

1 ENGROSSED HOUSE
2 BILL NO. 1963

By: Peterson (Ron) of the House

3 and

4 Brown of the Senate

5
6 An Act relating to insurance; amending 36 O.S. 2001,
7 Section 4101, as amended by Section 15, Chapter 129,
8 O.S.L. 2005 (36 O.S. Supp. 2006, Section 4101), which
9 relates to requirements of certain insurance policies;
10 modifying requirements; amending 36 O.S. 2001, Section
11 4101.1, which relates to certain group life insurance
12 policies; modifying provisions related to coverage of
13 dependents; amending 36 O.S. 2001, Section 6202, which
14 relates to the Insurance Adjusters Licensing Act;
15 modifying definitions; amending 36 O.S. 2001, Section
16 6205, which relates to nonresident adjuster licensing;
17 modifying application requirements; amending 36 O.S.
18 2001, Section 6208, which relates to examination for
19 adjuster license; modifying reciprocity requirements
20 for adjusters; amending 36 O.S. 2001, Sections 6601,
21 6602, as last amended by Section 1, Chapter 169, O.S.L.
22 2004, 6604, 6605, 6607, 6614, 6615, as amended by
23 Section 2, Chapter 169, O.S.L. 2004, 6616, 6617, 6619,
24 as amended by Section 4, Chapter 409, O.S.L. 2002,
6620, as amended by Section 5, Chapter 409, O.S.L.
2002, 6622, 6626, 6628 and 6631 (36 O.S. Supp. 2006,
Sections 6602, 6615, 6619 and 6620), which relate to
the Service Warranty Insurance Act; updating language;
modifying definitions; increasing fee; providing for
appointment of administrator; excluding certain
agreement from insurance; removing bond agreement;
requiring consideration in lieu of premium; providing
standards for insurer; modifying amount of premium
returned after cancellation; requiring consideration in
lieu of premium; providing exemptions for persons from
registration; providing reference; deleting reference
to exemption; clarifying grounds for certain actions by
Insurance Commissioner; limiting amount of
administrative penalty; modifying disclosure statement;
limiting liability; repealing 36 O.S. 2001, Section
6606, which relates to the Service Warranty Insurance
Act; and providing an effective date.

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

2 SECTION 1. AMENDATORY 36 O.S. 2001, Section 4101, as
3 amended by Section 15, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2006,
4 Section 4101), is amended to read as follows:

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

8 1. A policy issued to an employer, or to the trustees of a fund
9 established by an employer, which employer or trustees shall be
10 deemed the policyholder, to insure employees of the employer for the
11 benefit of persons other than the employer, subject to the following
12 requirements:

13 a. The employees eligible for insurance under the policy
14 shall be all of the employees of the employer, or all
15 of any class or classes thereof determined by
16 conditions pertaining to their employment. The policy
17 may provide that the term "employees" shall include
18 the employees of one or more subsidiary corporations,
19 and the employees, individual proprietors and partners
20 of one or more affiliated corporations, proprietors or
21 partnerships if the business of the employer and of
22 such affiliated corporations, proprietors or
23 partnerships is under common control through stock
24 ownership or contract, or otherwise. The policy may

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

- 21 b. The premium for the policy shall be paid by the
22 policyholder, either wholly from the employer's funds
23 or funds contributed by him, or partly from such funds
24 and partly from funds contributed by the insured

1 employees, or from funds contributed wholly by the
2 insured employees. ~~A policy on which part or all of~~
3 ~~the premium is to be derived from funds contributed by~~
4 ~~the insured employees may be placed in force only if~~
5 ~~at least seventy five percent (75%) of the then~~
6 ~~eligible employees, excluding any as to whom evidence~~
7 ~~of individual insurability is not satisfactory to the~~
8 ~~insurer, elect to make the required contributions. A~~
9 policy on which no part of the premium is to be
10 derived from funds contributed by the insured
11 employees must insure all eligible employees, or all
12 except any as to whom evidence of insurability is not
13 satisfactory to the insurer.

14 c. The amounts of insurance under the policy must be
15 based upon some plan precluding individual selection
16 either by the employees or by the employer or trustee;

17 2. A policy issued to a creditor, who shall be deemed to be the
18 policyholder, to insure debtors of the creditor. Credit unions and
19 associations formed for the purpose of making loans to their members
20 shall be deemed to be creditors within the meaning of this section.
21 Policies issued to a creditor to insure debtors of the creditor are
22 subject to the following requirements:

23 a. The debtors eligible for insurance under the policy
24 shall be all of the debtors of the creditor or all of

1 any class or classes thereof determined by conditions
2 pertaining to the indebtedness or to the purchase
3 giving rise to the indebtedness. The policy may
4 provide that the term "debtors" shall include the
5 debtors of one or more subsidiary corporations, and
6 the debtors of one or more affiliated corporations,
7 proprietors or partnerships if the business of the
8 policyholder and of such affiliated corporations,
9 proprietors or partnerships is under common control
10 through stock ownership, contract or otherwise.

11 b. The premium for the policy shall be paid by the
12 policyholder, either from the creditor's funds, or
13 from charges collected from the insured debtors, or
14 from both. A policy on which part or all of the
15 premium is to be derived from the collection from the
16 insured debtors of identifiable charges not required
17 of uninsured debtors shall not include, in the class
18 or classes of debtors eligible for insurance, debtors
19 under obligation outstanding at its date of issue
20 without evidence of individual insurability unless at
21 least seventy-five percent (75%) of the then eligible
22 debtors elect to pay the required charges. A policy
23 on which no part of the premium is to be derived from
24 the collection of such identifiable charges must

1 insure all eligible debtors, or all except any as to
2 whom evidence of individual insurability is not
3 satisfactory to the insurer.

