

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 2122

By: Sparks and Brown of the  
Senate

3  
4 and

5 Peterson (Ron) of the  
6 House

7  
8 ( insurance - specifying actions the Insurance  
9 Commissioner may take regarding enforcement of  
10 Crimes by or Affecting Persons Engaged in the  
11 Business of Insurance Act - duties of certain  
12 agencies - codification - effective date -  
13 emergency )

14  
15  
16 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

17  
18 "An Act relating to insurance; creating the Crimes by  
19 or Affecting Persons Engaged in the Business of  
Insurance Act; providing short title; prohibiting  
20 certain persons from engaging or participating in  
the insurance business; specifying actions that the  
21 Insurance Commissioner may take regarding the  
enforcement of the Crimes by or Affecting Persons  
22 Engaged in the Business of Insurance Act; defining  
the act of doing the business of insurance in this  
23 state; providing procedures relating to the  
emergency cease and desist order; authorizing the  
24 Insurance Commissioner to promulgate certain rules;  
amending 36 O.S. 2001, Section 987, as last amended

1 by Section 2, Chapter 125, O.S.L. 2007 (36 O.S.  
2 Supp. 2007, Section 987), which relates to rate  
3 filings; specifying when certain filings shall be  
4 open to public inspection; amending 36 O.S. 2001,  
5 Sections 1435.4, 1435.5, 1435.7, as last amended by  
6 Section 3, Chapter 338, O.S.L. 2007, 1435.9, as  
7 amended by Section 16, Chapter 307, O.S.L. 2002,  
8 1435.20, as amended by Section 4, Chapter 150,  
9 O.S.L. 2003, 1435.23, as last amended by Section 14,  
10 Chapter 125, O.S.L. 2007 and 1435.29, as last  
11 amended by Section 15, Chapter 125, O.S.L. 2007 (36  
12 O.S. Supp. 2007, Sections 1435.7, 1435.9, 1435.20,  
13 1435.23 and 1435.29), which relate to the Oklahoma  
14 Producer Licensing Act; allowing certain penalty to  
15 be waived if application for licensure as a surplus  
16 lines broker is received within certain time period;  
17 exempting volunteer counselor assisting Medicare  
18 beneficiaries with enrollment in Medicare Part D  
19 plans from licensure; clarifying licensure  
20 requirements; modifying licensing requirement for  
21 certain nonresident producers; eliminating and  
22 adding categories for a limited lines producer  
23 license; modifying license fee; requiring Insurance  
24 Commissioner approval of resident provisional  
producer prelicensing education; allowing the  
Insurance Commissioner to certify providers and  
courses offered for license examination study;  
amending 36 O.S. 2001, Sections 1442 and 1450, as  
amended by Section 10, Chapter 274, O.S.L. 2004 (36  
O.S. Supp. 2007, Section 1450), which relate to the  
Third-party Administrator Act; modifying definition;  
specifying conditions regarding the eligibility of  
an administrator for a nonresident administrator  
license; defining terms; requiring certain  
administrators to provide certain information;  
amending 36 O.S. 2001, Section 1922, which relates  
to the Uniform Insurers Liquidation Act; specifying  
powers of the receiver; specifying time period for  
the commencement of certain actions; amending 36  
O.S. 2001, Section 4424, which relates to the Long-  
Term Care Insurance Act; modifying definition;  
amending 36 O.S. 2001, Section 4501, which relates  
to group and blanket accident and health insurance;  
specifying time period for an association to be in  
existence with regard to certain policies; amending  
36 O.S. 2001, Sections 5002 and 5005, which relate  
to title insurers; clarifying references; specifying

1 laws and rules which are applicable to title  
2 insurers; amending 36 O.S. 2001, Section 6060, as  
3 amended by Section 1, Chapter 78, O.S.L. 2002 (36  
4 O.S. Supp. 2007, Section 6060), which relates to  
5 mammography screening; eliminating references to  
6 low-dose mammography; amending 36 O.S. 2001,  
7 Sections 6210, as amended by Section 27, Chapter  
8 125, O.S.L. 2007 and 6217, as amended by Section 29,  
9 Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,  
10 Sections 6210 and 6217), which relate to the  
11 Insurance Adjusters Licensing Act; specifying time  
12 period to take and pass certain examination;  
13 requiring a new application if applicant fails  
14 examination within the specified time period;  
15 requiring provider of continuing education to submit  
16 an annual fee; exempting certain providers from such  
17 fee; amending 36 O.S. 2001, Sections 6602, as last  
18 amended by Section 31, Chapter 125, O.S.L. 2007,  
19 6609 and 6615, as last amended by Section 32,  
20 Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,  
21 Sections 6602 and 6615), which relate to the Service  
22 Warranty Insurance Act; modifying definition;  
23 modifying dates; amending 59 O.S. 2001, Sections  
24 1316, as last amended by Section 4, Chapter 386,  
O.S.L. 2005 and 1317, as amended by Section 1,  
Chapter 167, O.S.L. 2004 (59 O.S. Supp. 2007,  
Sections 1316 and 1317), which relate to bail  
bondsmen; requiring certain agreement to be  
submitted to the Insurance Commissioner; authorizing  
the Commissioner to suspend the appointment of the  
professional bondsman's bail agents if the  
bondsman's professional qualification is  
surrendered, suspended or revoked; providing  
procedures for the reinstatement of the appointment  
of the bail agents under certain conditions;  
specifying that the appointment of a surety bondsman  
or managing general agent is in effect until the  
expiration of the bail bondsman's license or the  
cancellation of the appointment by the Commissioner;  
amending Section 1, Chapter 322, O.S.L. 2006, as  
amended by Section 14, Chapter 326, O.S.L. 2007 (47  
O.S. Supp. 2007, Section 7-600.2), which relates to  
online verification systems for motor vehicle  
insurance; requiring cooperation of the Oklahoma Tax  
Commission in the development of the verification  
system; modifying date for which the verification  
system shall be installed and operational; exempting

1 certain information from the provisions of the  
2 Oklahoma Open Records Act; repealing 36 O.S. 2001,  
3 Sections 1435.25, 1435.32, 1435.34, 1435.35, as  
4 amended by Section 11, Chapter 129, O.S.L. 2005,  
5 1435.37 and 1924 (36 O.S. Supp. 2007, Section  
6 1435.35), which relate to the Oklahoma Producer  
7 Licensing Act and the Uniform Insurers Liquidation  
8 Act; providing for codification; providing an  
9 effective date; and declaring an emergency.

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

11 SECTION 1. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 401 of Title 36, unless there is  
13 created a duplication in numbering, reads as follows:

14 Sections 1 through 6 of this act shall be known and may be cited  
15 as the "Crimes By or Affecting Persons Engaged in the Business of  
16 Insurance Act".

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 402 of Title 36, unless there is  
19 created a duplication in numbering, reads as follows:

20 A. No person who has been convicted of any criminal felony  
21 involving dishonesty or a breach of trust, or who has been convicted  
22 of an offense under Section 1033 of Title 18 of the United States  
23 Code, shall engage or participate in the business of insurance in  
24 this state or do any of the acts of an insurance business as set  
forth in Section 4 of this act.

1 B. A person described in subsection A of this section may  
2 engage in the business of insurance or participate in such business  
3 if such person has the written consent of the Insurance  
4 Commissioner.

5 C. A person who violates subsection A of this section or any  
6 rule promulgated pursuant thereto is subject to a civil penalty of  
7 not more than Ten Thousand Dollars (\$10,000.00) for each act of  
8 violation and for each day of violation.

9 D. The business of insurance includes title insurers for  
10 purposes of the Crimes by or Affecting Persons Engaged in the  
11 Business of Insurance Act.

12 SECTION 3. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 403 of Title 36, unless there is  
14 created a duplication in numbering, reads as follows:

15 A. Whenever the Insurance Commissioner has reason to believe or  
16 it appears that any person has violated subsection A of Section 2 of  
17 this act, the Insurance Commissioner may:

18 1. Revoke any license or registration issued or approved by the  
19 Insurance Commissioner;

20 2. Issue an ex parte cease and desist order under the  
21 procedures provided by Section 5 of this act;

22 3. Institute in the district court of Oklahoma County a civil  
23 suit for injunctive relief to restrain the person from continuing  
24 the violation;

1 4. Institute in the district court of Oklahoma County a civil  
2 suit to recover a civil penalty as provided for in Section 2 of this  
3 act; or

4 5. Exercise any combination of the acts provided for in this  
5 subsection.

6 B. On application for injunctive relief and a finding that a  
7 person is violating or threatening to violate any provision of the  
8 Crimes By or Affecting Persons Engaged in the Business of Insurance  
9 Act or order of the Insurance Commissioner issued pursuant to the  
10 Crimes By or Affecting Persons Engaged in the Business of Insurance  
11 Act, the district court shall grant the injunctive relief and the  
12 injunction shall be issued without bond.

13 SECTION 4. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 404 of Title 36, unless there is  
15 created a duplication in numbering, reads as follows:

16 Any one of the following acts in this state affected by mail or  
17 otherwise is defined to be doing the business of insurance in this  
18 state:

19 1. The making of or proposing to make, as an insurer, an  
20 insurance contract;

21 2. The making of or proposing to make, as guarantor or surety,  
22 any contract of guaranty or suretyship as a vocation and not merely  
23 incidental to any other legitimate business or activity of the  
24 guarantor or surety;

1 3. The taking or receiving of any application for insurance;

2 4. Maintaining any agency or office where any acts in  
3 furtherance of an insurance business are transacted, including but  
4 not limited to:

5 a. the execution of contracts of insurance with citizens  
6 of this or any other state,

7 b. maintaining files or records of contracts of  
8 insurance,

9 c. the processing of claims, and

10 d. the receiving or collection of any premiums,  
11 commissions, membership fees, assessments, dues or  
12 other consideration for any insurance or any part  
13 thereof;

14 5. The issuance or delivery of contracts of insurance to  
15 residents of this state or to persons authorized to do business in  
16 this state;

17 6. Directly or indirectly acting as an agent for, or otherwise  
18 representing or aiding on behalf of another, any person or insurer  
19 in:

20 a. the solicitation, negotiation, procurement or  
21 effectuation of insurance or renewals thereof,

22 b. the dissemination of information as to coverage or  
23 rates, or forwarding of applications, or delivery of  
24 policies or contracts,

- 1 c. inspection of risks,
- 2 d. fixing of rates or investigation or adjustment of
- 3 claims or losses,
- 4 e. the transaction of matters subsequent to effectuation
- 5 of the contract and arising out of it, or
- 6 f. in any other manner representing or assisting a person
- 7 or insurer in the transaction of insurance with
- 8 respect to subjects of insurance resident, located or
- 9 to be performed in this state.

10 Provided, the provisions of this paragraph shall not operate to  
11 prohibit full-time salaried employees of a corporate insured from  
12 acting in the capacity of an insurance manager or buyer in placing  
13 insurance on behalf of such employer;

14 7. Contracting to provide indemnification or expense  
15 reimbursement in this state to persons domiciled in this state or  
16 for risks located in this state, whether as an insurer, agent,  
17 administrator, trust, funding mechanism, or by any other method, for  
18 any type of medical expenses including, but not limited to,  
19 surgical, chiropractic, physical therapy, speech pathology,  
20 audiology, professional mental health, dental, hospital, or  
21 optometric expenses, whether this coverage is by direct payment,  
22 reimbursement, or otherwise;

1 8. The doing of any kind of insurance business specifically  
2 recognized as constituting the doing of an insurance business within  
3 the meaning of the statutes relating to insurance;

4 9. Ownership in whole or in part, directly or indirectly, of  
5 any entity involved in the business of insurance;

6 10. Acquiring or assisting others in the acquisition or  
7 attempted acquisition of any entity involved in the business of  
8 insurance;

9 11. Possessing a license, registration or permit issued or  
10 approved by the Insurance Commissioner;

11 12. Any other transactions of business in this state by an  
12 insurance company, producer, title insurance producer, adjuster,  
13 third-party administrator, service warranty association, title  
14 insurer or any other person that is licensed by or registered with  
15 the Insurance Commissioner; or

16 13. The doing of or proposing to do any insurance business in  
17 substance equivalent to any of the foregoing in a manner designed to  
18 evade the provisions of the statutes.

19 SECTION 5. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 405 of Title 36, unless there is  
21 created a duplication in numbering, reads as follows:

22 A. On issuance of an emergency cease and desist order under  
23 Section 3 of this act, the Insurance Commissioner shall serve on the  
24 person affected by the order, by registered or certified mail,

1 return receipt requested, to the person's last-known address, or by  
2 other lawful means, an order that contains a statement of the  
3 charges and requires the person immediately to cease and desist from  
4 the violation of subsection A of Section 2 of this act.

