valid and binding among the parties thereto,
9 notwithstanding the absence of an insurable interest in the life of
10 the individual insured.

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

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

17 B. As used in this section:

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

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

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

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

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

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

22 1. Nonpayment of premium;

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

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

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

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

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

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

19 8. Loss of or substantial changes in applicable reinsurance.

20 D. An insurer may refuse to renew a policy if the insurer gives
21 to the first-named insured at the address shown on the policy
22 written notice that the insurer will not renew the policy. Such
23 notice shall be given at least forty-five (45) days before the

1 expiration date. If notice is given by mail, said notice shall be
2 deemed to have been given on the day said notice is mailed. If the
3 notice is mailed less than forty-five (45) days before expiration,
4 coverage shall remain in effect until forty-five (45) days after
5 notice is mailed. Earned premium for any period of coverage that
6 extends beyond the expiration date shall be considered pro rata
7 based upon the previous year's rate. For purposes of this section,
8 the transfer of a policyholder between companies within the same
9 insurance group is not a refusal to renew. In addition, changing
10 deductibles, changes in premium, changes in the amount of insurance,
11 or reductions in policy limits or coverage are not refusals to
12 renew.

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

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

21 E. An insurer shall give to the named insured at the mailing
22 address shown on the policy, written notice of premium increase,
23 change in deductible, reduction in limits or coverage at least

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

14 This subsection shall not apply to:

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

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

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

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

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

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

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

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

20 Section 6002. No form or plan of insurance covering any group
21 or combination of persons or risks shall be written or delivered
22 within or outside of this state to cover Oklahoma persons or risks
23 at any preferred rate or form other than that offered to persons not

1 in such group, and the public generally, unless such form, plan or
2 policy and the rates or premiums to be charged therefor have been
3 submitted to and filed or approved by the ~~State Board for Property~~
4 ~~and Casualty Rates~~ Insurance Commissioner.

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

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

21 B. The coverage for newly born children shall consist of
22 coverage of injury or sickness including the necessary care and
23 treatment of medically diagnosed congenital defects and birth

1 abnormalities. Such coverage shall also include transportation
2 necessary for the provision of medical care for such newly born
3 children when (1) the newly born is transported to the nearest
4 hospital capable of providing the medically necessary treatment on a
5 timely basis, and (2) the mode of transportation is the most
6 economical consistent with the well-being of the newly born.
7 Transportation coverage shall not exceed the reasonable costs of
8 providing such service and an itemized statement of costs shall
9 accompany each claim.

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

12 C. If payment of a specific premium or subscription fee is
13 required to provide coverage for a child, the policy or contract may
14 require that notification of birth and payment of the required
15 premium or fees must be furnished to the insurer or nonprofit
16 service or indemnity corporation within thirty-one (31) days after
17 the date of birth in order to have the coverage continue beyond such
18 thirty-one-day period.

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

21 Section 6059. A. All individual and group health insurance
22 policies providing coverage on an expense incurred, fixed, or
23 capitated basis, and all individual and group insurance policies,

1 certificates, service or indemnity type contracts issued by
2 insurance companies, health maintenance organizations, a nonprofit
3 ~~corporation~~ corporations, a charitable and benevolent ~~corporation~~
4 corporations established for the purposes of operating a nonprofit
5 hospital service or indemnity plan and/or a nonprofit medical or
6 indemnity, fixed, or capitated plan, and all self-insurers which
7 provide coverage for a family member of the insured or subscriber
8 shall, as to such family member's coverage, also provide that the
9 health insurance benefits applicable for any natural child of the
10 insured or subscriber shall be payable with respect to any adopted
11 child of the insured or subscriber from the date of placement of the
12 child in the custody of the insured or subscriber, provided the
13 insurer is notified within thirty-one (31) days in writing.

14 Coverage shall include the necessary care and treatment of medical
15 conditions existing prior to the date of placement of the child in
16 the custody of the insured or subscriber. Nothing in this section
17 shall be construed to require coverage of costs incurred for such
18 medical conditions prior to the date of placement of the child in
19 the custody of the insured or subscriber.