4 c. The policy may be issued only if the group of eligible
5 debtors is then receiving new entrants at the rate of
6 at least one hundred persons yearly, or may reasonably
7 be expected to receive at least one hundred new
8 entrants during the first policy year, and only if the
9 policy reserves to the insurer the right to require
10 evidence of individual insurability if less than
11 seventy-five percent (75%) of the new entrants become
12 insured.

13 d. The amount of insurance on the life of any debtor
14 shall at no time exceed the amount owed by him which
15 is repayable to the creditor, or One Hundred Thousand
16 Dollars (\$100,000.00), whichever is less, provided
17 further, no company licensed to do business in this
18 state shall issue in excess of One Hundred Thousand
19 Dollars (\$100,000.00) group credit life insurance on
20 one individual in the State of Oklahoma.

21 e. The insurance shall be payable to the policyholder.
22 Such payment shall reduce or extinguish the unpaid
23 indebtedness of the debtor to the extent of such
24 payment;

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

5 a. The members eligible for insurance under the policy
6 shall be all of the members of the union, or all of
7 any class or classes thereof determined by conditions
8 pertaining to their employment, or to membership in
9 the union, or both.

10 b. The premium for the policy shall be paid by the
11 policyholder, either wholly from the union's funds, or
12 partly from such funds and partly from funds
13 contributed by the insured members specifically for
14 their insurance, or from funds contributed wholly by
15 the insured members. ~~A policy on which part or all of~~
16 ~~the premium is to be derived from funds contributed by~~
17 ~~the insured members specifically for their insurance~~
18 ~~may be placed in force only if at least seventy five~~
19 ~~percent (75%) of the then eligible members, excluding~~
20 ~~any as to whom evidence of individual insurability is~~
21 ~~not satisfactory to the insurer, elect to make the~~
22 ~~required contributions.~~ A policy on which no part of
23 the premium is to be derived from funds contributed by
24 the insured members specifically for their insurance

1 must insure all eligible members or all except any as
2 to whom evidence of individual insurability is not
3 satisfactory to the insurer.

4 c. ~~The policy must cover at least ten members at date of~~
5 ~~issue.~~

6 ~~d.~~ The amount of insurance under the policy must be based
7 upon some plan precluding individual selection either
8 by the members or by the union;

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

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

1 that the term "employees" shall include the trustees
2 or their employees, or both if their duties are
3 principally connected with such trusteeship, and that
4 the term "members of an association" shall include
5 employees of members.

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

1 ~~for their insurance, may be placed in force only if~~
2 ~~the total number of persons covered at the date of~~
3 ~~issue exceeds six hundred or seventy five percent~~
4 ~~(75%) of the eligible persons, whichever is less,~~
5 ~~excluding any as to whom evidence of insurability is~~
6 ~~not satisfactory to the insurer, elect to make the~~
7 ~~required contribution.~~ A policy on which no part of
8 the premium is to be derived from funds contributed by
9 the insured persons specifically for their insurance
10 must insure all eligible persons, or all except any as
11 to whom evidence of individual insurability is not
12 satisfactory to the insurer.

13 c. The policy must cover at date of issue at least one
14 hundred persons; and if the fund is established by the
15 members of an association of employers the policy may
16 be issued only if (a) either (i) the participating
17 employers constitute at date of issue at least sixty
18 percent (60%) of those employer members whose
19 employees are not already covered by group life
20 insurance or (ii) the total number of persons covered
21 at date of issue exceeds six hundred; and (b) the
22 policy shall not require that if a participating
23 employer discontinues membership in the association,
24

1 the insurance of his employees shall cease solely by
2 reason of such discontinuance.

3 d. The amounts of insurance under the policy must be
4 based upon some plan precluding individual selection
5 either by the insured persons or by the policyholder,
6 employers, or unions;

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

19 6. A policy issued to a credit union which shall be deemed the
20 policyholder, to insure eligible members for the benefit of someone
21 other than the credit union or its officials and subject to the
22 following requirements:
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1 a. The members eligible for insurance under the policy
2 shall be all the members of the credit union or all of
3 any class or classes thereof.

4 b. The premiums for the policy shall be paid by the
5 policyholder, either wholly from the credit union's
6 funds, or partly from such funds and partly from funds
7 contributed by the insured members specifically for
8 their insurance. A policy on which no part of the
9 premium is to be derived from funds contributed by the
10 insured members specifically for their insurance must
11 insure all eligible members or all except any as to
12 whom evidence of individual insurability is not
13 satisfactory to the insurer.

14 c. The amount of insurance under the policy may be based
15 on the amount of the member's savings in the credit
16 union or upon some other plan precluding individual
17 selection either by the members or by the credit
18 union;

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

23 8. A policy issued to an alumni association of an institution
24 of higher education accredited by the Oklahoma State Regents for

1 Higher Education, to insure the members thereof for the purpose set
2 forth in subsection E of Section 3604 of this title;

3 9. A policy to an association, which has a constitution and
4 bylaws and which has been organized and is maintained in good faith
5 for purposes other than that of obtaining insurance, that insures at
6 least ten members, employees, or employees of members of the
7 association or its officers or trustees. The term "employees" as
8 used in this paragraph shall include retired employees.