5 B. 1. If a person affected by an emergency cease and desist  
6 order seeks to contest that order, the person may request a hearing  
7 before the Insurance Commissioner. The person affected must request  
8 the hearing not later than the thirtieth day after the date on which  
9 the person receives the order. A request to contest an order must  
10 be in writing and directed to the Insurance Commissioner and must  
11 state the grounds for the request to set aside or modify the order.

12 2. On receiving the request for a hearing, the Insurance  
13 Commissioner shall serve notice of the time and place of the hearing  
14 at which the person requesting the hearing shall have the  
15 opportunity to show cause why the order should not be affirmed. The  
16 hearing is to be held not later than the tenth day after the date  
17 the Insurance Commissioner receives the request for a hearing unless  
18 the parties mutually agree to a later hearing date.

19 3. Pending the hearing, an emergency cease and desist order  
20 continues in full force and effect unless the order is stayed by the  
21 Insurance Commissioner.

22 4. The hearing on the order shall be conducted according to the  
23 procedures for contested cases under the Administrative Procedures  
24 Act.

1 5. At the hearing, the Insurance Commissioner shall affirm,  
2 modify or set aside in whole or in part the emergency cease and  
3 desist order.

4 C. A person aggrieved by a final order of the Insurance  
5 Commissioner pursuant to the Crimes By or Affecting Persons Engaged  
6 in the Business of Insurance Act may seek judicial review pursuant  
7 to Section 318 of Title 75 of the Oklahoma Statutes.

8 D. The Insurance Commissioner may recover reasonable attorney  
9 fees if judicial action is necessary for enforcement of the order.

10 E. A cease and desist order is final thirty-one (31) days after  
11 the date it is received if the person affected by the order does not  
12 request a hearing as provided by subsection B of this section.

13 SECTION 6. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 406 of Title 36, unless there is  
15 created a duplication in numbering, reads as follows:

16 The Insurance Commissioner may promulgate rules necessary to  
17 carry out the provisions of the Crimes By or Affecting Persons  
18 Engaged in the Business of Insurance Act.

19 SECTION 7. AMENDATORY 36 O.S. 2001, Section 987, as last  
20 amended by Section 2, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,  
21 Section 987), is amended to read as follows:

22 Section 987. Rate Filings.

23 A. In a competitive market, every insurer shall file with the  
24 Commissioner all rates and supplementary rate information to be used

1 in this state no later than thirty (30) days after the effective  
2 date; provided, that the rates and supplementary rate information  
3 need not be filed for commercial risks, which by general custom are  
4 not written according to manual rules or rating plans.

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

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

24

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

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

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

1 F. A filing and any supporting information required to be filed  
2 shall be open to public inspection once the filing becomes effective  
3 except information marked confidential, trade secret, or proprietary  
4 by the insurer or filer and except the filings of an advisory  
5 organization which shall be open to public inspection upon the  
6 received date of the rate, loss cost, or manual rule change. The  
7 insurer or filer shall have the burden of asserting to the  
8 Commissioner that a filing and supporting information are  
9 confidential, upon the request of the Commissioner. The  
10 Commissioner may disapprove of the insurer's request for  
11 confidential filing status.

12 SECTION 8. AMENDATORY 36 O.S. 2001, Section 1435.4, is  
13 amended to read as follows:

14 Section 1435.4 A. A person shall not sell, solicit, or  
15 negotiate insurance in this state for any class or classes of  
16 insurance unless the person is licensed for that line of authority  
17 in accordance with the Oklahoma Producer Licensing Act.

18 B. A penalty for selling, soliciting, negotiating, or procuring  
19 surplus lines insurance in this state without a surplus lines broker  
20 license shall be waived if the Insurance Commissioner receives an  
21 application for licensure as a surplus lines broker within thirty  
22 (30) days from the effective date of the policy at issue.

23 SECTION 9. AMENDATORY 36 O.S. 2001, Section 1435.5, is  
24 amended to read as follows:

1 Section 1435.5 A. Nothing in the Oklahoma Producer Licensing  
2 Act shall be construed to require an insurer to obtain an insurance  
3 producer license. In this section, the term "insurer" does not  
4 include an insurer's officers, directors, employees, subsidiaries or  
5 affiliates.

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

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

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

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

22 c. the officer, director or employee is acting in the  
23 capacity of a special agent or agency supervisor  
24 assisting insurance producers where the person's

1 activities are limited to providing technical advice  
2 and assistance to licensed insurance producers and do  
3 not include the sale, solicitation or negotiation of  
4 insurance;

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

13 3. An employer or association or its officers, directors,  
14 employees, or the trustees of an employee trust plan, to the extent  
15 that the employers, officers, employees, director or trustees are  
16 engaged in the administration or operation of a program of employee  
17 benefits for the employer's or association's own employees or the  
18 employees of its subsidiaries or affiliates, which program involves  
19 the use of insurance issued by an insurer, as long as the employers,  
20 associations, officers, directors, employees or trustees are not in  
21 any manner compensated, directly or indirectly, by the company  
22 issuing the contracts;

23 4. Employees of insurers or organizations employed by insurers  
24 who are engaging in the inspection, rating or classification of

1 risks, or in the supervision of the training of insurance producers  
2 and who are not individually engaged in the sale, solicitation or  
3 negotiation of insurance;

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

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

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

24

1       8. A volunteer counselor assisting Medicare beneficiaries with  
2 enrollment in Medicare Part D plans pursuant to the Federal Medicare  
3 Prescription Drug, Improvement and Modernization Act of 2003, Pub.  
4 Law No. 108-173, provided that the volunteer counselor does not  
5 receive commissions or other valuable consideration from any person  
6 or plan for the enrollment, that the volunteer counselor has  
7 received education that is acceptable to the Insurance Commissioner  
8 on enrollment of Medicare beneficiaries in Medicare Part D, that the  
9 volunteer counselor is providing volunteer services as part of a  
10 sponsoring agency or organization acceptable to the Commissioner,  
11 and that supporting documentation and/or verification is provided to  
12 the Commissioner as set out by rule.

13       SECTION 10.       AMENDATORY       36 O.S. 2001, Section 1435.7, as  
14 last amended by Section 3, Chapter 338, O.S.L. 2007 (36 O.S. Supp.  
15 2007, Section 1435.7), is amended to read as follows:

16       Section 1435.7 A. A person applying for a resident insurance  
17 producer license shall make application to the Insurance  
18 Commissioner on the Uniform Application or an application approved  
19 by the Commissioner and declare under penalty of refusal, suspension  
20 or revocation of the license that the statements made in the  
21 application are true, correct and complete to the best of the  
22 individual's knowledge and belief. Before approving the  
23 application, the Insurance Commissioner shall find that the  
24 individual:

- 1           1. Is at least eighteen (18) years of age;
- 2           2. Has not committed any act that is a ground for denial,  
3 suspension or revocation set forth in Section 1435.13 of this title;
- 4           3. ~~Where required by the Insurance Commissioner, has~~ Has held a  
5 provisional insurance producer license ~~under Section 11 of Enrolled~~  
6 ~~House Bill No. 1960 of the 1st Session of the 51st Oklahoma~~  
7 ~~Legislature~~ or has been a participant in an approved training  
8 program offered by an insurance company licensed in this state ~~or~~  
9 ~~has completed a prelicensing course of study for the lines of~~  
10 ~~authority for which the person has applied~~ except for title,  
11 aircraft title, or any other producer applicant exempt by rule;
- 12           4. Has paid the fees set forth in Section 1435.23 of this  
13 title; and
- 14           5. Has successfully passed the examinations for the lines of  
15 authority for which the person has applied.

16           B. A business entity acting as an insurance producer is  
17 required to obtain an insurance producer license. Application shall  
18 be made using the Uniform Business Entity Application or an  
19 application approved by the Commissioner. Before approving the  
20 application, the Insurance Commissioner shall find that:

- 21           1. The business entity has paid the fees set forth in Section  
22 1435.23 of this title;

23  
24

1           2. The business entity has designated a licensed producer  
2 responsible for the business entity's compliance with the insurance  
3 laws, rules and regulations of this state;

4           3. A domestic business entity is organized pursuant to the  
5 provisions of the laws of this state and maintains its principal  
6 place of business in this state; and

7           4. No person whose license as an insurance producer has been  
8 revoked by order of the Commissioner, nor any business entity in  
9 which such person has a majority ownership interest, whether direct  
10 or indirect, owns any interest in the business entity licensed as an  
11 insurance producer; ~~and~~

12           ~~5. The business entity has provided proof satisfactory to the~~  
13 ~~Commissioner that a trade name has been lawfully registered for an~~  
14 ~~insurance producer license to be issued in a trade name.~~

15           C. A business entity acting as an insurance producer shall  
16 notify the Commissioner of all changes among its members, directors  
17 and officers and all other individuals designated in the license  
18 within fifteen (15) days after the change.

19           D. An applicant for any license required by the provisions of  
20 the Oklahoma Producer Licensing Act shall demonstrate to the  
21 Insurance Commissioner that the applicant is competent, trustworthy,  
22 financially responsible, and of good personal and business  
23 reputation.

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

4 SECTION 11. AMENDATORY 36 O.S. 2001, Section 1435.9, as  
5 amended by Section 16, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2007,  
6 Section 1435.9), is amended to read as follows:

7 Section 1435.9 A. Unless denied licensure pursuant to Section  
8 1435.13 of this title, a nonresident person shall receive a  
9 nonresident producer license if:

10 1. The person is currently licensed as a resident and in good  
11 standing in that person's home state;

12 2. The person has submitted the proper request for licensure  
13 and has paid the fees required by Section 1435.23 of this title;

14 3. The person has submitted or transmitted to the Insurance  
15 Commissioner the application for licensure that the person submitted  
16 to the person's home state, or in lieu of the same, a completed  
17 Uniform Application; and

18 4. The person's home state awards nonresident producer licenses  
19 to residents of this state on the same basis.

20 B. Any nonresident application submitted pursuant to this  
21 section shall constitute the applicant's designation of the  
22 Insurance Commissioner as the person upon whom may be served all  
23 lawful process in any action, suit, or proceeding instituted by or  
24 on behalf of any interested person arising out of the insurance

1 business of the applicant in this state. This designation  
2 constitutes an agreement that said service of process is of the same  
3 legal force and validity as personal service of process in this  
4 state upon the nonresident licensee.

5 C. The Insurance Commissioner may verify the producer's  
6 licensing status through the Producer Database maintained by the  
7 National Association of Insurance Commissioners, its affiliates or  
8 subsidiaries.

9 D. A nonresident producer who moves from one state to another  
10 state or a resident producer who moves from this state to another  
11 state shall file a change of address and provide certification from  
12 the new resident state within thirty (30) days of the change of  
13 legal residence. ~~No fee or license application is required.~~

14 E. Notwithstanding any other provision of the Oklahoma Producer  
15 Licensing Act or of the Oklahoma Insurance Code, a person licensed  
16 as a surplus lines producer in that person's home state shall  
17 receive a nonresident surplus lines producer license pursuant to  
18 subsections A and B of this section.

19 F. Notwithstanding any other provision of the Oklahoma Producer  
20 Licensing Act, a person licensed as a limited line credit insurance  
21 or other type of limited lines producer in that person's home state  
22 shall receive a nonresident limited lines producer license, pursuant  
23 to subsections A and B of this section, granting the same scope of  
24 authority as granted under the license issued by the producer's home

1 state. For the purpose of this subsection, limited line insurance  
2 is any authority granted by the home state which restricts the  
3 authority of the license to less than the total authority prescribed  
4 in the associated major lines pursuant to subsection A of Section  
5 1435.8 of this title.