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

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

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

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

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

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

- 9 1. Immunization against:
 - 10 a. diphtheria,
 - 11 b. hepatitis B,
 - 12 c. measles,
 - 13 d. mumps,
 - 14 e. pertussis,
 - 15 f. polio,
 - 16 g. rubella,
 - 17 h. tetanus,
 - 18 i. varicella,
 - 19 j. haemophilus influenzae type B, and
 - 20 k. hepatitis A; and

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

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

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

- 6 a. provides benefits for medical or surgical expenses
7 incurred as a result of a health condition, accident,
8 or sickness, and
- 9 b. is offered by any insurance company, group hospital
10 service corporation, the State and Education Employees
11 Group Insurance Board, or health maintenance
12 organization that delivers or issues for delivery an
13 individual, group, blanket, or franchise insurance
14 policy or insurance agreement, a group hospital
15 service contract, or an evidence of coverage, or, to
16 the extent permitted by the Employee Retirement Income
17 Security Act of 1974, 29 U.S.C., Section 1001 et seq.,
18 by a multiple employer welfare arrangement as defined
19 in Section 3 of the Employee Retirement Income
20 Security Act of 1974, or any other analogous benefit
21 arrangement, whether the payment is fixed or by
22 indemnity.

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

- 1 a. a plan that provides coverage:
- 2 (1) only for a specified disease,
- 3 (2) only for accidental death or dismemberment,
- 4 (3) for wages or payments in lieu of wages for a
- 5 period during which an employee is absent from
- 6 work because of sickness or injury, or
- 7 (4) as a supplement to liability insurance,
- 8 b. a Medicare supplemental policy as defined by Section
- 9 1882(g)(1) of the Social Security Act (42 U.S.C.,
- 10 Section 1395ss),
- 11 c. worker's compensation insurance coverage,
- 12 d. medical payment insurance issued as part of a motor
- 13 vehicle insurance policy,
- 14 e. a long-term care policy, including a nursing home
- 15 fixed indemnity policy, unless a determination is made
- 16 that the policy provides benefit coverage so
- 17 comprehensive that the policy meets the definition of
- 18 a health benefit plan, or
- 19 f. short-term health insurance issued on a nonrenewable
- 20 basis with a duration of six (6) months or less.

21 SECTION **65.** AMENDATORY Section 20, Chapter 334, O.S.L.

22 2004 (36 O.S. Supp. 2005, Section 6470.13), is amended to read as

23 follows:

1 Section 6470.13 A. At least once in three (3) years, and
2 whenever the Insurance Commissioner determines it to be prudent, the
3 ~~Insurance~~ Commissioner personally, or ~~by~~ a competent person
4 appointed by the Insurance Commissioner, shall ~~visit each captive~~
5 ~~insurance company and thoroughly inspect and examine its affairs to~~
6 ~~ascertain its financial condition, its ability to fulfill its~~
7 ~~obligations, and~~ conduct an examination under Sections 309.1 through
8 309.7 of this title, as well as determine whether ~~it~~ the captive
9 insurer has complied with the Oklahoma Captive Insurance Company
10 Act. The ~~Insurance~~ Commissioner upon application, in his or her
11 discretion, may enlarge the three-year period to five (5) years, if
12 a captive insurance company is subject to a comprehensive annual
13 audit during that period of a scope satisfactory to the Insurance
14 Commissioner by independent auditors approved by the Insurance
15 Commissioner. The expenses and charges of the examination must be
16 ~~paid to the state by the company or companies examined, and the~~
17 ~~Department shall issue its warrants for the proper charges incurred~~
18 ~~in all examinations~~ in accordance with the payment provisions of
19 Sections 309.1 through 309.7 of this title.