9 "Association" means, with respect to life insurance coverage
10 offered, an association which:

- 11 a. has been actively in existence for at least five (5)
12 years,
- 13 b. has been formed and maintained in good faith for
14 purposes other than obtaining insurance,
- 15 c. does not condition membership in the association on
16 any health status-related factor relating to an
17 individual, including an employee of an employer or a
18 dependent of an employee or association member,
- 19 d. makes life insurance coverage offered through the
20 association available to all members regardless of any
21 health status-related factor relating to such member
22 or individuals eligible for coverage through a member,

23

24

1 e. does not make life insurance coverage offered through
2 the association available other than in connection
3 with a member of the association, and

4 f. meets such additional requirements as may be imposed
5 under state law;

6 10. A policy issued to cover any other group subject to the
7 following requirements:

8 a. no such group life insurance policy shall be delivered
9 in this state unless the Commissioner of Insurance
10 finds that:

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

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

15 (3) the benefits are reasonable in relation to the
16 premiums charged, and

17 b. the premium for the policy shall be paid either from
18 the policyholder's funds or from funds contributed by
19 the covered person or from both; or

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

23 SECTION 2. AMENDATORY 36 O.S. 2001, Section 4101.1, is
24 amended to read as follows:

1 Section 4101.1 A. Insurance under any group life insurance
2 policy issued pursuant to subsections A, C, and D, of Section 4101
3 of this title, may ~~if seventy-five percent (75%) of the then insured~~
4 ~~employees or members who then have eligible dependents elect,~~ be
5 extended to insure the dependents, or any class or classes thereof,
6 of each insured employee or member who so elects in amounts in
7 accordance with a plan which precludes individual selection ~~and for~~
8 ~~each insured dependent shall not be in excess of fifty percent (50%)~~
9 ~~of the insurance on the life of such employee or member.~~ The term
10 "dependent" is the spouse of the insured employee or member and an
11 insured employee's or member's child under twenty-one (21) years of
12 age or his or her child twenty-one (21) years or older who is
13 attending an educational institution and relying upon the insured
14 employee or member for financial support.

15 B. Premiums for the insurance on such dependents shall be paid
16 by the policyholder either wholly from policyholder's funds, or from
17 funds contributed wholly by the employees or members, or partly from
18 funds contributed by the policyholder and partly by the employees or
19 members.

20 C. A dependent pursuant to this section shall have the same
21 conversion right as to the insurance on his or her life as is vested
22 in the employee or union member.

23 D. Notwithstanding the provisions of paragraph 7 of Section
24 4103 of this title, only one certificate need be issued for each

1 family unit if a statement concerning any dependent's coverage is
2 included in such certificate.

3 SECTION 3. AMENDATORY 36 O.S. 2001, Section 6202, is
4 amended to read as follows:

5 Section 6202. Terms used in the Insurance Adjusters Licensing
6 Act are defined as follows:

7 1. "Commissioner" means the Insurance Commissioner of the state
8 or his or her lawfully authorized representative;

9 2. "Adjuster" means either an insurance adjuster or a public
10 adjuster;

11 3. "Insurance adjuster" means any person, firm, association,
12 company, or legal entity that acts in this state for an insurer, and
13 that investigates claims, adjusts losses, negotiates claim
14 settlements, or performs incidental duties arising pursuant to the
15 provisions of insurance contracts on behalf of an insurer and
16 includes:

17 a. "independent adjusters", meaning any insurance
18 adjuster that suggests or presents to the insurance
19 industry and public that said adjuster acts as an
20 adjuster for a fee or other compensation, and

21 b. "company or staff adjusters", meaning adjusters who
22 engage in the investigation, adjustment, and
23 negotiation of claims as salaried employees of an
24 insurer;

1 4. "Public adjuster" means any person, firm, association,
2 company, or corporation that suggests or presents to members of the
3 public that said public adjuster represents the interests of an
4 insured or third party for a fee or compensation. Public adjusters
5 may investigate claims and negotiate losses to property only; ~~and~~

6 5. "Insurer" means any authorized insurance company,
7 corporation, reciprocal group, mutual group, underwriting
8 association or bureau, or any combination thereof, writing or
9 underwriting any insurance contracts; and

10 6. "Home state" means the District of Columbia and any state or
11 territory of the United States in which the adjuster's principal
12 place of residence or principal place of business is located. If
13 neither the state in which the adjuster maintains the principal
14 place of residence nor the state in which the adjuster maintains the
15 principal place of business has a licensing or examination
16 requirement, the adjuster may declare another state which has an
17 examination requirement and in which the adjuster is licensed to be
18 the "home state".

19 SECTION 4. AMENDATORY 36 O.S. 2001, Section 6205, is
20 amended to read as follows:

21 Section 6205. A. Application for a license as an adjuster
22 shall be made to the Insurance Commissioner upon forms prescribed
23 and furnished by the Commissioner. As a part of and in connection
24 with the application, the applicant shall furnish such information

1 concerning the applicant's identity, personal history, business
2 experience, business record and such other pertinent information
3 which the Commissioner shall reasonably require.

4 ~~B. Application for a license as a nonresident adjuster shall be~~
5 ~~made to the Commissioner upon forms prescribed and furnished by the~~
6 ~~Commissioner. This license shall be issued to an applicant only if~~
7 ~~the state in which the applicant resides will accord the same~~
8 ~~privilege to a resident adjuster of this state. The Commissioner is~~
9 ~~authorized to enter into reciprocal agreements with the appropriate~~
10 ~~official of any state requiring a nonresident applicant for license~~
11 ~~as an adjuster to take an examination. Any such reciprocal~~
12 ~~agreement shall provide that:~~

13 ~~1. An applicant for a license as an adjuster in such other~~
14 ~~state shall take an examination as prescribed by that state;~~

15 ~~2. The applicant for a license as a nonresident adjuster in~~
16 ~~this state holds a valid license as an adjuster in such other state~~
17 ~~as certified by the appropriate official of that state;~~

