

1 ENGROSSED SENATE  
2 BILL NO. 2122

By: Sparks and Brown of the  
Senate

3 and

4 Peterson (Ron) of the House

5  
6  
7 [ insurance - specifying actions the Insurance  
8 Commissioner may take regarding enforcement of  
9 Crimes by or Affecting Persons Engaged in the  
10 Business of Insurance Act - duties of certain  
11 agencies - codification - effective date -  
12 emergency ]

13  
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

7 B. A person described in subsection A of this section may  
8 engage in the business of insurance or participate in such business  
9 if such person has the written consent of the Insurance  
10 Commissioner.

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

15 D. The business of insurance includes title insurers for  
16 purposes of the Crimes by or Affecting Persons Engaged in the  
17 Business of Insurance Act.

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

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

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- 1           1. Revoke any license or registration issued or approved by the  
2 Insurance Commissioner;
- 3           2. Issue an ex parte cease and desist order under the  
4 procedures provided by Section 5 of this act;
- 5           3. Institute in the district court of Oklahoma County a civil  
6 suit for injunctive relief to restrain the person from continuing  
7 the violation;
- 8           4. Institute in the district court of Oklahoma County a civil  
9 suit to recover a civil penalty as provided for in Section 2 of this  
10 act; or
- 11          5. Exercise any combination of the acts provided for in this  
12 subsection.

13          B. On application for injunctive relief and a finding that a  
14 person is violating or threatening to violate any provision of the  
15 Crimes By or Affecting Persons Engaged in the Business of Insurance  
16 Act or order of the Insurance Commissioner issued pursuant to the  
17 Crimes By or Affecting Persons Engaged in the Business of Insurance  
18 Act, the district court shall grant the injunctive relief and the  
19 injunction shall be issued without bond.

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

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1 Any one of the following acts in this state effected by mail or  
2 otherwise is defined to be doing the business of insurance in this  
3 state:

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

6 2. The making of or proposing to make, as guarantor or surety,  
7 any contract of guaranty or suretyship as a vocation and not merely  
8 incidental to any other legitimate business or activity of the  
9 guarantor or surety;

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

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

14 a. the execution of contracts of insurance with citizens  
15 of this or any other state,

16 b. maintaining files or records of contracts of  
17 insurance,

18 c. the processing of claims, and

19 d. the receiving or collection of any premiums,  
20 commissions, membership fees, assessments, dues or  
21 other consideration for any insurance or any part  
22 thereof;

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1       5. The issuance or delivery of contracts of insurance to  
2 residents of this state or to persons authorized to do business in  
3 this state;

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

- 7           a. the solicitation, negotiation, procurement or
- 8                   effectuation of insurance or renewals thereof,
- 9           b. the dissemination of information as to coverage or
- 10                   rates, or forwarding of applications, or delivery of
- 11                   policies or contracts,
- 12           c. inspection of risks,
- 13           d. fixing of rates or investigation or adjustment of
- 14                   claims or losses,
- 15           e. the transaction of matters subsequent to effectuation
- 16                   of the contract and arising out of it, or
- 17           f. in any other manner representing or assisting a person
- 18                   or insurer in the transaction of insurance with
- 19                   respect to subjects of insurance resident, located or
- 20                   to be performed in this state.

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

1           7. Contracting to provide indemnification or expense  
2 reimbursement in this state to persons domiciled in this state or  
3 for risks located in this state, whether as an insurer, agent,  
4 administrator, trust, funding mechanism, or by any other method, for  
5 any type of medical expenses including, but not limited to,  
6 surgical, chiropractic, physical therapy, speech pathology,  
7 audiology, professional mental health, dental, hospital, or  
8 optometric expenses, whether this coverage is by direct payment,  
9 reimbursement, or otherwise;

10           8. The doing of any kind of insurance business specifically  
11 recognized as constituting the doing of an insurance business within  
12 the meaning of the statutes relating to insurance;

13           9. Ownership in whole or in part, directly or indirectly, of  
14 any person involved in the business of insurance;

15           10. Acquiring or assisting others in the acquisition or  
16 attempted acquisition of any person involved in the business of  
17 insurance;

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

20           12. Any other transactions of business in this state by an  
21 insurance company, producer, title insurance producer, adjuster,  
22 third party administrator, service warranty association, title  
23 insurer or any other person that is licensed by or registered with  
24 the Insurance Commissioner; or

1        13. The doing or proposing to do any insurance business in  
2 substance equivalent to any of the foregoing in a manner designed to  
3 evade the provisions of the statutes.

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

7        A. On issuance of an emergency cease and desist order under  
8 Section 3 of this act, the Insurance Commissioner shall serve on the  
9 person affected by the order, by registered or certified mail,  
10 return receipt requested, to the person's last-known address, or by  
11 other lawful means, an order that contains a statement of the  
12 charges and requires the person immediately to cease and desist from  
13 the violation of subsection A of Section 2 of this act.

14        B. 1. If a person affected by an emergency cease and desist  
15 order seeks to contest that order, the person may request a hearing  
16 before the Insurance Commissioner. The person affected must request  
17 the hearing not later than the thirtieth day after the date on which  
18 the person receives the order. A request to contest an order must  
19 be in writing and directed to the Insurance Commissioner and must  
20 state the grounds for the request to set aside or modify the order.