6 SECTION 12. AMENDATORY 36 O.S. 2001, Section 1435.20, as  
7 amended by Section 4, Chapter 150, O.S.L. 2003 (36 O.S. Supp. 2007,  
8 Section 1435.20), is amended to read as follows:

9 Section 1435.20 A. A limited lines producer may receive  
10 qualification for a license in one or more of the following  
11 categories:

12 1. ~~As a ticket selling agent of a common carrier who acts only~~  
13 ~~with reference to the issuance of insurance on personal effects~~  
14 ~~carried as baggage, in connection with the transportation provided~~  
15 ~~by such common carrier;~~

16 2. ~~To engage in the sale of only limited travel accident~~  
17 ~~insurance;~~

18 3. ~~To engage in the sale of motor vehicle insurance at a~~  
19 ~~vehicle rental counter or at any other point of sale at which motor~~  
20 ~~vehicle insurance is offered or sold in connection with the short-~~  
21 ~~term renting or leasing of motor vehicles; provided, the branch~~  
22 ~~manager of the rental or leasing company shall hold the license~~  
23 ~~under which the employees working for the rental or leasing company~~  
24 ~~operate;~~

1       ~~4. To engage in the sale of limited line credit insurance,~~  
2       ~~5. To engage in the sale of nonfiling insurance relating to~~  
3 ~~mortgages and security interests arising under the Uniform~~  
4 ~~Commercial Code, Section 1-101 et seq. of Title 12A of the Oklahoma~~  
5 ~~Statutes;~~

6       ~~6. Prepaid legal liability insurance, which means the~~  
7 ~~assumption of an enforceable contractual obligation to provide~~  
8 ~~specified legal services or to reimburse policyholders for specified~~  
9 ~~legal expenses, pursuant to the provisions of a group or individual~~  
10 ~~policy;~~

11       ~~7. 2. Crop hail and multiperil crop hail - insurance providing~~  
12 ~~protection against damage to crops from unfavorable weather~~  
13 ~~conditions, fire or lightning, flood, hail, insect infestation,~~  
14 ~~disease or other yield-reducing conditions or perils provided by the~~  
15 ~~private insurance market, or that is subsidized by the Federal Crop~~  
16 ~~Insurance Corporation, including Multi-Peril Crop Insurance; and~~

17       ~~8. Prepaid dental insurance, provided the individual selling~~  
18 ~~the prepaid dental insurance has been appointed by the prepaid~~  
19 ~~dental plan organization to sell such insurance~~

20       ~~3. Car rental - insurance offered, sold or solicited in~~  
21 ~~connection with and incidental to the rental of rental cars for a~~  
22 ~~period of two (2) years, whether at the rental office or by~~  
23 ~~preselection of coverage in master, corporate, group or individual~~  
24 ~~agreements that:~~

1        a. is nontransferable,

2        b. applies only to the rental car that is the subject of  
3        the rental agreement, and

4        c. is limited to the following kinds of insurance:

5            (1) personal accident insurance for renters and other  
6            rental car occupants, for accidental death or  
7            dismemberment, and for medical expenses resulting  
8            from an accident that occurs with the rental car  
9            during the rental period,

10          (2) liability insurance that provides protection to  
11          the renters and other authorized drivers of a  
12          rental car for liability arising from the  
13          operation or use of the rental car during the  
14          rental period,

15          (3) personal effects insurance that provides coverage  
16          to renters and other vehicle occupants for loss  
17          of, or damage to, personal effects in the rental  
18          car during the rental period,

19          (4) roadside assistance and emergency sickness  
20          protection insurance, or

21          (5) any other coverage designated by the Insurance  
22          Commissioner;

23        4. Credit - credit life, credit disability, credit property,

24        credit unemployment, involuntary unemployment, mortgage life,

1 mortgage guaranty, mortgage disability, guaranteed automobile  
2 protection insurance, or any other form of insurance offered in  
3 connection with an extension of credit that is limited to partially  
4 or wholly extinguishing that credit obligation and that is  
5 designated by the Insurance Commissioner as limited line credit  
6 insurance;

7 5. Surety - insurance or bond that covers obligations to pay  
8 the debts of, or answer for the default of another, including  
9 faithlessness in a position of public or private trust. For purpose  
10 of limited line licensing, surety does not include surety bail  
11 bonds; and

12 6. Travel - insurance coverage for trip cancellation, trip  
13 interruption, baggage, life, sickness and accident, disability, and  
14 personal effects when limited to a specific trip and sold in  
15 connection with transportation provided by a common carrier.

16 B. 1. An insurance producer or limited lines producer may  
17 solicit applications for and issue travel accident policies or  
18 baggage insurance by means of mechanical vending machines supervised  
19 by the insurance producer or limited lines producer only if the  
20 Insurance Commissioner shall determine that the form of policy to be  
21 sold is reasonably suited for sale and issuance through vending  
22 machines, that use of vending machines for the sale of said policies  
23 would be of convenience to the public, and that the type of vending  
24 machine to be used is reasonably suitable and practical for the sale

1 and issuance of said policies. Policies so sold do not have to be  
2 countersigned.

3 2. The Commissioner shall issue to the insurance agent or  
4 limited insurance representative a special vending machine license  
5 for each such machine to be used. The license shall specify the  
6 name and address of the insurer and licensee, the kind of insurance  
7 and type of policy to be sold, and the place where the machine is to  
8 be in operation. The license shall expire, be renewable, and be  
9 suspended or revoked coincidentally with the insurance agent license  
10 or limited representative license of the licensee. The license fee  
11 for each vending machine shall be that stated in the provisions of  
12 Section ~~23~~ 1435.23 of this ~~act~~ title. Proof of existence of the  
13 license shall be displayed on or about each machine in such manner  
14 as the Commissioner may reasonably require.

15 SECTION 13. AMENDATORY 36 O.S. 2001, Section 1435.23, as  
16 last amended by Section 14, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
17 2007, Section 1435.23), is amended to read as follows:

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

24

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

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

5 2. Miscellaneous:

6 a. Certificate and Clearance of  
7 Commissioner..... \$ 3.00

8 b. Insurance producer's study manual:  
9 Life, Accident & Health..... not to exceed  
10 \$ 40.00  
11 Property and Casualty..... not to exceed  
12 \$ 40.00

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

16 3. Examination for license:  
17 For each examination covering laws  
18 and one or more lines of insurance.... not to exceed  
19 \$100.00

20 4. Licenses:

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

24



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

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

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

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

18       C. There is hereby created in the State Treasury the State  
19 Insurance Commissioner Revolving Fund which shall be a continuing  
20 fund not subject to fiscal year limitations. The revolving fund  
21 shall consist of fees and monies received by the Insurance  
22 Commissioner as required by law to be deposited in said fund and any  
23 other funds not dedicated in the Oklahoma Insurance Code. The  
24 revolving fund shall be used to fund the general operations of the

1 Insurance Commissioner's Office for the purpose of fulfilling and  
2 accomplishing the conditions and purposes of the Oklahoma Producer  
3 Licensing Act. All expenditures from said revolving fund shall be  
4 on claims approved by the Insurance Commissioner and filed with the  
5 Director of State Finance for payment.

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

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

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

19 SECTION 14. AMENDATORY 36 O.S. 2001, Section 1435.29, as  
20 last amended by Section 15, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
21 2007, Section 1435.29), is amended to read as follows:

22 Section 1435.29 A. 1. Each insurance producer shall,  
23 biennially, complete not less than fourteen (14) clock hours of  
24 continuing insurance education which shall cover subjects in the

1 lines for which the insurance producer is licensed. Such education  
2 may include a written or oral examination.

3 2. Each customer service representative shall, biennially,  
4 complete not less than ten (10) clock hours of continuing insurance  
5 education which shall cover subjects in the lines for which the  
6 licensee is authorized to conduct insurance-related business on  
7 behalf of the appointing agent, broker, or agency.

8 3. Licensees shall complete, in addition to the foregoing, two  
9 (2) clock hours of ethics course work in this same period.

10 B. 1. The Insurance Commissioner shall approve courses and  
11 providers of resident provisional producer prelicensing education  
12 and continuing education. The Insurance Department may use one or  
13 more of the following to review and provide a nonbinding  
14 recommendation to the Insurance Commissioner on approval or  
15 disapproval of courses and providers of resident provisional  
16 producer prelicensing education and continuing education:

- 17 a. employees of the Insurance Commissioner,
- 18 b. a continuing education advisory committee, or
- 19 c. an independent service whose normal business  
20 activities include the review and approval of  
21 continuing education courses and providers. The  
22 Commissioner may negotiate agreements with such  
23 independent service to review documents and other  
24 materials submitted for approval of courses and

1 providers and provide the Commissioner with its  
2 nonbinding recommendation. The Commissioner may  
3 require such independent service to collect the fee  
4 charged by the independent service for reviewing  
5 materials provided for review directly from the course  
6 providers.

7 The Insurance Commissioner has sole authority to approve courses  
8 and providers of resident provisional producer prelicensing  
9 education and continuing education. If the Insurance Commissioner  
10 uses one of the entities listed above to provide a nonbinding  
11 recommendation, the Commissioner shall adopt or decline to adopt the  
12 recommendation within thirty (30) days of receipt of the  
13 recommendation. In the event the Insurance Commissioner takes no  
14 action within said thirty-day period, the recommendation made to the  
15 Commissioner will be deemed to have been adopted by the  
16 Commissioner.

17 The Insurance Commissioner may certify providers and courses  
18 offered for license examination study. The Insurance Department  
19 shall use employees of the Insurance Commissioner to review and  
20 certify license examination study program providers and courses.

21 2. Each insurance company shall be allowed to provide  
22 continuing education to insurance producers and customer service  
23 representatives as required by this section; provided that such  
24

1 continuing education meets the general standards for education  
2 otherwise established by the Insurance Commissioner.

3 3. An insurance producer who, during the time period prior to  
4 renewal, participates in an approved professional designation  
5 program shall be deemed to have met the biennial requirement for  
6 continuing education.

7 ~~Course~~ Each course in the curriculum for the program shall total  
8 a minimum of twenty (20) hours. Each approved professional  
9 designation program included in this section shall be reviewed for  
10 quality and compliance every three (3) years in accordance with  
11 standardized criteria promulgated by rule. Continuation of approved  
12 status is contingent upon the findings of the review. The list of  
13 professional designation programs approved under this paragraph  
14 shall be made available to producers and providers annually.

15 4. The Insurance Department may promulgate rules providing that  
16 courses or programs offered by ~~specified~~ professional associations  
17 shall qualify for presumptive continuing education credit approval.  
18 The rules shall include standardized criteria for reviewing the  
19 professional associations' mission, membership, and other relevant  
20 information, and shall provide a procedure for the Department to  
21 disallow all or part of a presumptively approved course.  
22 Professional association courses approved in accordance with this  
23 paragraph shall be reviewed every three (3) years to determine  
24 whether they continue to qualify for continuing education credit.

1           5. Subject to approval by the Commissioner, the active  
2 membership of the licensed producer or broker in local, regional,  
3 state, or national professional insurance organizations or  
4 associations may be approved for up to one (1) annual hour of  
5 instruction. The hour shall be credited upon timely filing with the  
6 Commissioner, or designee of the Commissioner, and appropriate  
7 written evidence acceptable to the Commissioner of such active  
8 membership in the organization or association.

9           6. The active service of a licensed producer as a member of a  
10 continuing education advisory committee, as described in paragraph 1  
11 of this subsection, shall be deemed to qualify for continuing  
12 education credit on an hour-for-hour basis.

13           C. Each provider of resident provisional producer prelicensing  
14 education and continuing education shall, after approval by the  
15 Commissioner, submit an annual fee. A fee ~~shall~~ may be assessed for  
16 each course submission at the time it is first submitted for review  
17 and upon submission for renewal at expiration. Annual fees and  
18 course submission fees shall be set forth as a rule by the  
19 Commissioner. The fees are payable to the Insurance Commissioner  
20 which shall be deposited in the State Insurance Commissioner  
21 Revolving Fund, created in subsection C of Section 1435.23 of this  
22 title, for the purposes of fulfilling and accomplishing the  
23 conditions and purposes of the Oklahoma Producer Licensing Act and  
24 the Insurance Adjusters Licensing Act. Provided, public-funded

1 educational institutions, federal agencies, and Oklahoma state  
2 agencies shall be exempt from this subsection.

3 D. Failure of an insurance producer or customer service  
4 representative to comply with the requirements of ~~this act~~ the  
5 Oklahoma Producer Licensing Act may, after notice and opportunity  
6 for hearing, result in censure, suspension, nonrenewal of license or  
7 a civil penalty of up to Five Hundred Dollars (\$500.00) or by both  
8 such penalty and civil penalty. Said civil penalty may be enforced  
9 in the same manner in which civil judgments may be enforced. Any  
10 civil penalties collected under this act shall be deposited in the  
11 State Insurance Commissioner Revolving Fund.

12 E. Limited lines producers and nonresident agents who have  
13 successfully completed an equivalent or greater requirement shall be  
14 exempt from the provisions of this section.

15 F. Insurance producers and limited lines producers who are  
16 sixty-five (65) years of age or older and who have at least thirty  
17 (30) years of experience as insurance producers or limited lines  
18 producers, and who do not write new business, shall be exempt from  
19 the provisions of this section.

20 G. Members of the Legislature shall be exempt from this  
21 section.

22 H. The Commissioner shall adopt and promulgate such rules as  
23 are necessary for effective administration of this section.