18 ~~3. A resident of this state is privileged to procure an~~
19 ~~adjuster's license in such other state upon the conditions provided~~
20 ~~in paragraphs 1 and 2 of this subsection without discrimination in~~
21 ~~favor of the residents of such other state as to fees or other~~
22 ~~licensing requirements; and~~

23 ~~4. The nonresident applicant shall pay the fee required for a~~
24 ~~license as a resident adjuster in this state. Unless denied~~

1 licensure pursuant to Section 6220 of this title, a nonresident
2 applicant shall receive a nonresident adjuster license if:

3 1. The applicant has passed an examination in the applicant's
4 home state;

5 2. The applicant is currently licensed and in good standing in
6 the home state of the applicant;

7 3. The applicant has submitted the proper request for licensure
8 and has paid the fees required by Section 6212 of this title; and

9 4. The applicant's home state awards nonresident adjuster
10 licenses to residents of this state on the same basis.

11 C. If a nonresident applicant's home state does not license or
12 require an examination for an adjuster license, the applicant shall
13 pass an examination in this state prior to receiving a nonresident
14 adjuster license.

15 SECTION 5. AMENDATORY 36 O.S. 2001, Section 6208, is
16 amended to read as follows:

17 Section 6208. A. Each applicant for a license as an adjuster
18 shall, prior to issuance of said license, personally take and pass,
19 to the satisfaction of the Commissioner, an examination given by the
20 Commissioner as a test of the qualifications and competency of the
21 applicant.

22 B. The requirement of an examination shall not apply to the
23 following:
24

1 1. An applicant who is licensed as an adjuster in this state
2 during the ninety-day period preceding November 1, 1983; or

3 2. ~~An applicant who is licensed as an adjuster, as defined by~~
4 ~~the provisions of the Insurance Adjusters Licensing Act, in another~~
5 ~~state with which state a reciprocal agreement has been executed by~~
6 ~~the Commissioner~~ A nonresident applicant who has passed an
7 examination in the home state of the applicant and who is currently
8 licensed and in good standing in the applicant's home state; or

9 3. Any applicant for a license covering the same class or
10 classes of insurance for which the applicant was licensed in this
11 state pursuant to a similar license during the twenty-four-month
12 period immediately preceding the date of application, unless said
13 previous license was revoked or suspended, or continuation of the
14 license was refused by the Commissioner; or

15 4. An applicant for a resident license who has passed an
16 examination in the former home state and who is licensed and in good
17 standing in the former home state at the time the application is
18 submitted. The applicant shall make application to become a
19 resident adjuster within ninety (90) days after establishing legal
20 residence in Oklahoma.

21 SECTION 6. AMENDATORY 36 O.S. 2001, Section 6601, is
22 amended to read as follows:

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1 Section 6601. Sections ~~±~~ 6601 through ~~39~~ 6639 of this ~~act~~ title
2 shall be known and may be cited as the "Service Warranty Insurance
3 Act".

4 SECTION 7. AMENDATORY 36 O.S. 2001, Section 6602, as
5 last amended by Section 1, Chapter 169, O.S.L. 2004 (36 O.S. Supp.
6 2006, Section 6602), is amended to read as follows:

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

8 1. "Commissioner" means the Insurance Commissioner;

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

11 3. "Department" means the Insurance Department;

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

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

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

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

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 total
5 assets of the association,

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

8 c. the association has knowingly overvalued its assets;

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

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

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

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

1 ~~fees for membership, policy, survey, inspection, or service or other~~
2 ~~charges. However, a repair charge is not a premium unless it~~
3 ~~exceeds the usual and customary repair fee charged by the~~
4 ~~association, provided the repair is made before the issuance and~~
5 ~~delivery of the warranty paid to an insurer for a reimbursement~~
6 ~~insurance policy;~~

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~~ a contract or agreement for a
4 separately stated consideration for a specific duration to perform
5 the repair or replacement of property or indemnification for repair
6 or replacement for the operational or structural failure due to a
7 defect in materials or workmanship, with or without additional
8 provision for incidental payment of indemnity under limited
9 circumstances, including, but not limited to, failure due to normal
10 wear and tear, towing, rental and emergency road service, road
11 hazard, power surge, and accidental damage from handling; however:

- 12 a. maintenance service contracts under the terms of which
13 there are no provisions for such indemnification are
14 expressly excluded from this definition,
- 15 b. those contracts issued solely by the manufacturer,
16 distributor, importer or seller of the product, or any
17 affiliate or subsidiary of the foregoing entities,
18 whereby such entity has contractual liability
19 insurance in place, from a company licensed in the
20 state, which covers one hundred percent (100%) of the
21 claims exposure on all contracts written without being
22 predicated on the failure to perform under such
23 contracts, are expressly excluded from this
24 definition,

1 c. the term "service warranty" does not include service
2 contracts entered into between consumers and nonprofit
3 organizations or cooperatives the members of which
4 consist of condominium associations and condominium
5 owners, which contracts require the performance of
6 repairs and maintenance of appliances or maintenance
7 of the residential property,

8 d. the term "service warranty" does not include
9 warranties, guarantees, extended warranties, extended
10 guarantees, contract agreements or any other service
11 contracts issued by a company which performs at least
12 seventy percent (70%) of the service work itself and
13 not through subcontractors, which has been selling and
14 honoring such contracts in Oklahoma for at least
15 twenty (20) years, and

16 e. the term "service warranty" does not include
17 warranties, guarantees, extended warranties, extended
18 guarantees, contract agreements or any other service
19 contracts, whether or not such service contracts
20 otherwise meet the definition of "service warranty",
21 issued by a company which has net assets in excess of
22 One Hundred Million Dollars (\$100,000,000.00). ~~The~~
23 ~~calculation of the net assets shall include the assets~~
24 ~~of a parent company. When the net assets of the~~