20 B. All examination reports, preliminary examination reports or
21 results, working papers, recorded information, documents and copies
22 of documents produced by, obtained by, or disclosed to the ~~Insurance~~
23 Commissioner or any other person in the course of an examination

1 made under this section are confidential and are not subject to
2 subpoena and may not be made public by the ~~Insurance~~ Commissioner or
3 an employee or agent of the ~~Insurance~~ Commissioner without the
4 written consent of the company, except to the extent provided in
5 this subsection. Nothing in this subsection prevents the ~~Insurance~~
6 Commissioner from using this information in furtherance of the
7 regulatory authority of the ~~Insurance~~ Commissioner under the
8 Oklahoma Captive Insurance Company Act. The ~~Insurance~~ Commissioner
9 may grant access to this information to public officers having
10 jurisdiction over the regulation of insurance in any other state or
11 country, or to law enforcement officers of this state or any other
12 state or agency of the federal government at any time, so long as
13 the officers receiving the information agree in writing to hold it
14 in a manner consistent with this section.

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

1 condition in accordance with all applicable laws and regulations of
2 that jurisdiction.

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

8 SECTION **66.** AMENDATORY Section 21, Chapter 334, O.S.L.
9 2004 (36 O.S. Supp. 2005, Section 6470.14), is amended to read as
10 follows:

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

- 14 1. Insolvency or impairment of capital or surplus;
- 15 2. Failure to meet the requirements of Sections ~~13~~ 6470.6 and
16 ~~15~~ 6470.8 of this ~~act~~ title;
- 17 3. Refusal or failure to submit an annual report, as required
18 by Section ~~18~~ 6470.11 of this ~~act~~ title, or any other report or
19 statement required by law or by lawful order of the Insurance
20 Commissioner;
- 21 4. Failure to comply with its own charter, bylaws, or other
22 organizational document;

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

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

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

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

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

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

20 SECTION **67.** AMENDATORY Section 30, Chapter 334, O.S.L.
21 2004 (36 O.S. Supp. 2005, Section 6470.23), is amended to read as
22 follows:

1 Section 6470.23 The terms and conditions set forth in Articles
2 18 and 19 of the Oklahoma Insurance Code pertaining to insurance
3 ~~reorganizations~~ supervision, conservatorship, rehabilitation, and
4 ~~receiverships, and injunctions~~ apply in full to captive insurance
5 companies formed under the Oklahoma Captive Insurance Company Act.

6 SECTION **68.** AMENDATORY Section 32, Chapter 334, O.S.L.
7 2004 (36 O.S. Supp. 2005, Section 6470.25), is amended to read as
8 follows:

9 Section 6470.25 A. Except as otherwise provided in this
10 section, the terms and conditions set forth in Articles 18 and 19 of
11 the Oklahoma Insurance Code pertaining to insurance ~~reorganizations~~
12 supervisions, conservatorship, rehabilitation, and receiverships,
13 ~~and injunctions~~ apply in full to captive insurance companies formed
14 or licensed under the Oklahoma Captive Insurance Company Act.

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

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

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

1 SECTION 69. AMENDATORY 70 O.S. 2001, Section 4312, is
2 amended to read as follows:

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

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

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

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

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

1 subdivision or agency thereof which has purchased insurance
2 authorized by this act.

3 SECTION 70. AMENDATORY 74 O.S. 2001, Section 1320, is
4 amended to read as follows:

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

8 The Board may hire a director of internal audit and one attorney
9 licensed to practice law in this state. The attorney hired by the
10 Board shall have not less than five (5) years of experience in
11 matters related to the insurance industry. The Board shall directly
12 supervise the duties of the director of internal audit, and shall
13 not delegate said supervision to the Administrator or any other
14 employee of the Board. In addition to duties assigned by the Board,
15 the director of internal audit is authorized to audit all records of
16 health providers and pharmacists who enter into any contract with
17 the Board in order to ensure compliance with said contract
18 provisions.

19 B. The administrator shall employ such persons as are necessary
20 to administer the provisions of the State and Education Employees
21 Group Insurance Act, the State Employees Flexible Benefits Act and
22 the State Employees Disability Program Act. The administrator may
23 employ a maximum of two (2) attorneys. The administrator or one of

1 the deputy administrators shall have not less than seven (7) years
2 of group health insurance administration experience on a senior
3 managerial level.