24

1 SECTION 15. AMENDATORY 36 O.S. 2001, Section 1442, is  
2 amended to read as follows:

3 Section 1442. As used in the Third-party Administrator Act,  
4 Section 1441 et seq. of this title:

5 1. "Administrator" means any person who collects premiums for  
6 an insurer or trust or who adjusts or settles claims for an insurer  
7 or trust, in connection with life or health insurance coverage ~~or~~,  
8 annuities or employee benefit stop loss in this state, but shall not  
9 include any person who collects premiums or who adjusts or settles  
10 claims under the following circumstances:

- 11 a. ~~Any~~ any employer on behalf of the employees of that  
12 employer or the employees of one or more subsidiary or  
13 affiliated corporations of that employer~~,~~ ,
- 14 b. ~~A~~ a union on behalf of its members~~,~~ ,
- 15 c. ~~An~~ an insurance company which is licensed to transact  
16 insurance business in this state~~,~~ ,
- 17 d. ~~A~~ a wholly owned subsidiary of an entity which is  
18 subject to the jurisdiction of the Insurance  
19 Commissioner~~,~~ ,
- 20 e. ~~An~~ an insurance company acting as an insurer with  
21 respect to a policy lawfully issued and delivered by  
22 said company in and pursuant to the laws of this  
23 state~~,~~ ,

24

- 1 f. ~~A~~ a hospital, medical, dental, or optometric service  
2 corporation or a health care service organization,  
3 including their agents, authorized by the Commissioner  
4 to issue contracts in this state pursuant to the  
5 provisions of the Oklahoma Insurance Code when engaged  
6 in the performance of their duties~~+~~,
- 7 g. ~~A~~ a life or disability agent or broker who is licensed  
8 in this state and whose activities are limited  
9 exclusively to the sale of insurance~~+~~,
- 10 h. ~~An~~ an adjuster licensed in this state for the kinds of  
11 business for which he is acting as an adjuster~~+~~,
- 12 i. ~~A~~ a creditor insuring a debt between the creditor and  
13 its debtors on behalf of said creditor's debtors~~+~~,
- 14 j. ~~A~~ a financial institution which is subject to  
15 supervision or examination by federal or state banking  
16 authorities~~+~~,
- 17 k. ~~A~~ a company which issues credit cards and advances  
18 credit for and collects premiums or charges from its  
19 credit card holders who have authorized said  
20 collection, if the company does not adjust or settle  
21 claims~~+~~,
- 22 l. ~~A~~ a person who adjusts or settles claims in the normal  
23 course of practice or employment as an attorney-at-law  
24 and who does not collect charges or premiums in

1 connection with life or health insurance coverage or  
2 annuities~~;~~,

3 m. ~~The~~ the State Insurance Fund~~;~~,

4 n. ~~Any~~ any workers' compensation trust~~;~~, or

5 o. ~~A~~ a trust providing benefits to the employees of any  
6 political subdivision of a city, county or the state~~;~~;  
7 and

8 2. "Trust" means any trust other than those exempted in  
9 paragraph 1 of this section which engages in the business of making  
10 contracts of insurance.

11 SECTION 16. AMENDATORY 36 O.S. 2001, Section 1450, as  
12 amended by Section 10, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2007,  
13 Section 1450), is amended to read as follows:

14 Section 1450. A. No person shall act as or present himself or  
15 herself to be an administrator, as defined by the provisions of the  
16 Third-party Administrator Act, in this state, unless the person  
17 holds a valid license as an administrator which is issued by the  
18 Insurance Commissioner.

19 B. An administrator shall not be eligible for a nonresident  
20 administrator license under this section if the administrator does  
21 not hold a home state certificate of authority or license in a state  
22 that has adopted the Third-party Administrator Act or that applies  
23 substantially similar provisions as are contained in the Third-party  
24 Administrator Act to that administrator. If the Third-party

1 Administrator Act in the administrator's home state does not extend  
2 to stop-loss insurance, but if the home state otherwise applies  
3 substantially similar provisions as are contained in the Third-party  
4 Administrator Act to that administrator, then that omission shall  
5 not operate to disqualify the administrator from receiving a  
6 nonresident administrator license in this state.

7 1. "Home state" means the United States jurisdiction that has  
8 adopted the Third-party Administrator Act or a substantially similar  
9 law governing third-party administrators and which has been  
10 designated by the administrator as its principal regulator. The  
11 administrator may designate either its state of incorporation or its  
12 principal place of business within the United States if that  
13 jurisdiction has adopted the Third-party Administrator Act or a  
14 substantially similar law governing third-party administrators. If  
15 neither the administrator's state of incorporation nor its principal  
16 place of business within the United States has adopted the Third-  
17 party Administrator Act or a substantially similar law governing  
18 third-party administrators, then the third-party administrator shall  
19 designate a United States jurisdiction in which it does business and  
20 which has adopted the Third-party Administrator Act or a  
21 substantially similar law governing third-party administrators. For  
22 purposes of this definition, "United States jurisdiction" means the  
23 District of Columbia or a state or territory of the United States.

24

1        2. "Nonresident administrator" means a person who is applying  
2 for licensure or is licensed in any state other than the  
3 administrator's home state.

4        C. In the case of a partnership which has been licensed, each  
5 general partner ~~and each other individual acting for the~~  
6 ~~partnership, and in the case of any entity which has been licensed,~~  
7 ~~each individual acting for the entity as a third party administrator~~  
8 shall be named in the license and shall qualify therefore as though  
9 an individual licensee. The Commissioner shall charge a full  
10 additional license fee and a separate license shall be issued for  
11 each individual so named in such a license. ~~The entity partnership~~  
12 shall notify the Commissioner within fifteen (15) days if any  
13 individual licensed on its behalf has been terminated, or is no  
14 longer associated with or employed by the ~~entity partnership~~. Any  
15 entity or partnership licensed as administrators under the Third-  
16 party Administrators Act shall provide National Association of  
17 Insurance Commissioner Biographical Affidavits as required for  
18 domestic insurers pursuant to the insurance laws of this state.

19        ~~C.~~ D. An application for an administrator's license shall be in  
20 a form prescribed by the Commissioner and shall be accompanied by a  
21 fee of One Hundred Dollars (\$100.00). This fee shall not be  
22 refundable if the application is denied or refused for any reason by  
23 either the applicant or the Commissioner.

1       ~~D.~~ E. The administrator's license shall continue in force no  
2 longer than twelve (12) months from the original month of issuance.  
3 Upon filing a renewal form prescribed by the Commissioner,  
4 accompanied by a fee of One Hundred Dollars (\$100.00), the license  
5 may be renewed annually for a one-year term. Late application for  
6 renewal of a license shall require a fee of double the amount of the  
7 original license fee. The administrator shall submit, together with  
8 the application for renewal, a list of the names and addresses of  
9 the persons with whom the administrator has contracted in accordance  
10 with Section 1443 of this title. The Commissioner shall hold this  
11 information confidential except as provided in Section 1443 of this  
12 title.

13       ~~F.~~ F. The administrator's license shall be issued or renewed by  
14 the Commissioner unless, after notice and opportunity for hearing,  
15 the Commissioner determines that the administrator is not competent,  
16 trustworthy, or financially responsible, or has had any insurance  
17 license denied for cause by any state, has been convicted or has  
18 pleaded guilty or nolo contendere to any felony or to a misdemeanor  
19 involving moral turpitude or dishonesty.

20       ~~F.~~ G. After notice and opportunity for hearing, and upon  
21 determining that the administrator has violated any of the  
22 provisions of the Oklahoma Insurance Code or upon finding reasons  
23 for which the issuance or nonrenewal of such license could have been  
24 denied, the Commissioner may either suspend or revoke an

1 administrator's license or assess a civil penalty of not more than  
2 Five Thousand Dollars (\$5,000.00) for each occurrence. The payment  
3 of the penalty may be enforced in the same manner as civil judgments  
4 may be enforced.

5 ~~G.~~ H. Any person who is acting as or presenting himself or  
6 herself to be an administrator without a valid license shall be  
7 subject, upon conviction, to a fine of not less than One Thousand  
8 Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00)  
9 for each occurrence. This fine shall be in addition to any other  
10 penalties which may be imposed for violations of the Oklahoma  
11 Insurance Code or other laws of this state.

12 ~~H.~~ I. Except as provided for in subsections ~~E~~ F and ~~F~~ G of this  
13 section, any person convicted of violating any provisions of the  
14 Third-party Administrator Act shall be guilty of a misdemeanor and  
15 shall be subject to a fine of not more than One Thousand Dollars  
16 (\$1,000.00).

17 ~~I.~~ J. Any fees imposed pursuant to the provisions of this  
18 section and any civil penalties imposed pursuant to an  
19 administrative hearing order for violation of the provisions of the  
20 Third-party Administrator Act shall be deposited in the State  
21 Insurance Commissioner Revolving Fund.

22 SECTION 17. AMENDATORY 36 O.S. 2001, Section 1922, is  
23 amended to read as follows:

24

1       Section 1922. ~~The monies collected by the Insurance~~  
2 ~~Commissioner in a proceeding under this article shall be from time~~  
3 ~~to time deposited in one or more state or national banks, savings~~  
4 ~~banks, or trust companies, and in the case of the insolvency or~~  
5 ~~voluntary or involuntary liquidation of any such depository which is~~  
6 ~~an institution organized and supervised under the laws of this~~  
7 ~~state, such deposits shall be entitled to priority of payment on an~~  
8 ~~equality with any other priority given by the banking laws of this~~  
9 ~~state. The Insurance Commissioner may in his discretion deposit~~  
10 ~~such monies or any part thereof in a national bank or trust company~~  
11 ~~as a trust fund~~

12       A. The receiver shall have the power:

13       1. To hold hearings, to subpoena witnesses for the purpose of  
14 compelling their attendance, to administer oaths, to examine any  
15 person under oath, and to compel any persons to subscribe to their  
16 testimony after it has been correctly reduced to writing; and in  
17 connection therewith to require the production of any books, papers,  
18 records, data or other documents, electronic or paper, that the  
19 receiver deems relevant to the inquiry;

20       2. To audit the books and records of all agents of the insurer,  
21 including, but not limited to, third-party administrators, and  
22 affiliated and nonaffiliated management companies insofar as those  
23 records relate to the business activities of the insurer;

24       3. To conduct litigation, including:

- 1        a. to continue to prosecute or defend, and to institute  
2        in the name of the insurer or in the receiver's own  
3        name, suits or other legal proceedings, in this state  
4        or elsewhere,
- 5        b. to abandon the prosecution of claims the receiver  
6        deems unprofitable to pursue further,
- 7        c. to collect all debts and monies due and claims  
8        belonging to the insurer, wherever located, and in  
9        furtherance of this purpose to institute action in  
10       this or other jurisdictions in order to forestall  
11       garnishment and attachment proceedings against those  
12       debts, including the power to sell, compound,  
13       compromise or assign debts for purposes of collection  
14       upon such terms and conditions as the receiver deems  
15       consistent with the purpose of the Uniform Insurers  
16       Liquidation Act, and pursue any creditor's remedies  
17       available to enforce the insurer's claims,
- 18       d. to assert all defenses available to the insurer as  
19       against third persons, including statutes of  
20       limitation, statutes of frauds and the defense of  
21       usury. A waiver of any defense by the insurer after a  
22       petition for supervision, conservation, receivership,  
23       rehabilitation or liquidation has been filed shall not  
24       bind the receiver. Whenever a guaranty association

1 has an obligation to defend any suit, the receiver  
2 shall defer to that obligation and may defend only in  
3 cooperation with the guaranty association or in the  
4 absence of the guaranty association's defense,

5 e. to exercise and enforce all the rights, remedies and  
6 powers of any creditor, shareholder, policyholder or  
7 member, including any power to avoid any transfer,  
8 transaction or lien that may be voidable under the  
9 Uniform Insurers Liquidation Act or otherwise, and

10 f. to intervene in any proceeding wherever instituted  
11 that might lead to the appointment of a receiver or  
12 trustee for the insurer or any of its property, and to  
13 act as the receiver or trustee whenever the  
14 appointment is offered.