1 ~~parent company are used to calculate the total net~~
2 ~~assets of the company, A service warranty association~~
3 ~~may use the net assets of a parent company to qualify~~
4 ~~under this section if the net assets of the company~~
5 ~~issuing the policy shall total at least Twenty-five~~
6 ~~Million Dollars (\$25,000,000.00) and the parent~~
7 ~~company maintains net assets of at least Seventy-five~~
8 ~~Million Dollars (\$75,000,000.00);~~

9 15. "Service warranty association" or "association" means any
10 person, other than an authorized insurer, ~~issuing service warranties~~
11 contractually obligated to a service contract holder under the terms
12 of a service warranty; provided, this term shall not mean any person
13 engaged in the business of erecting or otherwise constructing a new
14 home;

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

19 17. "Warranty seller" means any service warranty association
20 engaged in the sale of service warranties and deriving more than
21 fifty percent (50%) of its gross income from the sale of service
22 warranties.

23 SECTION 8. AMENDATORY 36 O.S. 2001, Section 6604, is
24 amended to read as follows:

1 Section 6604. A. No person in this state shall ~~provide or~~
2 ~~offer to provide service warranties~~ act as a service warranty
3 association unless licensed by the Insurance Commissioner.

4 B. A service warranty association shall pay to the Insurance
5 Department a license fee of ~~Two Hundred Dollars (\$200.00)~~ Three
6 Hundred Dollars (\$300.00) for such license for each year, or part
7 thereof, the license is in force. All license fees received
8 pursuant to this section shall be paid into the State Treasury to
9 the credit of the Insurance Commissioner Revolving Fund and shall be
10 used for the implementation of the Service Warranty Insurance Act.

11 C. An insurer, while authorized to transact property or
12 casualty insurance in this state, may also transact a service
13 warranty business without additional qualifications or licensure as
14 required by the Service Warranty Insurance Act, but shall be
15 otherwise subject to the provisions of the Service Warranty
16 Insurance Act.

17 D. A service warranty association may appoint an administrator
18 or other designee to be responsible for any or all of the
19 administration of service contracts and compliance with this act.

20 E. An agreement which provides specified scheduled maintenance
21 services over a stated period of time does not constitute insurance
22 or a service warranty.

23 SECTION 9. AMENDATORY 36 O.S. 2001, Section 6605, is
24 amended to read as follows:

1 Section 6605. The Insurance Commissioner shall not issue or
2 renew a license to any service warranty association unless the
3 association:

4 1. Is a solvent association;

5 2. Furnishes the Insurance Department with evidence
6 satisfactory to it that the management of the association is
7 competent and trustworthy and can successfully manage the affairs of
8 the association in compliance with law;

9 3. Proposes to use and uses in its business a name together
10 with a trademark or emblem, if any, which is distinctive and not so
11 similar to the name or trademark of any other person already doing
12 business in this state as will tend to mislead or confuse the
13 public; and

14 4. ~~Makes the deposit or files the bond required by the Service~~
15 ~~Warranty Insurance Act; and~~

16 5. Is formed under the laws of this state or another state,
17 district, territory, or possession of the United States, if the
18 association is other than a natural person.

19 SECTION 10. AMENDATORY 36 O.S. 2001, Section 6607, is
20 amended to read as follows:

21 Section 6607. A. An association licensed pursuant to the
22 Service Warranty Insurance Act shall maintain a funded, unearned
23 ~~premium~~ reserve account, consisting of unencumbered assets, equal to
24 a minimum of twenty-five percent (25%) of the gross written ~~premiums~~

1 consideration received on all warranty contracts in force, wherever
2 written. In the case of multiyear contracts which are offered by
3 associations having net assets of less than Five Hundred Thousand
4 Dollars (\$500,000.00) for which ~~premiums~~ are consideration is
5 collected in advance for coverage in a subsequent year, one hundred
6 percent (100%) of the ~~premiums~~ consideration for such subsequent
7 years shall be placed in the funded, unearned ~~premium~~ reserve
8 account. Additionally, an association establishing such reserve
9 account shall also place in trust with the Insurance Commissioner a
10 surety bond issued by an authorized surety having a value of not
11 less than five percent (5%) of the gross consideration received,
12 less claims paid, on the sale of the service warranties for all
13 service contracts issued and in force in this state, but in no event
14 shall the bond be less than Twenty-five Thousand Dollars
15 (\$25,000.00).

16 B. An association shall not be required to establish an
17 unearned ~~premium~~ reserve or demonstrate minimum net worth if it has
18 purchased ~~contractual liability~~ an insurance policy which
19 demonstrates to the satisfaction of the Insurance Commissioner that
20 one hundred percent (100%) of its claim exposure is covered by such
21 policy and satisfies the requirements of this section. The
22 ~~contractual liability~~ insurance shall be obtained from an insurer
23 that ~~holds a certificate of authority to do business within the~~
24 ~~state or from an insurer approved by the Commissioner as financially~~

1 ~~capable of meeting the obligations incurred pursuant to the policy~~
2 is licensed, registered, or otherwise authorized to do business in
3 this state and that meets the requirements of subsection C of this
4 section. For the purposes of this subsection, the ~~contractual~~
5 ~~liability insurance~~ policy shall contain the following provisions:

6 1. In the event that the service warranty association is unable
7 to fulfill its obligation under contracts issued in this state for
8 any reason, including insolvency, bankruptcy, or dissolution, the
9 ~~contract liability~~ insurer will pay losses and unearned ~~premiums~~
10 consideration under such plans directly to the person making a claim
11 under the contract;

12 2. The insurer issuing the ~~contractual liability insurance~~
13 policy shall assume full responsibility for the administration of
14 claims in the event of the inability of the association to do so;
15 and

16 3. The policy may not be canceled or not renewed by either the
17 insurer or the association unless sixty (60) days' written notice
18 thereof has been given to the Commissioner by the insurer before the
19 date of such cancellation or nonrenewal.