21        2. On receiving the request for a hearing, the Insurance  
22 Commissioner shall serve notice of the time and place of the hearing  
23 at which the person requesting the hearing shall have the  
24 opportunity to show cause why the order should not be affirmed. The

1 hearing is to be held not later than the tenth day after the date  
2 the Insurance Commissioner receives the request for a hearing unless  
3 the parties mutually agree to a later hearing date.

4 3. Pending the hearing, an emergency cease and desist order  
5 continues in full force and effect unless the order is stayed by the  
6 Insurance Commissioner.

7 4. The hearing on the order shall be conducted according to the  
8 procedures for contested cases under the Administrative Procedures  
9 Act.

10 5. At the hearing, the Insurance Commissioner shall affirm,  
11 modify or set aside in whole or in part the emergency cease and  
12 desist order.

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

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

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

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



1 The Insurance Commissioner may promulgate rules necessary to  
2 carry out the provisions of the Crimes By or Affecting Persons  
3 Engaged in the Business of Insurance Act.

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

7 Section 987. Rate Filings.

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

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

1 effective unless disapproved pursuant to this title by the  
2 Commissioner before the expiration of the waiting period or an  
3 extension thereof.

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

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

23 D. Under rules as may be adopted, the Commissioner may, by  
24 written order, suspend or modify the requirement of filing as to any

1 kind of insurance, subdivision or combination thereof, or as to  
2 classes of risks.

3 E. Notwithstanding any other provision of the Property and  
4 Casualty Competitive Loss Cost Rating Act, upon the written consent  
5 of the insured in a separate written document, a rate in excess of  
6 that determined in accordance with the other provisions of the  
7 Property and Casualty Competitive Loss Cost Rating Act may be used  
8 on a specific risk.

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

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

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

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

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

10 Section 1435.5 A. Nothing in the Oklahoma Producer Licensing  
11 Act shall be construed to require an insurer to obtain an insurance  
12 producer license. In this section, the term "insurer" does not  
13 include an insurer's officers, directors, employees, subsidiaries or  
14 affiliates.

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

17 1. An officer, director or employee of an insurer or of an  
18 insurance producer, provided that the officer, director or employee  
19 does not receive any commission on policies written or sold to  
20 insure risks residing, located or to be performed in this state,  
21 and:

22 a. the officer, director or employee's activities are  
23 executive, administrative, managerial, clerical or a  
24 combination of these, and are only indirectly related

1 to the sale, solicitation or negotiation of insurance,  
2 or

3 b. the officer, director or employee's function relates  
4 to underwriting, loss control, inspection or the  
5 processing, adjusting, investigating or settling of a  
6 claim on a contract of insurance, or

7 c. the officer, director or employee is acting in the  
8 capacity of a special agent or agency supervisor  
9 assisting insurance producers where the person's  
10 activities are limited to providing technical advice  
11 and assistance to licensed insurance producers and do  
12 not include the sale, solicitation or negotiation of  
13 insurance;

14 2. A person who secures and furnishes information for the  
15 purpose of group life insurance, group property and casualty  
16 insurance, group annuities, group or blanket accident and health  
17 insurance; or for the purpose of enrolling individuals under plans,  
18 issuing certificates under plans or otherwise assisting in  
19 administering plans; or performs administrative services related to  
20 mass-marketed property and casualty insurance, where no commission  
21 is paid to the person for the service;

22 3. An employer or association or its officers, directors,  
23 employees, or the trustees of an employee trust plan, to the extent  
24 that the employers, officers, employees, director or trustees are

1 engaged in the administration or operation of a program of employee  
2 benefits for the employer's or association's own employees or the  
3 employees of its subsidiaries or affiliates, which program involves  
4 the use of insurance issued by an insurer, as long as the employers,  
5 associations, officers, directors, employees or trustees are not in  
6 any manner compensated, directly or indirectly, by the company  
7 issuing the contracts;

8 4. Employees of insurers or organizations employed by insurers  
9 who are engaging in the inspection, rating or classification of  
10 risks, or in the supervision of the training of insurance producers  
11 and who are not individually engaged in the sale, solicitation or  
12 negotiation of insurance;

13 5. A person whose activities in this state are limited to  
14 advertising without the intent to solicit insurance in this state  
15 through communications in printed publications or other forms of  
16 electronic mass media whose distribution is not limited to residents  
17 of the state, provided that the person does not sell, solicit or  
18 negotiate insurance that would insure risks residing, located or to  
19 be performed in this state;

20 6. A person who is not a resident of this state who sells,  
21 solicits or negotiates a contract of insurance for commercial  
22 property and casualty risks to an insured with risks located in more  
23 than one state insured under that contract, provided that that  
24 person is otherwise licensed as an insurance producer to sell,

1 solicit or negotiate that insurance in the state where the insured  
2 maintains its principal place of business and the contract of  
3 insurance insures risks located in that state; ~~or~~