15 The receiver shall have exclusive standing in any action that  
16 may exist to assert claims or defenses on behalf of the creditors,  
17 members, policyholders or shareholders of the insurer or the public  
18 against any person, except to the extent that a claim is personal to  
19 a specific creditor, member, policyholder or shareholder and  
20 recovery on the claim would not inure to the benefit of the estate.  
21 If the receiver sells or dissolves the corporate entity or charter  
22 of the insurer, the receiver shall have the power to apply to any  
23 court in this state or elsewhere for leave to substitute the  
24 receiver for the insurer as a party. This paragraph does not

1 infringe or impair any of the rights provided to a guaranty  
2 association pursuant to its enabling statute or otherwise;

3 4. a. To conduct public or private sales of the insurer's  
4 property, and thereby to acquire, hypothecate,  
5 encumber, lease, sell, improve, transfer, abandon or  
6 otherwise dispose of or deal with any property of the  
7 insurer at its market value or upon such terms and  
8 conditions as are fair and reasonable, and to settle  
9 or resolve any claim or lawsuit brought by the  
10 receiver on behalf of the insurer or pending when a  
11 petition for supervision, conservation, receivership,  
12 rehabilitation or liquidation is filed, or commute or  
13 settle any claim of reinsurance under any contract of  
14 reinsurance,

15 b. to transfer rights to payment under ceding reinsurance  
16 agreements covering policies to a third-party  
17 transferee. The transferee shall have the rights to  
18 collect and enforce collection of the reinsurance for  
19 the amount payable to the ceding insurer or to its  
20 receiver, without diminution because of the insolvency  
21 or because the receiver has failed to pay all or a  
22 portion of the claim. The transfer of these rights  
23 shall not give rise to any defense regarding the  
24 reinsurer's obligations under the reinsurance

1 agreement regardless of whether the agreement or other  
2 applicable law prohibits the transfer of rights under  
3 the reinsurance agreement. Except as provided in this  
4 subparagraph, any transfer of rights pursuant to this  
5 provision shall not impair any rights or defenses of  
6 the reinsurer that existed prior to the transfer or  
7 would have existed in the absence of the transfer.  
8 Except as otherwise provided in this subparagraph, any  
9 transfer of rights pursuant to this provision shall  
10 not relieve the transferee or the receiver from  
11 obligations owed to the reinsurer pursuant to the  
12 reinsurance or other agreement, and

13 c. to execute, acknowledge and deliver any deeds,  
14 assignments, releases and other instruments necessary  
15 or proper to effectuate any sale of property or other  
16 transaction in connection with the liquidation or  
17 rehabilitation and to file any necessary documents for  
18 record in the office of any recorder of deeds or  
19 record office in this state or elsewhere where  
20 property of the insurer is located;

21 5. a. To use property of the estate to transfer policy  
22 obligations to a solvent assuming insurer, if the  
23 transfer can be arranged without prejudice to  
24

1 applicable priorities under Section 1927.1 of this  
2 title,

- 3 b. to use property of the estate to transfer the  
4 insurer's obligations under surety bonds and surety  
5 undertakings, and collateral held by the insurer with  
6 respect to the reimbursement obligations of the  
7 principals under those surety bonds and surety  
8 undertakings, to a solvent assuming insurer, if the  
9 transfer can be arranged without prejudice to  
10 applicable priorities under Section 1927.1 of this  
11 title; and if the receivership court so orders, the  
12 estate shall have no further liability under the  
13 transferred policies, surety bonds, or surety  
14 undertakings after the transfer is made, and  
15 c. upon the issuance of an order of liquidation and a  
16 finding of insolvency, policies or portions of  
17 policies of life, disability income, long-term care or  
18 health insurance or annuities covered by one or more  
19 guaranty associations, under applicable law, shall  
20 continue in force, subject to the terms of the policy,  
21 including any terms restructured pursuant to a court-  
22 approved rehabilitation plan, to the extent necessary  
23 to permit the guaranty associations to discharge their  
24 statutory obligations. Policies or portions of

1 policies of life, disability income, long-term care or  
2 health insurance or annuities, not covered by one or  
3 more guaranty associations, and other types of  
4 policies, shall terminate by operation of law, except  
5 to the extent the liquidator proposes and the  
6 receivership court approves the use of property of the  
7 estate, consistent with subparagraphs a and b of this  
8 paragraph, for the purpose of continuing the contracts  
9 or coverage by transferring them to an assuming  
10 reinsurer;

11 6. To borrow money on the security of the property of the  
12 estate or without security and to execute and deliver all documents  
13 necessary to that transaction for the purpose of facilitating the  
14 liquidation or rehabilitation. Any such funds borrowed may be  
15 repaid as an administrative expense and have priority over any other  
16 claims in Class 1 under the priority of distribution in Section  
17 1927.1 of this title;

18 7. To enter into contracts, and to assume or reject any  
19 executory contract or unexpired lease to which the insurer is a  
20 party; provided, however, notwithstanding anything which may appear  
21 to the contrary in this act, any statute of this state or of any  
22 other state, or of the United States, receiver shall not be bound by  
23 any provision of any contract of or by the insurer which requires  
24 arbitration;

1       8. To take possession of the records and property of the  
2 insurer. Guaranty associations shall have reasonable access to the  
3 records of the insurer necessary for them to carry out their  
4 statutory obligations;

5       9. To deposit in one or more banks in this state sums required  
6 for meeting current administration expenses and dividend  
7 distributions;

8       10. To invest the assets of the estate;

9       11. To enter into agreements with any receivers or  
10 commissioners of any other states; and

11       12. To exercise all powers now held or hereafter conferred upon  
12 receivers by the applicable statutory and common law of this state  
13 not inconsistent with the provisions of the Uniform Insurers  
14 Liquidation Act.

15       B. The receiver is vested with all the rights of the entity or  
16 entities in receivership.

17       C. The enumeration, in this section, of the powers and  
18 authority of the receiver shall not be construed as a limitation  
19 upon the receiver, nor shall it exclude in any manner the right to  
20 do other acts not specifically enumerated or otherwise provided for,  
21 to the extent necessary or appropriate for the accomplishment of or  
22 in aid of the purpose of liquidation or rehabilitation.

23       D. The receiver shall not be obligated to defend any action  
24 against the insurer or insured. An insured not defended by a

1 guaranty association may provide his or her own defense, and include  
2 the cost of the defense as part of any claim of the insured against  
3 the estate, if the defense was an obligation of the insurer. The  
4 right of the receiver to contest coverage on a particular claim  
5 shall be deemed preserved without the necessity of an express  
6 reservation of rights.

7 SECTION 18. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 1924.1 of Title 36, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. If applicable statutory or common law, an order, or an  
11 agreement fixes, defines, extends or tolls a period within which the  
12 insurer may commence an action, and this period has not expired  
13 before the date of the filing of the initial petition in a  
14 delinquency proceeding as defined in Section 1901 of Title 36 of the  
15 Oklahoma Statutes, the receiver shall not by reason thereof be  
16 barred from commencing such an action if the receiver does so on or  
17 before the later of:

18 1. The end of the period, including any suspension of the  
19 period occurring on or after the filing of the initial petition in a  
20 delinquency proceeding; or

21 2. Four (4) years after the entry of the order commencing a  
22 delinquency proceeding or entry of a subsequent order granting a  
23 different form of relief in a delinquency proceeding.

24

1 B. Except as provided in subsection A of this section, if  
2 applicable law, an order or an agreement fixes, defines, extends or  
3 tolls a period within which the insurer may file any pleading,  
4 demand, notice, or proof of claim or loss, or cure a default in a  
5 case or proceeding, or perform any other similar act, and the period  
6 has not expired before the date of the filing of the initial  
7 petition in a delinquency proceeding, the receiver shall not by  
8 reason thereof be barred from filing, curing or performing, as the  
9 case may be, if the receiver does so on or before the later of:

10 1. The end of the period, including any suspension of the  
11 period occurring on or after the filing of the initial petition in a  
12 delinquency proceeding; or

13 2. One hundred eighty (180) days after the entry of the order  
14 granting the initial petition in the delinquency proceeding, or  
15 within such further extension thereof granted by the court which is  
16 shown to the satisfaction of the court not to be unfairly  
17 prejudicial to the other party.

18 C. If applicable law, an order or an agreement fixes, defines,  
19 extends or tolls a period for commencing or continuing a civil  
20 action in a court other than the receivership court on a claim  
21 against the insurer, and the period has not expired before the date  
22 of the filing of the initial petition in a delinquency proceeding,  
23 then the period does not expire until the later of:

24

1 1. The end of the period, including any suspension of the  
2 period occurring on or after the filing of the initial petition in a  
3 delinquency proceeding; or

4 2. Thirty (30) days after termination or expiration of a court  
5 ordered stay with respect to the claim.

6 D. An allegation by the receiver of improper or fraudulent  
7 conduct against any person shall not be the basis of a defense to  
8 the enforcement of a contractual obligation owed to the insurer by a  
9 third party, but the third party is not barred by this section from  
10 seeking to establish independently as a defense that the conduct was  
11 materially and substantially related to the contractual obligation  
12 for which enforcement is sought.

13 E. No prior wrongful or negligent actions of any present or  
14 former officer, manager, director, trustee, owner, employee or agent  
15 of the insurer may be asserted as a defense to a claim by the  
16 receiver under a theory of estoppel, comparative fault, intervening  
17 cause, proximate cause, reliance, mitigation of damages or  
18 otherwise; except that the affirmative defense of fraud in the  
19 inducement may be asserted against the receiver in a claim based on  
20 a contract and a principal under a surety bond or a surety  
21 undertaking shall be entitled to credit against any reimbursement  
22 obligation to the receiver for the value of any property pledged to  
23 secure the reimbursement obligation to the extent that the receiver  
24 has possession or control of the property or the insurer or its

1 agents misappropriated such property. Evidence of fraud in the  
2 inducement will be admissible only if it is contained in the records  
3 of the insurer.

4 F. No action or inaction by the insurance regulatory  
5 authorities may be asserted as a defense to a claim by the receiver.

6 G. A judgment or order entered against an insured or the  
7 insurer in contravention of any stay or injunction under the Uniform  
8 Insurers Liquidation Act, or at any time by default or collusion,  
9 shall not be considered as evidence of liability or of the quantum  
10 of damages in adjudicating claims filed in the estate arising out of  
11 the subject matter of the judgment or order.

12 H. The provisions of subsection G of this section do not apply  
13 to guaranty associations' claims for amounts paid on settlements and  
14 judgments in pursuit of their statutory obligations.

15 SECTION 19. AMENDATORY 36 O.S. 2001, Section 4424, is  
16 amended to read as follows:

17 Section 4424. Unless the context requires otherwise, the  
18 definitions in this section apply throughout the Long-Term Care  
19 Insurance Act.

20 1. a. "Long-term care insurance" means any insurance policy,  
21 certificate or rider, including qualified long-term  
22 care insurance contracts and long-term care  
23 partnership program contracts, which are advertised,  
24 marketed, offered or designed primarily to provide

1 coverage for not less than twelve (12) consecutive  
2 months for each covered person on an expense incurred,  
3 indemnity, prepaid, or other basis, for one or more  
4 necessary or medically necessary diagnostic,  
5 preventive, therapeutic, rehabilitative, maintenance,  
6 or personal care services, provided in a setting other  
7 than an acute care unit of a hospital.

8 b. This term includes group and individual health  
9 policies or riders or group and individual life  
10 policies or annuities or riders which provide,  
11 directly or as a supplement, coverage for long-term  
12 care, whether issued by insurers, fraternal benefit  
13 societies, nonprofit health, hospital, and medical  
14 service corporations, prepaid health plans, health  
15 maintenance organizations, life care communities, or  
16 any similar organization.

17 c. This term also includes a policy or rider which  
18 provides for payment of long-term care benefits based  
19 upon cognitive impairment or the loss of functional  
20 capacity.

21 d. Long-term care insurance shall not include any  
22 insurance policy which is offered primarily to provide  
23 basic Medicare supplement coverage, basic hospital  
24 expense coverage, basic medical-surgical expense

1 coverage, hospital confinement indemnity coverage,  
2 major medical expense coverage, disability income  
3 protection coverage or related asset-protection  
4 coverage, catastrophic coverage, comprehensive  
5 coverage, accident only coverage, specified disease or  
6 specified accident coverage, or limited benefit health  
7 coverage.

8 e. With regard to life insurance, this term does not  
9 include life insurance policies which accelerate the  
10 death benefit specifically for one or more of the  
11 qualifying events of terminal illness, medical  
12 conditions requiring extraordinary medical  
13 intervention, or permanent institutional confinement,  
14 and which provide the option of a lump-sum payment for  
15 those benefits and in which neither the benefits nor  
16 the eligibility for the benefits is conditioned upon  
17 the receipt of long-term care.

18 f. Notwithstanding any other provision contained herein,  
19 any product advertised, marketed or offered as long-  
20 term care insurance shall be subject to the provisions  
21 of this act.

22 2. "Applicant" means:  
23  
24

1 a. in the case of an individual long-term care insurance  
2 policy, the person who seeks to contract for such  
3 benefits, and

4 b. in the case of a group long-term care insurance  
5 policy, the proposed certificate holder.

6 3. "Certificate" means any certificate issued under a group  
7 long-term care insurance policy, which certificate has been  
8 delivered, or issued for delivery, in this state.