20 C. The insurer providing the insurance policy used to satisfy
21 the financial responsibility requirements of subsection B of this
22 section must meet one of the following standards:

23 1. The insurer shall, at the time the policy is filed with the
24 Commissioner, and continuously thereafter:

1 a. maintain surplus as to policyholders and paid-in
2 capital of at least Fifteen Million Dollars
3 (\$15,000,000.00), and

4 b. annually file copies of the audited financial
5 statements of the insurer, its NAIC Annual Statement,
6 and the actuarial certification required by and filed
7 in the state of domicile of the insurer; or

8 2. The insurer shall, at the time the policy is filed with the
9 Commissioner, and continuously thereafter:

10 a. maintain surplus as to policyholders and paid-in
11 capital of less than Fifteen Million Dollars
12 (\$15,000,000.00) but at least equal to Ten Million
13 Dollars (\$10,000,000.00),

14 b. demonstrate to the satisfaction of the Commissioner
15 that the company maintains a ratio of net written
16 premiums, wherever written, to surplus as to
17 policyholders and paid-in capital of not greater than
18 three to one, and

19 c. annually file copies of the audited financial
20 statements of the insurer, its NAIC Annual Statement,
21 and the actuarial certification required by and filed
22 in the state of domicile of the insurer.

1 D. No warrantor or warranty seller shall allow its gross
2 written ~~premiums~~ consideration to exceed seven to one ratio to net
3 assets.

4 ~~D. No warranty seller shall allow its gross written premiums to~~
5 ~~exceed a five to one ratio to net assets.~~

6 E. If the gross written ~~premiums~~ consideration of a warrantor
7 or a warranty seller ~~exceed~~ exceeds the required net asset ratios,
8 the Commissioner may require, in addition to other measures as the
9 Commissioner deems necessary, any one or more of the following:

- 10 1. A complete review of financial condition;
- 11 2. An increase in deposit;
- 12 3. A suspension of any new writings; or
- 13 4. Capital infusion into the business.

14 SECTION 11. AMENDATORY 36 O.S. 2001, Section 6614, is
15 amended to read as follows:

16 Section 6614. A. No service warranty form or related form
17 shall be issued or used in this state unless the form has been filed
18 with and approved by the Insurance Commissioner.

19 B. Each filing of a form shall be made not less than thirty
20 (30) days in advance of its issuance or use. At the expiration of
21 thirty (30) days from date of filing, a form so filed shall be
22 deemed approved unless prior thereto it has been affirmatively
23 disapproved by written order of the Commissioner.

24

1 C. Each service warranty contract shall contain a cancellation
2 provision. In the event the contract is canceled by the warranty
3 holder, return of ~~premium~~ consideration shall be based upon ninety
4 percent (90%) of the unearned pro rata ~~premium~~ consideration less
5 the actual cost of any service provided under the service warranty
6 contract. In the event the contract is canceled by the association,
7 return of ~~premium~~ consideration shall be based upon one hundred
8 percent (100%) of unearned pro rata ~~premium~~ consideration less the
9 actual cost of any service provided under the service warranty
10 contract.

11 D. The Commissioner shall disapprove any form filed pursuant to
12 this section if the form:

- 13 1. Violates the Service Warranty Insurance Act;
- 14 2. Is misleading in any respect; or
- 15 3. Is reproduced so that any material provision is
16 substantially illegible.

17 SECTION 12. AMENDATORY 36 O.S. 2001, Section 6615, as
18 amended by Section 2, Chapter 169, O.S.L. 2004 (36 O.S. Supp. 2006,
19 Section 6615), is amended to read as follows:

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

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

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

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

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

1 Dollars (\$250.00), and Ten Dollars (\$10.00) for each service
2 warranty that provides coverage in excess of Two Hundred Fifty
3 Dollars (\$250.00). However, associations and insurers that have
4 contractual liability insurance in place, from ~~a company licensed or~~
5 ~~registered to issue automobile service warranties in the state, an~~
6 insurer which satisfies the requirements of subsection C of Section
7 6607 of this title and which covers one hundred percent (100%) of
8 the claims exposure of the association or insurer on all contracts
9 written without being predicated on the failure to perform under
10 such contracts shall be subject to an annual administrative fee of
11 Two Thousand Five Hundred Dollars (\$2,500.00). Said fees shall be
12 paid quarterly to the Insurance Commissioner. All such fees, up to
13 a maximum of Two Hundred Seventy-five Thousand Dollars (\$275,000.00)
14 per year, received by the Insurance Commissioner shall be deposited
15 into the State Treasury to the credit of the Insurance Commissioner
16 Revolving Fund for the payment of costs incurred by the Insurance
17 Department in the administration of the Service Warranty Insurance
18 Act. Amounts received in excess of the annual limitation shall be
19 deposited to the credit of the General Revenue Fund.

20 SECTION 13. AMENDATORY 36 O.S. 2001, Section 6616, is
21 amended to read as follows:

22 Section 6616. A. Service warranty associations licensed
23 pursuant to the Service Warranty Insurance Act are subject to
24 periodic examination by the Insurance Commissioner, in the same

1 manner and subject to the same terms and conditions that apply to
2 insurers.