4 7. A salaried full-time employee who counsels or advises his or  
5 her employer relative to the insurance interests of the employer or  
6 of the subsidiaries or business affiliates of the employer, provided  
7 that the employee does not sell or solicit insurance or receive a  
8 commission; or

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

21 SECTION 10. AMENDATORY 36 O.S. 2001, Section 1435.7, as  
22 last amended by Section 3, Chapter 338, O.S.L. 2007 (36 O.S. Supp.  
23 2007, Section 1435.7), is amended to read as follows:

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1 Section 1435.7 A. A person applying for a resident insurance  
2 producer license shall make application to the Insurance  
3 Commissioner on the Uniform Application or an application approved  
4 by the Commissioner and declare under penalty of refusal, suspension  
5 or revocation of the license that the statements made in the  
6 application are true, correct and complete to the best of the  
7 individual's knowledge and belief. Before approving the  
8 application, the Insurance Commissioner shall find that the  
9 individual:

10 1. Is at least eighteen (18) years of age;

11 2. Has not committed any act that is a ground for denial,  
12 suspension or revocation set forth in Section 1435.13 of this title;

13 3. ~~Where required by the Insurance Commissioner, has~~ Has held a  
14 provisional insurance producer license ~~under Section 11 of Enrolled~~  
15 ~~House Bill No. 1960 of the 1st Session of the 51st Oklahoma~~  
16 ~~Legislature~~ or has been a participant in an approved training  
17 program offered by an insurance company licensed in this state ~~or~~  
18 ~~has completed a prelicensing course of study for the lines of~~  
19 ~~authority for which the person has applied~~ except for title,  
20 aircraft title, or any other producer applicant exempt by rule;

21 4. Has paid the fees set forth in Section 1435.23 of this  
22 title; and

23 5. Has successfully passed the examinations for the lines of  
24 authority for which the person has applied.



1 B. A business entity acting as an insurance producer is  
2 required to obtain an insurance producer license. Application shall  
3 be made using the Uniform Business Entity Application or an  
4 application approved by the Commissioner. Before approving the  
5 application, the Insurance Commissioner shall find that:

6 1. The business entity has paid the fees set forth in Section  
7 1435.23 of this title;

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

11 3. A domestic business entity is organized pursuant to the  
12 provisions of the laws of this state and maintains its principal  
13 place of business in this state; and

14 4. No person whose license as an insurance producer has been  
15 revoked by order of the Commissioner, nor any business entity in  
16 which such person has a majority ownership interest, whether direct  
17 or indirect, owns any interest in the business entity licensed as an  
18 insurance producer; ~~and~~

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

22 C. A business entity acting as an insurance producer shall  
23 notify the Commissioner of all changes among its members, directors  
24

1 and officers and all other individuals designated in the license  
2 within fifteen (15) days after the change.

3 D. An applicant for any license required by the provisions of  
4 the Oklahoma Producer Licensing Act shall demonstrate to the  
5 Insurance Commissioner that the applicant is competent, trustworthy,  
6 financially responsible, and of good personal and business  
7 reputation.

8 E. The Insurance Commissioner may require any documents  
9 reasonably necessary to verify the information contained in an  
10 application.

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

14 Section 1435.9 A. Unless denied licensure pursuant to Section  
15 1435.13 of this title, a nonresident person shall receive a  
16 nonresident producer license if:

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

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

21 3. The person has submitted or transmitted to the Insurance  
22 Commissioner the application for licensure that the person submitted  
23 to the person's home state, or in lieu of the same, a completed  
24 Uniform Application; and

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

3       B. Any nonresident application submitted pursuant to this  
4 section shall constitute the applicant's designation of the  
5 Insurance Commissioner as the person upon whom may be served all  
6 lawful process in any action, suit, or proceeding instituted by or  
7 on behalf of any interested person arising out of the insurance  
8 business of the applicant in this state. This designation  
9 constitutes an agreement that said service of process is of the same  
10 legal force and validity as personal service of process in this  
11 state upon the nonresident licensee.

12       C. The Insurance Commissioner may verify the producer's  
13 licensing status through the Producer Database maintained by the  
14 National Association of Insurance Commissioners, its affiliates or  
15 subsidiaries.

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

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

3 F. Notwithstanding any other provision of the Oklahoma Producer  
4 Licensing Act, a person licensed as a limited line credit insurance  
5 or other type of limited lines producer in that person's home state  
6 shall receive a nonresident limited lines producer license, pursuant  
7 to subsections A and B of this section, granting the same scope of  
8 authority as granted under the license issued by the producer's home  
9 state. For the purpose of this subsection, limited line insurance  
10 is any authority granted by the home state which restricts the  
11 authority of the license to less than the total authority prescribed  
12 in the associated major lines pursuant to subsection A of Section  
13 1435.8 of this title.