9 4. "Group long-term care insurance" means a long-term care  
10 insurance policy which is delivered, or issued for delivery, in this  
11 state and issued to:

12 a. one or more employers or labor organizations, or to a  
13 trust or to the trustees of a fund established by one  
14 or more employers or labor organizations, or a  
15 combination thereof, for employees or former  
16 employees, or a combination thereof or for members or  
17 former members, or a combination thereof, of the labor  
18 organizations, or

19 b. any professional, trade or occupational association  
20 for its members or former or retired members, or  
21 combination thereof, if such association:

22 (1) is composed of individuals, all of whom are or  
23 were actively engaged in the same profession,  
24 trade or occupation, and

1 (2) has been maintained in good faith for purposes  
2 other than insurance, or  
3 c. an association, a trust, or the trustee or trustees of  
4 a fund established, created, or maintained for the  
5 benefit of members of one or more associations. Prior  
6 to advertising, marketing or offering such policy  
7 within this state, the association or associations, or  
8 the insurer of the association or associations, shall  
9 file evidence with the Insurance Commissioner that the  
10 association or associations shall have at the outset  
11 of transacting long-term care insurance in this state  
12 a minimum of one hundred (100) persons in the  
13 association or associations and shall have been  
14 organized and maintained in good faith for purposes  
15 other than that of obtaining insurance; shall have  
16 been in active existence for at least one (1) year;  
17 and shall have a constitution and bylaws which provide  
18 that (i) the association or associations hold regular  
19 meetings not less than annually to further purposes of  
20 the members, (ii) except for credit unions, the  
21 association or associations collect dues or solicit  
22 contributions from members, and (iii) the members have  
23 voting privileges and representation on the governing  
24 board and committees. Thirty (30) days after such

1 filing the association or associations shall be deemed  
2 to satisfy such organizational requirements, unless  
3 the Commissioner makes a finding that the association  
4 or associations do not satisfy those organizational  
5 requirements, or

6 d. a group other than as described in subparagraphs a, b  
7 and c of this paragraph, subject to a finding by the  
8 Commissioner that:

9 (1) the issuance of the group policy is not contrary  
10 to the best interest of the public,

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

13 (3) the benefits are reasonable in relation to the  
14 premiums charged.

15 5. "Life care community" means any arrangement pursuant to  
16 which a person contracts for a place of residence and personal care  
17 services, including but not limited to services which progress from  
18 independent living to semi-dependent nursing care to acute nursing  
19 care, in consideration of a payment or payments of fees prior to the  
20 delivery of services and accommodations. Life care community shall  
21 not include the following:

22 a. traditional landlord and tenant agreements utilizing  
23 periodic rental and security deposit payments,

- b. residential care homes licensed pursuant to the Oklahoma Residential Care Act,
- c. assisted living centers and continuum of care facilities licensed pursuant to the Oklahoma Continuum of Care and Assisted Living Act, or
- d. facilities licensed pursuant to the Oklahoma Nursing Home Care Act.

6. "Policy" means any policy, contract, certificate, subscriber agreement, rider or endorsement delivered, or issued for delivery, in this state by an insurer, fraternal benefit society, nonprofit health, hospital, or medical service corporation, prepaid health plan, health maintenance organization, life care community, or any similar organization.

7. "Qualified long-term care insurance contract" means any:

- a. individual or group insurance contract if the contract meets the requirements of Section 7702(B) of the Internal Revenue Code, as amended, and if:
  - (1) the only insurance protection provided under the contract is coverage of qualified long-term care services,
  - (2) the contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under Title XVIII of the Social Security Act as amended, or would

1 be so reimbursable but for the application of a  
2 deductible or coinsurance amount. The  
3 requirements of this subparagraph do not apply to  
4 contracts where Medicare is a secondary payor, or  
5 where the contract makes per diem or other  
6 periodic payments without regard to expenses,

7 (3) the contract is guaranteed renewable,

8 (4) the contract does not provide for a cash  
9 surrender value or other money that can be paid,  
10 assigned, pledged as collateral for a loan, or  
11 borrowed. All refunds of premiums and all  
12 policyholder dividends or similar amounts, under  
13 such contract are to be applied as a reduction in  
14 future premiums or to increase future benefits,  
15 except that a refund of the aggregate premium  
16 paid under the contract may be allowed in the  
17 event of death of the insured or a complete  
18 surrender or cancellation of the contract, and

19 (5) the contract contains the consumer protection  
20 provisions set forth in Section 7702(B)(g) of the  
21 Internal Revenue Code, or

22 b. life insurance contract which provides long-term care  
23 coverage by rider or as part of the contract if the  
24 contract complies with the applicable provisions of

1 Section 7702(B) of the Internal Revenue Code, as  
2 amended.

3 8. "Qualified long-term care services" means necessary  
4 diagnostic, preventive, therapeutic, curing, treating, mitigating,  
5 and rehabilitative services, and maintenance for personal care  
6 services for which an insured is eligible under a qualified long-  
7 term care insurance contract, and which are provided pursuant to a  
8 plan of care prescribed by a licensed health care practitioner.

9 SECTION 20. AMENDATORY 36 O.S. 2001, Section 4501, is  
10 amended to read as follows:

11 Section 4501. Group accident and health insurance is hereby  
12 declared to be that form of accident and health insurance covering  
13 groups of persons as defined below, with or without one or more  
14 members of their families or one or more of their dependents, or  
15 covering one or more members of the families or one or more  
16 dependents of persons in such groups, and issued upon the following  
17 basis:

18 1. Under a policy issued to an association, which has been in  
19 existence for at least twelve (12) months, including a labor union,  
20 which shall have a constitution and bylaws and which has been  
21 organized and is maintained in good faith for purposes other than  
22 that of obtaining insurance, insuring at least ten members,  
23 employees, or employees of members of the association for the  
24 benefit of persons other than the association or its officers or

1 trustees. The term "employees" as used herein shall be deemed to  
2 include retired employees;

3 2. Under a policy issued to the trustees of a fund established  
4 by two or more employers or by one or more labor unions or by one or  
5 more employers and one or more labor unions, which trustees shall be  
6 deemed the policyholder, to insure employees of the employers or  
7 members of the unions for the benefit of persons other than the  
8 employers or the unions. The term "employees" as used herein shall  
9 be deemed to include the officers, managers and employees of the  
10 employer, and the individual proprietor or partners if the employer  
11 is an individual proprietor or partnership. The term "employees" as  
12 used herein shall be deemed to include retired employees. The  
13 policy may provide that the term "employees" shall include the  
14 trustees or their employees, or both, if their duties are  
15 principally connected with such trusteeship;

16 3. Under a policy issued to any persons or organizations to  
17 which a policy of group life insurance may be delivered in this  
18 state, to insure any class or classes of individuals that could be  
19 insured under such group life policy;

20 4. Under a health insurance policy issued to an employer or  
21 trustees of a fund established by an employer, who shall be deemed  
22 the policyholder insuring at least one employee of such employer for  
23 the benefit of persons other than the employer. The term "employee"  
24 as used herein shall be deemed to include the officers, managers,

1 and employees of the employer, the individual proprietor or partners  
2 if the employer is an individual proprietor or partnership, the  
3 officers, managers, and employees of subsidiary or affiliated  
4 corporations, the individual proprietors, partners and employees of  
5 individuals and firms, if the business of the employer and such  
6 individual or firm is under common control through stock ownership,  
7 contract, or otherwise. The term "employee" as used herein shall be  
8 deemed to include retired employees and their dependents and the  
9 dependents of employees eligible for Medicare. A policy issued to  
10 insure employees of a public body may provide that the term  
11 "employees" shall include elected or appointed officials;

12 5. Under a policy issued to cover any other substantially  
13 similar group which, in the discretion of the Insurance  
14 Commissioner, may be subject to the issuance of a group accident and  
15 health policy or contract; and

16 6. Nothing in this article validates any charge or practice  
17 illegal under any rule of law or regulation governing usury, small  
18 loans, retail installment sales, or the like, or extends the  
19 application of any such rule of law or regulation to any transaction  
20 not otherwise subject thereto.

21 SECTION 21. AMENDATORY 36 O.S. 2001, Section 5002, is  
22 amended to read as follows:

23 Section 5002. A. A domestic title insurer shall invest its  
24 capital accumulations, up to the sum of One Hundred Thousand Dollars

1 (\$100,000.00), in capital investments as defined in ~~subsection A of~~  
2 ~~section~~ Section 1606 of ~~article~~ Article 16 (Investments), but  
3 subject to the exception in subsection B of this section, below.

4 B. A domestic title insurer may invest its capital and  
5 accumulations in excess of One Hundred Thousand Dollars  
6 (\$100,000.00) in such investments as are made eligible for funds of  
7 domestic insurers by ~~article~~ Article 16; except, that any such  
8 insurer may invest an amount not exceeding fifty per cent (50%) of  
9 its combined capital and surplus in the preparation and purchase of  
10 material or plants or both necessary to enable it to engage in the  
11 business of title insurance, and such materials and plants shall be  
12 deemed to be capital funds investments and shall be valued as the  
13 actual cost thereof.

14 C. ~~Subsections B and C of section~~ Section 1606 of ~~article~~  
15 Article 16 shall not apply to domestic title insurers, nor shall  
16 such insurers be subject to the limitations as to amount invested in  
17 real estate for home office and branch office purposes contained in  
18 ~~subdivision A paragraph 1 of section~~ Section 1624 of ~~article~~ Article  
19 16.

20 SECTION 22. AMENDATORY 36 O.S. 2001, Section 5005, is  
21 amended to read as follows:

22 Section 5005. A. Title insurers shall be governed by this  
23 article and, to the extent not modified by or inconsistent with the  
24 provisions of this article or the provisions of this code made

1 applicable to such insurers, by the general laws of this state  
2 governing corporations organized for profit.

3 B. To the extent not modified by the provisions of this  
4 article, title insurers shall be subject to and governed by the  
5 other applicable provisions of this code.

6 C. No new insurance law hereafter enacted shall be deemed to  
7 apply to title insurers unless they be expressly referred to  
8 therein.

9 D. Notwithstanding anything to the contrary, the following  
10 sections, acts and articles of the Insurance Code and related rules  
11 of the Insurance Department shall apply to title insurers in  
12 addition to those applicable to title insurers on November 1, 2008:

13 1. Section 311 of this title, Annual Financial Statements;

14 2. Section 615.2 of this title, Duty of Domestic Insurers and  
15 Health Maintenance Organizations to Keep Biographical Information  
16 Current;

17 3. Article 12, Unfair Practices and Frauds;

18 4. Article 12A-1, Unfair Claims Settlement Practices Act;

19 5. Article 16A, Subsidiaries of Insurers;

20 6. Article 18, Supervision and Conservatorship of Insurers Act;

21 and

22 7. Article 19, Rehabilitation and Liquidation.

23

24

1 SECTION 23. AMENDATORY 36 O.S. 2001, Section 6060, as  
2 amended by Section 1, Chapter 78, O.S.L. 2002 (36 O.S. Supp. 2007,  
3 Section 6060), is amended to read as follows:

4 Section 6060. A. All individual and group health insurance  
5 policies providing coverage on an expense incurred basis, and all  
6 individual and group service or indemnity type contracts issued by a  
7 nonprofit corporation, including the Oklahoma State and Education  
8 Employees Group Insurance Board, which provide coverage for a female  
9 thirty-five (35) years old or older in this state, except for  
10 policies that provide coverage for specified disease or other  
11 limited benefit coverage, shall include the coverage specified by  
12 this section for a ~~routine low-dose~~ mammography screening in a  
13 reimbursement amount not to exceed One Hundred Fifteen Dollars  
14 (\$115.00) for the presence of occult breast cancer. Such coverage  
15 shall not:

16 1. Be subject to the policy deductible, co-payments and co-  
17 insurance limits of the plan; or

18 2. Require that a female undergo a mammography screening at a  
19 specified time as a condition of payment.

20 B. 1. Any female thirty-five (35) through thirty-nine (39)  
21 years of age shall be entitled pursuant to the provisions of this  
22 section to coverage for a ~~low-dose~~ mammography screening once every  
23 five (5) years.

24

1           2. Any female forty (40) years of age or older shall be  
2 entitled pursuant to the provisions of this section to coverage for  
3 an annual ~~low-dose~~ mammography screening.

4           ~~C. For the purposes of this section, the term "low dose~~  
5 ~~mammography" means the x-ray examination of the breast using~~  
6 ~~equipment dedicated specifically for mammography, including but not~~  
7 ~~limited to the x-ray tube, filter, compression device, screens,~~  
8 ~~films, and cassettes, with an average radiation exposure delivery of~~  
9 ~~less than one rad mid breast, with two views for each breast.~~

10           SECTION 24.           AMENDATORY           36 O.S. 2001, Section 6210, as  
11 amended by Section 27, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,  
12 Section 6210), is amended to read as follows:

13           Section 6210. A. The answers of the applicant to any  
14 examination for licensing as an adjuster shall be written by the  
15 applicant under supervision of the Insurance Commissioner.