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

18 SECTION 71. AMENDATORY 76 O.S. 2001, Section 22, is
19 amended to read as follows:

20 Section 22. ~~The State Insurance Fund~~ CompSource Oklahoma is
21 authorized to offer malpractice insurance and/or reinsurance to
22 Oklahoma persons, firms and corporations engaged in health care
23 services principally serving Oklahomans based upon the claims and

1 loss ratio experience in Oklahoma at a premium that is calculated
2 without profit or return to the state if such action is deemed in
3 the public interest. Provided, that no such insurance or
4 reinsurance shall be offered by ~~the State Insurance Fund~~ CompSource
5 Oklahoma without the prior approval of the ~~State Board for Property~~
6 ~~and Casualty Rates~~ Insurance Commissioner. The ~~State Board for~~
7 ~~Property and Casualty Rates~~ Commissioner shall give such approval
8 only when it finds that ~~the State Insurance Fund~~ CompSource Oklahoma
9 has available reserves sufficient to insure or reinsure such
10 coverage on an actuarially sound basis.

11 SECTION 72. AMENDATORY 85 O.S. 2001, Section 61, is
12 amended to read as follows:

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

15 1. By insuring and keeping insured the payment of such
16 compensation with any stock corporation, mutual association, or
17 other concerns authorized to transact the business of workers'
18 compensation insurance in this state, or by exchanging contracts of
19 indemnity or interinsurance, pursuant to reasonable rules prescribed
20 by the Administrator of Workers' Compensation providing for and
21 securing the payment of the compensation provided for in the
22 Workers' Compensation Act. When an insurer issues a policy to
23 provide workers' compensation benefits pursuant to the provisions of

1 the Workers' Compensation Act, the insurer shall file, or cause to
2 be filed, with the Administrator a notice in such form and detail as
3 the Administrator may prescribe by rule. The notice shall contain
4 the name, address, and principal occupation of the employer, the
5 number, effective date, and expiration date of the policy, and such
6 other information as may be required by the Administrator. The
7 notice shall be filed by the insurer within thirty (30) days after
8 the effective date of the policy. Any insurer who fails to file the
9 notice required by this subsection shall be liable for an
10 administrative violation and subject to a fine by the Administrator
11 of not more than One Thousand Dollars (\$1,000.00);

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

20 3. By obtaining and keeping in force a workers' compensation
21 equivalent insurance product approved by the Insurance Commissioner
22 ~~and the State Board for Property and Casualty Rates~~ pursuant to
23 Section ~~4~~ 65 of this act ~~title~~;

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

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

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

13 (3) years; or

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

18 b. one hundred or more employees and One Million Dollars
19 (\$1,000,000.00) or more in net assets to:

20 (1) secure a surety bond payable to the state, or an
21 irrevocable letter of credit, in an amount
22 determined by the Administrator which shall be at

1 least an average of the yearly claims for the
2 last three (3) years; or
3 (2) provide proof of excess coverage with such terms
4 and conditions as is commensurate with their
5 ability to pay the benefits required by the
6 provisions of the Workers' Compensation Act.

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

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

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

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

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

14 SECTION 73. AMENDATORY 85 O.S. 2001, Section 64, as
15 amended by Section 25, Chapter 129, O.S.L. 2005 (85 O.S. Supp. 2005,
16 Section 64), is amended to read as follows:

17 Section 64. A. Every policy of insurance covering the
18 liability of the employer for compensation issued by a stock company
19 or by a mutual association or other concern authorized to transact
20 workers' compensation insurance in this state shall contain a
21 provision setting forth the right of the Administrator to enforce in
22 the name of the state, for the benefit of the person entitled to the
23 compensation insured by the policy either by filing a separate

1 application or by making the insurance carrier a party to the
2 original application, the liability of the insurance carrier in
3 whole or in part for the payment of such compensation; provided,
4 however, that payment in whole or in part of the compensation by
5 either the employer or the insurance carrier shall, to the extent
6 thereof, be a bar to the recovery against the other of the amount so
7 paid.