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

17 Section 1435.20 A. A limited lines producer may receive  
18 qualification for a license in one or more of the following  
19 categories:

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

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

3       ~~3. To engage in the sale of motor vehicle insurance at a~~  
4 ~~vehicle rental counter or at any other point of sale at which motor~~  
5 ~~vehicle insurance is offered or sold in connection with the short-~~  
6 ~~term renting or leasing of motor vehicles; provided, the branch~~  
7 ~~manager of the rental or leasing company shall hold the license~~  
8 ~~under which the employees working for the rental or leasing company~~  
9 ~~operate;~~

10       ~~4. To engage in the sale of limited line credit insurance;~~

11       ~~5. To engage in the sale of nonfiling insurance relating to~~  
12 ~~mortgages and security interests arising under the Uniform~~  
13 ~~Commercial Code, Section 1-101 et seq. of Title 12A of the Oklahoma~~  
14 ~~Statutes;~~

15       ~~6.~~ Prepaid legal liability insurance, which means the  
16 assumption of an enforceable contractual obligation to provide  
17 specified legal services or to reimburse policyholders for specified  
18 legal expenses, pursuant to the provisions of a group or individual  
19 policy;

20       ~~7.~~ 2. Crop hail and multiperil crop hail - insurance providing  
21 protection against damage to crops from unfavorable weather  
22 conditions, fire or lightning, flood, hail, insect infestation,  
23 disease or other yield-reducing conditions or perils provided by the

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1 private insurance market, or that is subsidized by the Federal Crop  
2 Insurance Corporation, including Multi-Peril Crop Insurance; and

3 ~~8. Prepaid dental insurance, provided the individual selling~~  
4 ~~the prepaid dental insurance has been appointed by the prepaid~~  
5 ~~dental plan organization to sell such insurance~~

6 3. Car rental - insurance offered, sold or solicited in  
7 connection with and incidental to the rental of rental cars for a  
8 period of two (2) years, whether at the rental office or by pre-  
9 selection of coverage in master, corporate, group or individual  
10 agreements that:

11 a. is non-transferable,

12 b. applies only to the rental car that is the subject of  
13 the rental agreement, and

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

15 (1) personal accident insurance for renters and other  
16 rental car occupants, for accidental death or  
17 dismemberment, and for medical expenses resulting  
18 from an accident that occurs with the rental car  
19 during the rental period,

20 (2) liability insurance that provides protection to  
21 the renters and other authorized drivers of a  
22 rental car for liability arising from the  
23 operation or use of the rental car during the  
24 rental period,

- 1           (3) personal effects insurance that provides coverage  
2           to renters and other vehicle occupants for loss  
3           of, or damage to, personal effects in the rental  
4           car during the rental period,  
5           (4) roadside assistance and emergency sickness  
6           protection insurance, or  
7           (5) any other coverage designated by the Insurance  
8           Commissioner;

9           4. Credit - credit life, credit disability, credit property,  
10          credit unemployment, involuntary unemployment, mortgage life,  
11          mortgage guaranty, mortgage disability, guaranteed automobile  
12          protection insurance, or any other form of insurance offered in  
13          connection with an extension of credit that is limited to partially  
14          or wholly extinguishing that credit obligation and that is  
15          designated by the Insurance Commissioner as limited line credit  
16          insurance;

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

22          6. Travel - insurance coverage for trip cancellation, trip  
23          interruption, baggage, life, sickness and accident, disability, and  
24

1 personal effects when limited to a specific trip and sold in  
2 connection with transportation provided by a common carrier.

3 B. 1. An insurance producer or limited lines producer may  
4 solicit applications for and issue travel accident policies or  
5 baggage insurance by means of mechanical vending machines supervised  
6 by the insurance producer or limited lines producer only if the  
7 Insurance Commissioner shall determine that the form of policy to be  
8 sold is reasonably suited for sale and issuance through vending  
9 machines, that use of vending machines for the sale of said policies  
10 would be of convenience to the public, and that the type of vending  
11 machine to be used is reasonably suitable and practical for the sale  
12 and issuance of said policies. Policies so sold do not have to be  
13 countersigned.

14 2. The Commissioner shall issue to the insurance agent or  
15 limited insurance representative a special vending machine license  
16 for each such machine to be used. The license shall specify the  
17 name and address of the insurer and licensee, the kind of insurance  
18 and type of policy to be sold, and the place where the machine is to  
19 be in operation. The license shall expire, be renewable, and be  
20 suspended or revoked coincidentally with the insurance agent license  
21 or limited representative license of the licensee. The license fee  
22 for each vending machine shall be that stated in the provisions of  
23 Section ~~23~~ 1435.23 of this ~~act~~ title. Proof of existence of the  
24



1 license shall be displayed on or about each machine in such manner  
2 as the Commissioner may reasonably require.

3 SECTION 13. AMENDATORY 36 O.S. 2001, Section 1435.23, as  
4 last amended by Section 14, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
5 2007, Section 1435.23), is amended to read as follows:

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

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

- 14 1. For filing appointment of Insurance  
15 Commissioner as agent for service of process..... \$ 20.00
- 16 2. Miscellaneous:
- 17 a. Certificate and Clearance of  
18 Commissioner..... \$ 3.00
- 19 b. Insurance producer's study manual:
- 20 Life, Accident & Health..... not to exceed  
21 \$ 40.00
- 22 Property and Casualty..... not to exceed  
23 \$ 40.00
- 24



1 i. Customer service representative biennial  
 2 license..... \$ 40.00  
 3 j. Insurance producer's provisional license.... ~~\$ 40.00~~  
 4 \$ 20.00

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

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

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

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

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

24

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

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

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

22           E. If for any reason an insurance producer license or  
23 appointment is not issued or renewed by the Commissioner, all fees  
24 accompanying the appointment or application for the license shall be

1 deemed earned and shall not be refundable except as provided in  
2 Section 352 of this title.