16           B. The examination shall be given at such times and places  
17 within this state as the Commissioner deems necessary to reasonably  
18 serve the convenience of both the Commissioner and the applicants.

19           C. An applicant who has failed to pass the first examination  
20 for the license for which applied may take a second examination  
21 within thirty (30) days following the first examination. An  
22 applicant who has failed to pass the first two examinations for the  
23 license for which applied shall not be permitted to take a  
24 subsequent examination until the expiration of thirty (30) days

1 after the last previous examination. ~~A current~~ An applicant shall  
2 take and pass the examination within one hundred eighty (180) days  
3 of the date of the initial application and. If the applicant fails  
4 to pass an examination within the specified time period, the  
5 applicant shall submit a new application accompanied by any  
6 applicable fees shall be submitted with each request to take a.  
7 Examination fees for subsequent ~~examination~~ examinations shall not  
8 be waived.

9 SECTION 25. AMENDATORY 36 O.S. 2001, Section 6217, as  
10 amended by Section 29, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007,  
11 Section 6217), is amended to read as follows:

12 Section 6217. A. A license as an adjuster shall expire two (2)  
13 years from the month of original issuance of the license or  
14 subsequent renewal of the license.

15 B. Any licensee applying for renewal of a license as an  
16 adjuster shall have completed not less than twelve (12) clock hours  
17 of continuing insurance education within the previous twenty-four  
18 (24) months prior to renewal of the license. Such continuing  
19 education shall cover subjects in the classes of insurance for which  
20 the adjuster is licensed. Such continuing education shall not  
21 include a written or oral examination. The Insurance Commissioner  
22 shall approve courses and providers of continuing education for  
23 insurance adjusters as required by this section.

24

1 The Insurance Department may use one or more of the following to  
2 review and provide a nonbinding recommendation to the Insurance  
3 Commissioner on approval or disapproval of courses and providers of  
4 continuing education:

5 1. Employees of the Insurance Commissioner;

6 2. A continuing education advisory committee. The continuing  
7 education advisory committee is separate and distinct from the  
8 Advisory Board established by Section 6221 of this title;

9 3. An independent service whose normal business activities  
10 include the review and approval of continuing education courses and  
11 providers. The Commissioner may negotiate agreements with such  
12 independent service to review documents and other materials  
13 submitted for approval of courses and providers and present the  
14 Commissioner with its nonbinding recommendation. The Commissioner  
15 may require such independent service to collect the fee charged by  
16 the independent service for reviewing materials provided for review  
17 directly from the course providers.

18 C. An adjuster who, during the time period prior to renewal,  
19 participates in an approved professional designation program shall  
20 be deemed to have met the biennial requirement for continuing  
21 education. ~~Course~~ Each course in the curriculum for the program  
22 shall total a minimum of twenty (20) hours. Each approved  
23 professional designation program included in this section shall be  
24 reviewed for quality and compliance every three (3) years in

1 accordance with standardized criteria promulgated by rule.  
2 Continuation of approved status is contingent upon the findings of  
3 the review. The list of professional designation programs approved  
4 under this subsection shall be made available to producers and  
5 providers annually.

6 D. The Insurance Department may promulgate rules providing that  
7 courses or programs offered by ~~specified~~ professional associations  
8 shall qualify for presumptive continuing education credit approval.  
9 The rules shall include standardized criteria for reviewing the  
10 professional associations' mission, membership, and other relevant  
11 information, and shall provide a procedure for the Department to  
12 disallow ~~all or part of~~ a presumptively approved course.  
13 Professional association courses approved in accordance with this  
14 subsection shall be reviewed every three (3) years to determine  
15 whether they continue to qualify for continuing education credit.

16 E. The active service of a licensed adjuster as a member of a  
17 continuing education advisory committee, as described in paragraph 2  
18 of subsection B of this section, shall be deemed to qualify for  
19 continuing education credit on an hour-for-hour basis.

20 F. Each provider of continuing education shall, after approval  
21 by the Commissioner, submit an annual fee. A fee may be assessed  
22 for each course submission at the time it is first submitted for  
23 review and upon submission for renewal at expiration. Annual fees  
24 and course submission fees shall be set forth as a rule by the

1 Commissioner. The fees are payable to the Insurance Commissioner  
2 and shall be deposited in the State Insurance Commissioner Revolving  
3 Fund, created in subsection C of Section 1435.23 of this title, for  
4 the purposes of fulfilling and accomplishing the conditions and  
5 purposes of the Oklahoma Producer Licensing Act and the Insurance  
6 Adjusters Licensing Act. Public-funded educational institutions,  
7 federal agencies and Oklahoma state agencies shall be exempt from  
8 this subsection.

9 G. Subject to the right of the Commissioner to suspend, revoke,  
10 or refuse to renew a license of an adjuster, any such license may be  
11 renewed by filing on the form prescribed by the Commissioner on or  
12 before the expiration date a written request by or on behalf of the  
13 licensee for such renewal and proof of completion of the continuing  
14 education requirement set forth in subsection B of this section,  
15 accompanied by payment of the renewal fee.

16 ~~G.~~ H. If the request, proof of compliance with the continuing  
17 education requirement and fee for renewal of a license as an  
18 adjuster are filed with the Commissioner prior to the expiration of  
19 the existing license, the licensee may continue to act pursuant to  
20 said license, unless revoked or suspended prior to the expiration  
21 date, until the issuance of a renewal license or until the  
22 expiration of ten (10) days after the Commissioner has refused to  
23 renew the license and has mailed notice of said refusal to the  
24 licensee. Any request for renewal filed after the date of

1 expiration may be considered by the Commissioner as an application  
2 for a new license.

3 SECTION 26. AMENDATORY 36 O.S. 2001, Section 6602, as  
4 last amended by Section 31, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
5 2007, Section 6602), is amended to read as follows:

6 Section 6602. As used in the Service Warranty Insurance Act:

7 1. "Commissioner" means the Insurance Commissioner;

8 2. "Consumer product" means tangible personal property  
9 primarily used for personal, family, or household purposes;

10 3. "Department" means the Insurance Department;

11 4. "Gross income" means the total amount of revenue received in  
12 connection with business-related activity;

13 5. "Gross written premiums" means the total amount of premiums,  
14 inclusive of commissions, for which the association is obligated  
15 under service warranties issued in this state;

16 6. "Impaired" means having liabilities in excess of assets;

17 7. "Indemnify" means to undertake repair or replacement of a  
18 consumer product or a newly-constructed residential structure,  
19 including any appliances, electrical, plumbing, heating, cooling or  
20 air conditioning systems, in return for the payment of a segregated  
21 premium, when the consumer product or residential structure becomes  
22 defective or suffers operational failure;

23

24

1 8. "Insolvent" means any actual or threatened delinquency  
2 including, but not limited to, any one or more of the following  
3 circumstances:

4 a. an association's total liabilities exceed the  
5 association's total assets of the association  
6 excluding goodwill, franchises, customer lists,  
7 patents or trademarks, and receivables from or  
8 advances to officers, directors, employees, salesmen,  
9 and affiliated companies. In order to include  
10 receivables from affiliated companies as assets as  
11 defined pursuant to this subparagraph and paragraph 10  
12 of this section, the service warranty association  
13 shall provide a written guarantee to assure repayment  
14 of all receivables, loans, and advances from  
15 affiliated companies. The written guarantee must be  
16 made by a guaranteeing organization which:

17 (1) has been in continuous operation for ten (10)  
18 years or more and has net assets in excess of  
19 Fifty Million Dollars (\$50,000,000.00),

20 (2) submits a guarantee on a form provided by the  
21 Insurance Commissioner by rule that contains a  
22 provision which requires that the guarantee be  
23 irrevocable and contains a provision setting out  
24 that the Commissioner may pursue appropriate

1 legal actions in the courts of this state or any  
2 other state against the guaranteeing company to  
3 collect the receivable on behalf of the service  
4 warranty association in the event of the  
5 insolvency or threatened insolvency of the  
6 association, unless the guaranteeing organization  
7 can demonstrate to the Commissioner's  
8 satisfaction that the cancellation of the  
9 guarantee will not result in the net assets of  
10 the service warranty association falling below  
11 its minimum net asset requirement and the  
12 Commissioner approves cancellation of the  
13 guarantee,

14 (3) initially submits a statement from an independent  
15 certified public accountant of the guaranteeing  
16 agency attesting that the net assets of the  
17 guaranteeing company meets or exceeds the net  
18 assets requirement as provided in division (1) of  
19 this subparagraph,

20 (4) submits annually to the Commissioner, within  
21 three (3) months after the end of its fiscal  
22 year, a statement from an independent certified  
23 public accountant of the guaranteeing agency  
24 attesting that the net assets of the guaranteeing

1                   company meet or exceed the net assets requirement  
2                   as provided in division (1) of this subparagraph,  
3                   and

4                   (5) the receivables are maintained as cash or as  
5                   securities described in Sections 1607, 1608, 1610  
6                   and 1620 of this title,

7                   b. the business of any such association is being  
8                   conducted fraudulently, or

9                   c. the association has knowingly overvalued its assets;

10                  9. "Insurer" means any property or casualty insurer duly  
11 authorized to transact such business in this state;

12                  10. "Net assets" means the amount by which the total assets of  
13 an association, excluding goodwill, franchises, customer lists,  
14 patents or trademarks, and receivables from or advances to officers,  
15 directors, employees, salesmen, and affiliated companies, exceed the  
16 total liabilities of the association. For purposes of the Service  
17 Warranty Insurance Act, the term "total liabilities" does not  
18 include the capital stock, paid-in capital, or retained earning of  
19 an association;

20                  11. "Person" includes an individual, company, corporation,  
21 association, insurer, agent and any other legal entity;

22                  12. "Premium" means the total consideration received or to be  
23 received, by whatever name called, by an insurer or service warranty  
24 association for, or related to, the issuance and delivery of a

1 service warranty, including any charges designated as assessments or  
2 fees for membership, policy, survey, inspection, or service or other  
3 charges. However, a repair charge is not a premium unless it  
4 exceeds the usual and customary repair fee charged by the  
5 association, provided the repair is made before the issuance and  
6 delivery of the warranty;

7 13. "Sales representative" means any person utilized by an  
8 insurer or service warranty association for the purpose of selling  
9 or issuing service warranties and includes any individual possessing  
10 a certificate of competency who has the power to legally obligate  
11 the insurer or service warranty association or who merely acts as  
12 the qualifying agent to qualify the association in instances when a  
13 state statute or local ordinance requires a certificate of  
14 competency to engage in a particular business. However, in the case  
15 of service warranty associations selling service warranties from  
16 five or more business locations, the store manager or other person  
17 in charge of each such location shall be considered the sales  
18 representative;

19 14. "Service warranty" means any warranty, home warranty,  
20 guaranty, extended warranty or extended guaranty, contract  
21 agreement, or other written promise entered into between a consumer  
22 and a service warranty association under the terms of which there is  
23 an undertaking to indemnify against the cost of repair or  
24 replacement of a consumer product or newly-constructed residential

1 structure, including any appliances, electrical, plumbing, heating,  
2 cooling or air conditioning systems, in return for the payment of a  
3 segregated charge by the consumer; however:

4 a. maintenance service contracts under the terms of which  
5 there are no provisions for such indemnification are  
6 expressly excluded from this definition,

7 b. those contracts issued solely by the manufacturer,  
8 distributor, importer or seller of the product, or any  
9 affiliate or subsidiary of the foregoing entities,  
10 whereby such entity has contractual liability  
11 insurance in place, from an insurer licensed in the  
12 state, which covers one hundred percent (100%) of the  
13 claims exposure on all contracts written without being  
14 predicated on the failure to perform under such  
15 contracts, are expressly excluded from this  
16 definition,

17 c. the term "service warranty" does not include service  
18 contracts entered into between consumers and nonprofit  
19 organizations or cooperatives the members of which  
20 consist of condominium associations and condominium  
21 owners, which contracts require the performance of  
22 repairs and maintenance of appliances or maintenance  
23 of the residential property,  
24

1 d. the term "service warranty" does not include  
2 warranties, guarantees, extended warranties, extended  
3 guarantees, contract agreements or any other service  
4 contracts issued by a company which performs at least  
5 seventy percent (70%) of the service work itself and  
6 not through subcontractors, which has been selling and  
7 honoring such contracts in Oklahoma for at least  
8 twenty (20) years, and

9 e. the term "service warranty" does not include  
10 warranties, guarantees, extended warranties, extended  
11 guarantees, contract agreements or any other service  
12 contracts issued by a company which has net assets in  
13 excess of One Hundred Million Dollars  
14 (\$100,000,000.00). The calculation of the net assets  
15 shall include the assets of a parent company. When  
16 the net assets of the parent company are used to  
17 calculate the total net assets of the company, the net  
18 assets of the company issuing the policy shall total  
19 at least Twenty-five Million Dollars (\$25,000,000.00);

20 15. "Service warranty association" or "association" means any  
21 person, other than an authorized insurer, issuing service  
22 warranties; provided, this term shall not mean any person engaged in  
23 the business of erecting or otherwise constructing a new home;

1 16. "Warrantor" means any service warranty association engaged  
2 in the sale of service warranties and deriving not more than fifty  
3 percent (50%) of its gross income from the sale of service  
4 warranties; and

5 17. "Warranty seller" means any service warranty association  
6 engaged in the sale of service warranties and deriving more than  
7 fifty percent (50%) of its gross income from the sale of service  
8 warranties.