3 B. The Commissioner is not required to examine an association
4 that has less than Twenty Thousand Dollars (\$20,000.00) in gross
5 written ~~premiums~~ consideration as reflected in its most recent
6 annual statement. The Commissioner may examine such an association
7 if the Commissioner has reason to believe that the association may
8 be in violation of the Service Warranty Insurance Act or is
9 otherwise in an unsound financial condition. If the Commissioner
10 examines such an association the examination fee shall not exceed
11 five percent (5%) of the gross written ~~premiums~~ consideration of the
12 association.

13 SECTION 14. AMENDATORY 36 O.S. 2001, Section 6617, is
14 amended to read as follows:

15 Section 6617. As a minimum requirement for permanent office
16 records, each licensed service warranty association shall maintain:

17 1. A complete set of accounting records, including but not
18 limited to, a general ledger, cash receipts and disbursements
19 journals, accounts receivable registers and accounts payable
20 registers;

21 2. A detailed warranty register of warranties in force, ~~by~~
22 ~~unique identifier~~. The register shall include the ~~unique~~
23 ~~identifier~~, date of issue, issuing sales representative, ~~name of~~
24 ~~warranty holder~~, ~~location of the property~~, warranty period, gross

1 ~~premium~~ consideration, commission to sales representative, and net
2 ~~premium~~ consideration; and

3 3. A detailed centralized claims or service record register
4 which includes the unique identifier, date of issue, date of claim,
5 issuing service representative, amount of claim or service, date
6 claim paid, and, if applicable, disposition other than payment and
7 reason therefor.

8 SECTION 15. AMENDATORY 36 O.S. 2001, Section 6619, as
9 amended by Section 4, Chapter 409, O.S.L. 2002 (36 O.S. Supp. 2006,
10 Section 6619), is amended to read as follows:

11 Section 6619. A. No person shall solicit, negotiate,
12 advertise, or effectuate service warranty contracts in this state
13 unless such person is registered as a sales representative or acts
14 under the supervision of a sales representative, or is exempt from
15 registration as provided herein. Sales representatives shall be
16 responsible for the actions of persons under their supervision.

17 B. The following persons shall be exempt from registration as
18 a sales representative:

19 a. an attorney licensed to practice law in the State of
20 Oklahoma, ~~or~~

21 b. an individual licensed under the Oklahoma Real Estate
22 License Code, Oklahoma Mortgage Broker Licensure Act,
23 or Home Inspection Licensing Act,

24

- 1 c. an individual licensed under the Oklahoma Insurance
2 Code as an Insurance Agent or Broker,
3 d. a service warranty association or an employee of
4 either a service warranty association or an affiliate
5 of a service warranty association,
6 e. a financial institution or an employee of a financial
7 institution, or
8 f. a dealership licensed pursuant to Sections 561 through
9 595 of Title 47 of the Oklahoma Statutes or an
10 employee of such a dealership.

11 ~~Sales representatives shall be responsible for the actions of~~
12 ~~persons under their supervision.~~

13 SECTION 16. AMENDATORY 36 O.S. 2001, Section 6620, as
14 amended by Section 5, Chapter 409, O.S.L. 2002 (36 O.S. Supp. 2006,
15 Section 6620), is amended to read as follows:

16 Section 6620. Each service warranty association or insurer
17 shall register, on forms prescribed by the Insurance Commissioner,
18 on or before March 1 of each odd-numbered year, the name and
19 business address of each sales representative required to be
20 registered under Section 6619 of this title utilized by it in this
21 state and, within thirty (30) days after termination of the
22 contract, shall notify the Commissioner of such termination. At the
23 time of biennial registration, a filing fee of Forty Dollars
24 (\$40.00) for each sales representative shall be paid by the service

1 warranty association or insurer to the Commissioner. All such
2 filing fees shall be deposited in the State Treasury to the credit
3 of the Insurance Commissioner Revolving Fund to be used for the
4 implementation of the Service Warranty Insurance Act. Any sales
5 representative utilized subsequent to the March 1 filing date shall
6 be registered with the Commissioner within ten (10) days after such
7 utilization. ~~Pursuant to Section 6619 of this title, any individual~~
8 ~~who is an attorney licensed to practice law in the State of Oklahoma~~
9 ~~or an individual licensed under the Oklahoma Real Estate License~~
10 ~~Code, Oklahoma Mortgage Broker Licensure Act, or Home Inspection~~
11 ~~Licensing Act, shall not be subject to the registration or filing~~
12 ~~fee requirements of this section.~~ No employee or sales
13 representative of a service warranty association or insurer may
14 directly or indirectly solicit or negotiate insurance contracts, or
15 hold himself out in any manner to be an insurance agent, unless so
16 qualified and licensed pursuant to Section 1421 et seq. of ~~Title 36~~
17 ~~of the Oklahoma Statutes~~ this title.