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

6 SECTION 14. AMENDATORY 36 O.S. 2001, Section 1435.29, as  
7 last amended by Section 15, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
8 2007, Section 1435.29), is amended to read as follows:

9 Section 1435.29 A. 1. Each insurance producer shall,  
10 biennially, complete not less than fourteen (14) clock hours of  
11 continuing insurance education which shall cover subjects in the  
12 lines for which the insurance producer is licensed. Such education  
13 may include a written or oral examination.

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

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

21 B. 1. The Insurance Commissioner shall approve courses and  
22 providers of resident provisional producer pre-licensing education  
23 and continuing education. The Insurance Department may use one or  
24 more of the following to review and provide a nonbinding

1 recommendation to the Insurance Commissioner on approval or  
2 disapproval of courses and providers of resident provisional  
3 producer pre-licensing education and continuing education:

- 4 a. employees of the Insurance Commissioner,
- 5 b. a continuing education advisory committee, or
- 6 c. an independent service whose normal business  
7 activities include the review and approval of  
8 continuing education courses and providers. The  
9 Commissioner may negotiate agreements with such  
10 independent service to review documents and other  
11 materials submitted for approval of courses and  
12 providers and provide the Commissioner with its  
13 nonbinding recommendation. The Commissioner may  
14 require such independent service to collect the fee  
15 charged by the independent service for reviewing  
16 materials provided for review directly from the course  
17 providers.

18 The Insurance Commissioner has sole authority to approve courses  
19 and providers of resident provisional producer pre-licensing  
20 education and continuing education. If the Insurance Commissioner  
21 uses one of the entities listed above to provide a nonbinding  
22 recommendation, the Commissioner shall adopt or decline to adopt the  
23 recommendation within thirty (30) days of receipt of the  
24 recommendation. In the event the Insurance Commissioner takes no

1 action within said thirty-day period, the recommendation made to the  
2 Commissioner will be deemed to have been adopted by the  
3 Commissioner.

4 The Insurance Commissioner may certify providers and courses  
5 offered for license examination study. The Insurance Department  
6 shall use employees of the Insurance Commissioner to review and  
7 certify license examination study program providers and courses.

8 2. Each insurance company shall be allowed to provide  
9 continuing education to insurance producers and customer service  
10 representatives as required by this section; provided that such  
11 continuing education meets the general standards for education  
12 otherwise established by the Insurance Commissioner.

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

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

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

11           5. Subject to approval by the Commissioner, the active  
12 membership of the licensed producer or broker in local, regional,  
13 state, or national professional insurance organizations or  
14 associations may be approved for up to one (1) annual hour of  
15 instruction. The hour shall be credited upon timely filing with the  
16 Commissioner, or designee of the Commissioner, and appropriate  
17 written evidence acceptable to the Commissioner of such active  
18 membership in the organization or association.

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

23           C. Each provider of resident provisional producer pre-licensing  
24 education and continuing education shall, after approval by the



1 Commissioner, submit an annual fee. A fee ~~shall~~ may be assessed for  
2 each course submission at the time it is first submitted for review  
3 and upon submission for renewal at expiration. Annual fees and  
4 course submission fees shall be set forth as a rule by the  
5 Commissioner. The fees are payable to the Insurance Commissioner  
6 which shall be deposited in the State Insurance Commissioner  
7 Revolving Fund, created in subsection C of Section 1435.23 of this  
8 title, for the purposes of fulfilling and accomplishing the  
9 conditions and purposes of the Oklahoma Producer Licensing Act and  
10 the Insurance Adjusters Licensing Act. Provided, public-funded  
11 educational institutions, federal agencies, and Oklahoma state  
12 agencies shall be exempt from this subsection.

13 D. Failure of an insurance producer or customer service  
14 representative to comply with the requirements of ~~this act~~ the  
15 Oklahoma Producer Licensing Act may, after notice and opportunity  
16 for hearing, result in censure, suspension, nonrenewal of license or  
17 a civil penalty of up to Five Hundred Dollars (\$500.00) or by both  
18 such penalty and civil penalty. Said civil penalty may be enforced  
19 in the same manner in which civil judgments may be enforced. Any  
20 civil penalties collected under this act shall be deposited in the  
21 State Insurance Commissioner Revolving Fund.