9 SECTION 27. AMENDATORY 36 O.S. 2001, Section 6609, is  
10 amended to read as follows:

11 Section 6609. Each license issued to a service warranty  
12 association shall expire on ~~June~~ November 1 following the date of  
13 issuance. If the association is then qualified therefor under the  
14 provisions of the Service Warranty Insurance Act, its license may be  
15 renewed annually, upon its request, and upon payment to the  
16 Insurance Commissioner of the license fee in the amount of Two  
17 Hundred Dollars (\$200.00) in advance for each such license year.

18 SECTION 28. AMENDATORY 36 O.S. 2001, Section 6615, as  
19 last amended by Section 32, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
20 2007, Section 6615), is amended to read as follows:

21 Section 6615. A. In addition to the license fees provided in  
22 the Service Warranty Insurance Act for service warranty associations  
23 each such association and insurer shall, annually on or before ~~the~~  
24 ~~last day of February~~ May 1, file with the Insurance Commissioner its

1 annual statement in the form prescribed by the Commissioner showing  
2 all premiums or assessments received by it in connection with the  
3 issuance of service warranties in this state during the preceding  
4 calendar year and other relevant financial information as deemed  
5 necessary by the Commissioner, using accounting principles which  
6 will enable the Commissioner to ascertain whether the financial  
7 requirements set forth in Section 6607 of this title have been  
8 satisfied.

9 B. The Commissioner may levy a fine of up to One Hundred  
10 Dollars (\$100.00) a day for each day an association neglects to file  
11 the annual statement in the form and within the time provided by the  
12 Service Warranty Insurance Act.

13 C. In addition to an annual statement, the Commissioner may  
14 require of licensees, under oath and in the form prescribed by it,  
15 quarterly statements or special reports which the Commissioner deems  
16 necessary for the proper supervision of licensees under the Service  
17 Warranty Insurance Act.

18 D. Premiums and assessments received by associations and  
19 insurers for service warranties shall not be subject to the premium  
20 tax provided for in Section 624 of this title, but shall be subject  
21 to an administrative fee of Two Dollars (\$2.00) for each service  
22 warranty issued that provides coverage not to exceed Seventy-five  
23 Dollars (\$75.00), Five Dollars (\$5.00) for each service warranty  
24 issued that provides coverage in excess of Seventy-five Dollars

1 (\$75.00) but not to exceed Two Hundred Fifty Dollars (\$250.00), and  
2 Ten Dollars (\$10.00) for each service warranty that provides  
3 coverage in excess of Two Hundred Fifty Dollars (\$250.00). However,  
4 associations and insurers that have contractual liability insurance  
5 in place, from a company licensed in the state, which covers one  
6 hundred percent (100%) of the claims exposure of the association or  
7 insurer on all contracts written shall be subject to an annual  
8 administrative fee of Two Thousand Five Hundred Dollars (\$2,500.00).  
9 Said fees shall be paid quarterly to the Insurance Commissioner.  
10 All such fees, up to a maximum of Two Hundred Seventy-five Thousand  
11 Dollars (\$275,000.00) per year, received by the Insurance  
12 Commissioner shall be deposited into the State Treasury to the  
13 credit of the Insurance Commissioner Revolving Fund for the payment  
14 of costs incurred by the Insurance Department in the administration  
15 of the Service Warranty Insurance Act. Amounts received in excess  
16 of the annual limitation shall be deposited to the credit of the  
17 General Revenue Fund.

18 SECTION 29. AMENDATORY 59 O.S. 2001, Section 1316, as  
19 last amended by Section 4, Chapter 386, O.S.L. 2005 (59 O.S. Supp.  
20 2007, Section 1316), is amended to read as follows:

21 Section 1316. A. 1. A bail bondsman shall neither sign nor  
22 countersign in blank any bond, nor shall the bondsman give a power  
23 of attorney to, or otherwise authorize, anyone to countersign his or  
24 her name to bonds unless the person so authorized is a licensed

1 surety bondsman or managing general agent directly employed by a  
2 licensed professional bondsman giving such power of attorney. The  
3 professional bondsman shall submit to the Insurance Commissioner the  
4 agreement between the professional bondsman and the employed  
5 bondsman. The agreement shall be submitted to the Commissioner  
6 prior to the employed bondsman writing bonds on behalf of the  
7 professional. The professional bondsman shall notify the  
8 Commissioner whenever any agreement is canceled. If the bondsman  
9 surrenders the professional qualification, or the professional  
10 qualification is suspended or revoked, then the Commissioner shall  
11 suspend the appointment of all of the professional bondsman's bail  
12 agents. The Commissioner shall immediately notify any bail agent  
13 whose license is affected and the court clerk of the agent's  
14 resident county upon such suspension or revocation of the  
15 professional bondsman's qualification. If the professional  
16 qualification is reinstated within twenty-four (24) hours, the  
17 Commissioner shall not be required to suspend the bail agent  
18 appointments. If the Commissioner reinstates the professional  
19 qualification within twenty-four (24) hours, the Commissioner shall  
20 also reinstate the appointment of the professional bondsman's bail  
21 agents. If more than twenty-four (24) hours elapse following the  
22 suspension or revocation, then the professional bondsman shall  
23 submit new agent appointments to the Commissioner.  
24

1           2. Bail bondsmen shall not allow other licensed bondsmen to  
2 present bonds that have previously been signed and completed by  
3 other licensed bondsmen unless a written authorization is on file  
4 with the court clerk where the bond is filed. The individual that  
5 presents the bond shall sign the form in the presence of the  
6 official that receives the bond.

7           B. Premium charged must be indicated on the appearance bond  
8 prior to the filing of the bond.

9           C. A bail bondsman shall provide the indemnitors with a proper  
10 receipt which shall include fees, premium or other payments and  
11 copies of any agreements executed relating to the appearance bond.

12           D. All surety bondsmen or managing general agents shall attach  
13 a completed power of attorney to the appearance bond that is filed  
14 with the court clerk on each bond written.

15           E. Any bond written in this state shall contain the name and  
16 last-known mailing address of the bondsman and, if applicable, of  
17 the insurer.

18           SECTION 30.           AMENDATORY           59 O.S. 2001, Section 1317, as  
19 amended by Section 1, Chapter 167, O.S.L. 2004 (59 O.S. Supp. 2007,  
20 Section 1317), is amended to read as follows:

21           Section 1317. A. Every surety who appoints a surety bondsman  
22 or managing general agent in the state, shall give notice thereof to  
23 the Insurance Commissioner. The filing fee for appointment of each  
24 surety bondsman or managing general agent shall be Ten Dollars

1 (\$10.00), payable to the Commissioner and shall be submitted with  
2 the appointment. The appointment shall remain in effect until the  
3 surety submits a notice of cancellation to the Commissioner, the  
4 bail bondsman's license expires, or the Commissioner cancels the  
5 appointment. If the surety changes the liability limitations of the  
6 surety bondsman or the managing general agent, or any other  
7 provisions of the appointment, the surety shall submit an amended  
8 appointment form and a filing fee of Ten Dollars (\$10.00) payable to  
9 the Commissioner.

10 B. A surety terminating the appointment of a surety bondsman or  
11 managing general agent immediately shall file written notice thereof  
12 with the Commissioner, together with a statement that it has given  
13 or mailed notice to the surety bondsman or managing general agent.  
14 The notice filed with the Commissioner shall state the reasons, if  
15 any, for the termination.

16 C. Prior to issuance of a new surety appointment for a surety  
17 bondsman or managing general agent, the bondsman or agent shall file  
18 an affidavit with the Commissioner stating that no forfeitures are  
19 owed to any court, no fines are owed to the insurance department,  
20 and no premiums or indemnification for forfeitures or fines are owed  
21 to any insurer. This provision shall not require that all  
22 outstanding liabilities have been exonerated, but may provide that  
23 the liabilities are still being monitored by the bondsman or agent.

24

1 D. Every bail bondsman who negotiates and posts a bond shall,  
2 in any controversy between the defendant, indemnitor, or guarantor  
3 and the bail bondsman or surety, be regarded as representing the  
4 surety. This provision shall not affect the apparent authority of a  
5 bail bondsman as an agent for the insurer.

6 SECTION 31. AMENDATORY Section 1, Chapter 322, O.S.L.  
7 2006, as amended by Section 14, Chapter 326, O.S.L. 2007 (47 O.S.  
8 Supp. 2007, Section 7-600.2), is amended to read as follows:

9 Section 7-600.2 A. The Department of Public Safety shall  
10 promulgate and adopt rules for an online verification system for  
11 motor vehicle insurance or bond as required by the Compulsory  
12 Insurance Law, subject to the following:

13 1. The Oklahoma Tax Commission and the Insurance Department  
14 shall cooperate with the ~~Oklahoma Tax Commission~~ Department of  
15 Public Safety in the development of the verification system;

16 2. The verification system shall be accessible through the  
17 Internet, World Wide Web or a similar proprietary or common carrier  
18 electronic system by authorized personnel of the Department, the  
19 Oklahoma Tax Commission, the courts, law enforcement personnel, and  
20 any other entities authorized by the Department;

21 3. The verification system shall provide for direct inquiry and  
22 response between the Department and insurance carriers, or such  
23 other method of inquiry and response as agreed to by the Department

24

1 and individual insurance carriers, and direct access to insurers'  
2 records by personnel authorized by the Department;

3 4. The verification system shall be available twenty-four (24)  
4 hours a day to verify the insurance status of any vehicle registered  
5 in this state through the vehicle's identification number, policy  
6 number, registered owner's name or other identifying characteristic  
7 or marker as prescribed by the Department in its rules;

8 5. The Department shall conduct a pilot project to test the  
9 system prior to statewide use;

10 6. The verification system shall be installed and operational  
11 no later than ~~July 1~~ December 31, 2008, following an appropriate  
12 testing period;

13 7. The Department may contract with a private vendor to assist  
14 in establishing and maintaining the verification system;

15 8. The verification system shall include appropriate  
16 provisions, consistent with industry standards, to secure its data  
17 against unauthorized access and to maintain a record of all  
18 information requests;

19 9. Information contained in the verification system shall not  
20 be considered a public record; ~~and~~

21 10. Any law enforcement officer, during a traffic stop or  
22 accident investigation, may access information from the online  
23 verification system to establish compliance with the Compulsory  
24 Insurance Law and to verify the current validity of the policy

1 described on a security verification form and produced by the  
2 operator of a motor vehicle during the traffic stop or accident  
3 investigation; and

4 11. All information exchanged between the Department and  
5 insurance companies, any database created, and all reports,  
6 responses, or other information generated for the purposes of the  
7 verification system shall not be subject to the Oklahoma Open  
8 Records Act.

9 B. This section shall not apply to a policy issued pursuant to  
10 paragraph 3 of subsection A of Section 7-601.1 of this title or  
11 paragraph 3 of subsection A of Section 7-602 of this title to insure  
12 a commercial motor vehicle.

13 C. Insurance carriers shall cooperate with the Department in  
14 establishing and maintaining the insurance verification system and  
15 shall provide access to motor vehicle insurance policy status  
16 information as provided in the Department's rules.

17 SECTION 32. REPEALER 36 O.S. 2001, Sections 1435.25,  
18 1435.32, 1435.34, 1435.35, as amended by Section 11, Chapter 129,  
19 O.S.L. 2005, 1435.37 and 1924 (36 O.S. Supp. 2007, Section 1435.35),  
20 are hereby repealed.

21 SECTION 33. This act shall become effective July 1, 2008.

22 SECTION 34. It being immediately necessary for the preservation  
23 of the public peace, health and safety, an emergency is hereby  
24