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

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

22 D. 1. Every such policy issued to cover a risk in this state
23 shall include provisions giving the insured employer the option of

1 choosing a deductible amount for medical ~~or indemnity~~ benefits in
2 amounts ranging from Five Hundred Dollars (\$500.00) to Two Thousand
3 Five Hundred Dollars (\$2,500.00) in increments of Five Hundred
4 Dollars (\$500.00). The policy issued may also include separate
5 provisions giving the insured employer the option of choosing a
6 deductible amount for indemnity benefits in amounts ranging from
7 Five Hundred Dollars (\$500.00) to Two Thousand Five Hundred Dollars
8 (\$2,500.00) in increments of Five Hundred Dollars (\$500.00). The
9 insured employer, if choosing to exercise the option, shall choose
10 only one deductible amount.

11 2. If an insured employer exercises the option and chooses a
12 medical benefits deductible or indemnity benefits deductible, the
13 insured employer shall be liable for the amount of the deductible or
14 deductibles 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. The insurer

1 shall pay the entire cost of the indemnity benefits as if no
2 deductible were in place and then seek reimbursement from the
3 insured employer for the deductible amount.

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

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

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

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

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

8 G. No contract of insurance issued by a stock company or mutual
9 association or other concern against the liability arising under
10 this title shall be canceled within the time limited in such
11 contract for its expiration until at least ten (10) days after
12 notice of intention to cancel such contract, on a date specified in
13 such notice, shall be filed in the office of the Administrator and
14 also served on the employer. Such notice shall be served on the
15 employer by delivering it to the employer or by sending it by mail,
16 by registered letter, addressed to the employer at the employer's
17 last-known place of residence; provided, that if the employer be a
18 partnership, then such notice may be so given to any one of the
19 partners, and if the employer be a corporation, then the notice may
20 be given to any agent or officer of the corporation upon whom legal
21 process may be served. Provided, however, if a contract of
22 insurance has been terminated by an employer insured thereunder who
23 has obtained other compensation insurance, as evidenced by filing in

1 compliance with Section 61 of this title, and no intervening rights
2 of any employee are involved, omission of a predecessor insurer to
3 file notice of time of termination of liability shall not constitute
4 basis for imposition of liability against such predecessor insurer.

5 SECTION 74. AMENDATORY 85 O.S. 2001, Section 65, is
6 amended to read as follows:

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

12 B. All workers' compensation equivalent insurance products
13 shall be subject to the approval of the Insurance Commissioner ~~and~~
14 ~~the State Board for Property and Casualty Rates~~ and shall comply
15 with Articles 9 and 36 of Title 36 of the Oklahoma Statutes and
16 ~~Title 85 of the Oklahoma Statutes~~ this title. No workers'
17 compensation equivalent insurance product shall be approved unless
18 the following requirements are complied with:

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

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

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

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

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

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

21 7. The product is a separate policy of insurance from and
22 administered separately from any other insurance offered by the
23 employer and is separate from any employee benefit plan or policy of

1 the employer which employee benefit plan or policy is governed by
2 the provisions of the Employee Retirement Income Security Act, 29
3 U.S.C., Section 1001 et seq;

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

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

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

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

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

1 SECTION 75. REPEALER 36 O.S. 2001, Sections 331, 333 and
2 346, are hereby repealed.

3 SECTION 76. REPEALER 36 O.S. 2001, Sections 901, as
4 amended by Section 4, Chapter 519, O.S.L. 2004, Section 2, Chapter
5 1, 1st Ex. Sess., O.S.L. 2005, 903, as last amended by Section 5,
6 Chapter 129, O.S.L. 2005, 905, 928, 929, as amended by Section 9,
7 Chapter 519, O.S.L. 2004, 930, 931, 933, 934, 935, 936, 991, as
8 amended by Section 8, Chapter 129, O.S.L. 2005, 993, and Section 23,
9 Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2005, Sections 901, 902.4,
10 903, 929, 991 and 1000), are hereby repealed.

11 SECTION 77. This act shall become effective July 1, 2006.

12 SECTION 78. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-28-06 - DO
17 PASS, As Amended.