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

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

6 G. Members of the Legislature shall be exempt from this  
7 section.

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

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

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

14 1. "Administrator" means any person who collects premiums for  
15 an insurer or trust or who adjusts or settles claims for an insurer  
16 or trust, in connection with life or health insurance coverage ~~or~~,  
17 annuities or employee benefit stop loss in this state, but shall not  
18 include any person who collects premiums or who adjusts or settles  
19 claims under the following circumstances:

- 20 a. ~~Any~~ any employer on behalf of the employees of that  
21 employer or the employees of one or more subsidiary or  
22 affiliated corporations of that employer~~+~~,  
23 b. A a union on behalf of its members~~+~~,  
24

- 1 c. ~~An~~ an insurance company which is licensed to transact  
2 insurance business in this state~~,~~,
- 3 d. ~~A~~ a wholly owned subsidiary of an entity which is  
4 subject to the jurisdiction of the Insurance  
5 Commissioner~~,~~,
- 6 e. ~~An~~ an insurance company acting as an insurer with  
7 respect to a policy lawfully issued and delivered by  
8 said company in and pursuant to the laws of this  
9 state~~,~~,
- 10 f. ~~A~~ a hospital, medical, dental, or optometric service  
11 corporation or a health care service organization,  
12 including their agents, authorized by the Commissioner  
13 to issue contracts in this state pursuant to the  
14 provisions of the Oklahoma Insurance Code when engaged  
15 in the performance of their duties~~,~~,
- 16 g. ~~A~~ a life or disability agent or broker who is licensed  
17 in this state and whose activities are limited  
18 exclusively to the sale of insurance~~,~~,
- 19 h. ~~An~~ an adjuster licensed in this state for the kinds of  
20 business for which he is acting as an adjuster~~,~~,
- 21 i. ~~A~~ a creditor insuring a debt between the creditor and  
22 its debtors on behalf of said creditor's debtors~~,~~,
- 23  
24

- 1           j.    ~~A~~ a financial institution which is subject to  
2                    supervision or examination by federal or state banking  
3                    authorities~~;~~,
- 4           k.    ~~A~~ a company which issues credit cards and advances  
5                    credit for and collects premiums or charges from its  
6                    credit card holders who have authorized said  
7                    collection, if the company does not adjust or settle  
8                    claims~~;~~,
- 9           l.    ~~A~~ a person who adjusts or settles claims in the normal  
10                   course of practice or employment as an attorney-at-law  
11                   and who does not collect charges or premiums in  
12                   connection with life or health insurance coverage or  
13                   annuities~~;~~,
- 14           m.    ~~The~~ the State Insurance Fund~~;~~,
- 15           n.    ~~Any~~ any workers' compensation trust~~;~~, or
- 16           o.    ~~A~~ a trust providing benefits to the employees of any  
17                   political subdivision of a city, county or the state~~;~~;  
18                   and

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

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

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

6 B. An administrator shall not be eligible for a nonresident  
7 administrator license under this section if the administrator does  
8 not hold a home state certificate of authority or license in a state  
9 that has adopted the Third-party Administrator Act or that applies  
10 substantially similar provisions as are contained in the Third-party  
11 Administrator Act to that administrator. If the Third-party  
12 Administrator Act in the administrator's home state does not extend  
13 to stop-loss insurance, but if the home state otherwise applies  
14 substantially similar provisions as are contained in the Third-party  
15 Administrator Act to that administrator, then that omission shall  
16 not operate to disqualify the administrator from receiving a  
17 nonresident administrator license in this state.

18 1. "Home state" means the United States jurisdiction that has  
19 adopted the Third-party Administrator Act or a substantially similar  
20 law governing third-party administrators and which has been  
21 designated by the administrator as its principal regulator. The  
22 administrator may designate either its state of incorporation or its  
23 principal place of business within the United States if that  
24 jurisdiction has adopted the Third-party Administrator Act or a

1 substantially similar law governing third-party administrators. If  
2 neither the administrator's state of incorporation nor its principal  
3 place of business within the United States has adopted the Third-  
4 party Administrator Act or a substantially similar law governing  
5 third-party administrators, then the third-party administrator shall  
6 designate a United States jurisdiction in which it does business and  
7 which has adopted the Third-party Administrator Act or a  
8 substantially similar law governing third-party administrators. For  
9 purposes of this definition, "United States jurisdiction" means the  
10 District of Columbia or a state or territory of the United States.

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

14 C. In the case of a partnership which has been licensed, each  
15 general partner and each other individual acting for the  
16 partnership, and in the case of any entity which has been licensed,  
17 each individual acting for the entity as a third party administrator  
18 shall be named in the license and shall qualify therefore as though  
19 an individual licensee. The Commissioner shall charge a full  
20 additional license fee and a separate license shall be issued for  
21 each individual so named in such a license. The entity partnership  
22 shall notify the Commissioner within fifteen (15) days if any  
23 individual licensed on its behalf has been terminated, or is no  
24 longer associated with or employed by the entity partnership. Any

1 entity or partnership licensed as administrators under the Third-  
2 party Administrators Act shall provide National Association of  
3 Insurance Commissioner Biographical Affidavits as required for  
4 domestic insurers pursuant to the insurance laws of this state.

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

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

22 ~~E.~~ F. The administrator's license shall be issued or renewed by  
23 the Commissioner unless, after notice and opportunity for hearing,  
24 the Commissioner determines that the administrator is not competent,

1 trustworthy, or financially responsible, or has had any insurance  
2 license denied for cause by any state, has been convicted or has  
3 pleaded guilty or nolo contendere to any felony or to a misdemeanor  
4 involving moral turpitude or dishonesty.