18 SECTION 17. AMENDATORY 36 O.S. 2001, Section 6622, is
19 amended to read as follows:

20 Section 6622. The Insurance Commissioner shall deny, suspend,
21 revoke, or refuse to renew or continue the registration of any sales
22 representative if it is found that any one or more of the following
23 grounds applicable to the sales representative exist:
24

- 1 1. Material misstatement, misrepresentation, or fraud in
2 registration;
- 3 2. The registration is willfully used to circumvent any of the
4 requirements or prohibitions of the Service Warranty Insurance Act;
- 5 3. Willful misrepresentation of any service warranty contract
6 or willful deception with regard to any such contract, done either
7 in person or by any form of dissemination of information or
8 advertising;
- 9 4. In the adjustment of claims arising out of warranties,
10 material misrepresentation to a service warranty holder or other
11 interested party of the terms and coverage of a contract with the
12 intent and for the purpose of effecting settlement of such claim on
13 less favorable terms than those provided in and contemplated by the
14 contract;
- 15 5. Demonstrated lack of fitness or trustworthiness to engage in
16 the business of service warranty;
- 17 6. Demonstrated lack of adequate knowledge and technical
18 competence to engage in the transactions authorized by the
19 registration;
- 20 7. Fraudulent or dishonest practices in the conduct of business
21 under the registration;
- 22 8. Misappropriation, conversion, or unlawful withholding of
23 moneys belonging to an association, insurer, or warranty holder, or
24

1 to others, and received in the conduct of business under the
2 registration;

3 9. ~~Rebating~~ Unlawfully rebating, or attempting to unlawfully
4 rebate, or unlawfully dividing, or offering to divide, his
5 commission with another;

6 10. Willful failure to comply with, or willful violation of,
7 any proper order or rule of the Commissioner, or willful violation
8 of any provision of the Service Warranty Insurance Act; or

9 11. Being found guilty of or pleading nolo contendere to a
10 felony or a crime punishable by imprisonment of one (1) year or more
11 under the law of the United States of America or any state thereof
12 or under the law of any other country involving moral turpitude,
13 without regard to whether judgment of conviction has been entered by
14 the court having jurisdiction of such case.

15 SECTION 18. AMENDATORY 36 O.S. 2001, Section 6626, is
16 amended to read as follows:

17 Section 6626. A. If, pursuant to procedures provided for in
18 the Service Warranty Insurance Act, it is found that one or more
19 grounds exist for the suspension, revocation, or refusal to renew or
20 continue any registration issued under the Service Warranty
21 Insurance Act, on a first offense and except when such suspension,
22 revocation, or refusal is mandatory, an order may be entered
23 imposing upon the registrant, in lieu of such suspension,
24 revocation, or refusal, an administrative penalty for each violation

1 in the amount of One Hundred Dollars (\$100.00), or in the event of
2 willful misconduct or willful violation on the part of the
3 registrant, an administrative fine not to exceed One Thousand
4 Dollars (\$1,000.00) for each violation. The administrative penalty
5 may be augmented by an amount equal to any commissions received by
6 or accruing to the credit of the registrant in connection with any
7 transaction to which the grounds for suspension, revocation, or
8 refusal are related. An administrative penalty imposed under this
9 section shall not exceed Five Thousand Dollars (\$5,000.00) in the
10 aggregate for all nonwillful violations of a similar nature or Fifty
11 Thousand Dollars (\$50,000.00) in the aggregate for all willful
12 violations of a similar nature. For purposes of this section,
13 violations shall be of a similar nature if the violation consists of
14 the same or similar course of conduct, action, or practice,
15 irrespective of the number of times the act, conduct, or practice
16 which is determined to be a violation of this act occurred.

17 B. The order may allow the registrant a reasonable period, not
18 to exceed thirty (30) days, within which to pay to the Insurance
19 Commissioner the amount of the penalty so imposed. If the
20 registrant fails to pay the penalty in its entirety to the
21 Commissioner within the period allowed, the registration of the
22 registrant shall stand suspended or revoked or renewal or
23 continuation may be refused, as the case may be, upon expiration of
24 such period and without any further proceedings.

1 SECTION 19. AMENDATORY 36 O.S. 2001, Section 6628, is
2 amended to read as follows:

3 Section 6628. ~~If a A service warranty is issued by a person or~~
4 ~~entity that is not the manufacturer of the product or a wholesale~~
5 ~~company marketing the product, shall contain~~ a disclosure statement
6 containing substantially the following information ~~in ten point or~~
7 ~~larger type shall be attached to the buyer's copy of the service~~
8 ~~warranty: "This service warranty is not issued by the manufacturer~~
9 ~~or wholesale company marketing the product. This warranty will not~~
10 ~~be honored by such manufacturer or wholesale company." No other~~
11 ~~information shall be placed on the disclosure statement: Coverage~~
12 ~~afforded under this contract is not guaranteed by the Oklahoma~~
13 ~~Insurance Guaranty Association.~~

14 SECTION 20. AMENDATORY 36 O.S. 2001, Section 6631, is
15 amended to read as follows:

16 Section 6631. A. Any person damaged by a violation of the
17 provisions of the Service Warranty Insurance Act may bring a civil
18 action against a person violating such provisions in the district
19 court of the county in which the alleged violator resides or has his
20 principal place of business or in the county in which the alleged
21 violation occurred. Upon adverse adjudication, the defendant shall
22 be liable for actual damages or Five Hundred Dollars (\$500.00)
23 whichever is greater, together with court costs and reasonable
24 attorney's fees incurred by the plaintiff. Liability under this

1 section shall not exceed Fifty Thousand Dollars (\$50,000.00) in the
2 aggregate for all violations of a similar nature. For purposes of
3 this section, violations shall be of a similar nature if the
4 violation consists of the same or similar course of conduct, action,
5 or practice, irrespective of the number of times the act, conduct,
6 or practice which is determined to be a violation of the Service
7 Warranty Insurance Act occurred.

8 B. This section shall not be construed to authorize a civil
9 action against the Insurance Department, its employees, or the
10 Insurance Commissioner.

11 SECTION 21. REPEALER 36 O.S. 2001, Section 6606, is
12 hereby repealed.

13 SECTION 22. This act shall become effective November 1, 2007.
14 Passed the House of Representatives the 13th day of March, 2007.

15
16
17 Presiding Officer of the House of
18 Representatives

19 Passed the Senate the ____ day of _____, 2007.

20
21
22 Presiding Officer of the Senate