5 ~~F.~~ G. After notice and opportunity for hearing, and upon  
6 determining that the administrator has violated any of the  
7 provisions of the Oklahoma Insurance Code or upon finding reasons  
8 for which the issuance or nonrenewal of such license could have been  
9 denied, the Commissioner may either suspend or revoke an  
10 administrator's license or assess a civil penalty of not more than  
11 Five Thousand Dollars (\$5,000.00) for each occurrence. The payment  
12 of the penalty may be enforced in the same manner as civil judgments  
13 may be enforced.

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

21 ~~H.~~ I. Except as provided for in subsections ~~E~~ F and ~~F~~ G of this  
22 section, any person convicted of violating any provisions of the  
23 Third-party Administrator Act shall be guilty of a misdemeanor and  
24



1 shall be subject to a fine of not more than One Thousand Dollars  
2 (\$1,000.00).

3 ~~I.~~ J. Any fees imposed pursuant to the provisions of this  
4 section and any civil penalties imposed pursuant to an  
5 administrative hearing order for violation of the provisions of the  
6 Third-party Administrator Act shall be deposited in the State  
7 Insurance Commissioner Revolving Fund.

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

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

21 A. The receiver shall have the power:

22 1. To hold hearings, to subpoena witnesses to compel their  
23 attendance, to administer oaths, to examine any person under oath,  
24 and to compel any persons to subscribe to their testimony after it

1 has been correctly reduced to writing; and in connection therewith  
2 to require the production of any books, papers, records, data or  
3 other documents, electronic or paper, that the receiver deems  
4 relevant to the inquiry;

5 2. To audit the books and records of all agents of the insurer,  
6 including, but not limited to, third party administrators,  
7 affiliated, and non-affiliated management companies insofar as those  
8 records relate to the business activities of the insurer;

9 3. To conduct litigation, including:

10 a. to continue to prosecute or defend, and to institute  
11 in the name of the insurer or in the receiver's own  
12 name suits or other legal proceedings, in this state  
13 or elsewhere,

14 b. to abandon the prosecution of claims the receiver  
15 deems unprofitable to pursue further,

16 c. to collect all debts and moneys due and claims  
17 belonging to the insurer, wherever located, and in  
18 furtherance of this purpose to institute action in  
19 this or other jurisdictions in order to forestall  
20 garnishment and attachment proceedings against those  
21 debts, and, including the power to sell, compound,  
22 compromise or assign debts for purposes of collection  
23 upon such terms and conditions as the receiver deems  
24 consistent with the purpose of the Uniform Insurers

1           Liquidation Act and pursue any creditor's remedies  
2           available to enforce the insurer's claims,  
3       d. to assert all defenses available to the insurer as  
4           against third persons, including statutes of  
5           limitation, statutes of frauds and the defense of  
6           usury. A waiver of any defense by the insurer after a  
7           petition for supervision, conservation, receivership,  
8           rehabilitation or liquidation has been filed shall not  
9           bind the receiver. Whenever a guaranty association  
10           has an obligation to defend any suit, the receiver  
11           shall defer to that obligation and may defend only in  
12           cooperation with the guaranty association or in the  
13           absence of the guaranty association's defense,  
14       e. to exercise and enforce all the rights, remedies and  
15           powers of any creditor, shareholder, policyholder or  
16           member, including any power to avoid any transfer,  
17           transaction or lien that may be voidable under the  
18           Uniform Insurers Liquidation Act or otherwise, and  
19       f. to intervene in any proceeding wherever instituted  
20           that might lead to the appointment of a receiver or  
21           trustee for the insurer or any of its property, and to  
22           act as the receiver or trustee whenever the  
23           appointment is offered.  
24

1       The receiver shall have exclusive standing in any action that  
2 may exist to assert claims or defenses on behalf of the creditors,  
3 members, policyholders or shareholders of the insurer or the public  
4 against any person, except to the extent that a claim is personal to  
5 a specific creditor, member, policyholder or shareholder and  
6 recovery on the claim would not inure to the benefit of the estate.  
7 If the receiver sells or dissolves the corporate entity or charter  
8 of the insurer, the receiver shall have the power to apply to any  
9 court in this state or elsewhere for leave to substitute the  
10 receiver for the insurer as a party. This subparagraph does not  
11 infringe or impair any of the rights provided to a guaranty  
12 association pursuant to its enabling statute or otherwise;

13       4. a. To conduct public or private sales of the insurer's  
14 property, and thereby to acquire, hypothecate,  
15 encumber, lease, sell, improve, transfer, abandon or  
16 otherwise dispose of or deal with any property of the  
17 insurer at its market value or upon such terms and  
18 conditions as are fair and reasonable, and to settle  
19 or resolve any claim or lawsuit brought by the  
20 receiver on behalf of the insurer or pending when a  
21 petition for supervision, conservation, receivership,  
22 rehabilitation or liquidation is filed, or commute or  
23 settle any claim of reinsurance under any contract of  
24 reinsurance,

1           b. to transfer rights to payment under ceding reinsurance  
2           agreements covering policies to a third party  
3           transferee. The transferee shall have the rights to  
4           collect and enforce collection of the reinsurance for  
5           the amount payable to the ceding insurer or to its  
6           receiver, without diminution because of the insolvency  
7           or because the receiver has failed to pay all or a  
8           portion of the claim. The transfer of these rights  
9           shall not give rise to any defense regarding the  
10           reinsurer's obligations under the reinsurance  
11           agreement regardless of whether the agreement or other  
12           applicable law prohibits the transfer of rights under  
13           the reinsurance agreement. Except as provided in this  
14           subparagraph, any transfer of rights pursuant to this  
15           provision shall not impair any rights or defenses of  
16           the reinsurer that existed prior to the transfer or  
17           would have existed in the absence of the transfer.  
18           Except as otherwise provided in this subparagraph, any  
19           transfer of rights pursuant to this provision shall  
20           not relieve the transferee or the receiver from  
21           obligations owed to the reinsurer pursuant to the  
22           reinsurance or other agreement, and  
23           c. to execute, acknowledge and deliver any deeds,  
24           assignments, releases and other instruments necessary

1 or proper to effectuate any sale of property or other  
2 transaction in connection with the liquidation or  
3 rehabilitation and to file any necessary documents for  
4 record in the office of any recorder of deeds or  
5 record office in this state or elsewhere where  
6 property of the insurer is located;

7 5. a. To use property of the estate to transfer policy  
8 obligations 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,

12 b. To use property of the estate to transfer the  
13 insurer's obligations under surety bonds and surety  
14 undertakings, and collateral held by the insurer with  
15 respect to the reimbursement obligations of the  
16 principals under those surety bonds and surety  
17 undertakings, to a solvent assuming insurer, if the  
18 transfer can be arranged without prejudice to  
19 applicable priorities under Section 1927.1 of this  
20 title; and if the receivership court so orders, the  
21 estate shall have no further liability under the  
22 transferred policies, surety bonds, or surety  
23 undertakings after the transfer is made, and

1           c. Upon the issuance of an order of liquidation and a  
2           finding of insolvency, policies or portions of  
3           policies of life, disability income, long term care or  
4           health insurance or annuities covered by one or more  
5           guaranty associations, under applicable law, shall  
6           continue in force, subject to the terms of the policy,  
7           including any terms restructured pursuant to a court-  
8           approved rehabilitation plan, to the extent necessary  
9           to permit the guaranty associations to discharge their  
10           statutory obligations. Policies or portions of  
11           policies of life, disability income, long term care or  
12           health insurance or annuities, not covered by one or  
13           more guaranty associations, and other types of  
14           policies, shall terminate by operation of law, except  
15           to the extent the liquidator proposes and the  
16           receivership court approves the use of property of the  
17           estate, consistent with subparagraphs a and b of this  
18           paragraph, for the purpose of continuing the contracts  
19           or coverage by transferring them to an assuming  
20           reinsurer;

21           6. To borrow money on the security of the property of the  
22           estate or without security and to execute and deliver all documents  
23           necessary to that transaction for the purpose of facilitating the  
24           liquidation or rehabilitation. Any such funds borrowed may be

1 repaid as an administrative expense and have priority over any other  
2 claims in Class 1 under the priority of distribution in Section  
3 1927.1 of this title;

4 7. To enter into contracts, and to assume or reject any  
5 executory contract or unexpired lease to which the insurer is a  
6 party; provided, however, notwithstanding anything which may appear  
7 to the contrary in this act, any statute of this state or of any  
8 other state, or of the United States, receiver shall not be bound by  
9 any provision of any contract of or by the insurer which requires  
10 arbitration;

11 8. To take possession of the records and property of the  
12 insurer. Guaranty associations shall have reasonable access to the  
13 records of the insurer necessary for them to carry out their  
14 statutory obligations;

15 9. To deposit in one or more banks in this state sums required  
16 for meeting current administration expenses and dividend  
17 distributions;

18 10. To invest the assets of the estate;

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

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



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

3        C. The enumeration, in this section, of the powers and  
4 authority of the receiver shall not be construed as a limitation  
5 upon the receiver, nor shall it exclude in any manner the right to  
6 do other acts not specifically enumerated or otherwise provided for,  
7 to the extent necessary or appropriate for the accomplishment of or  
8 in aid of the purpose of liquidation or rehabilitation.

9        D. The receiver shall not be obligated to defend any action  
10 against the insurer or insured. An insured not defended by a  
11 guaranty association may provide his or her own defense, and include  
12 the cost of the defense as part of any claim of the insured against  
13 the estate, if the defense was an obligation of the insurer. The  
14 right of the receiver to contest coverage on a particular claim  
15 shall be deemed preserved without the necessity of an express  
16 reservation of rights.

17        SECTION 18.        NEW LAW        A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1924.2 of Title 36, unless there  
19 is created a duplication in numbering, reads as follows:

20        A. If applicable statutory or common law, an order, or an  
21 agreement fixes, defines, extends or tolls a period within which  
22 the insurer may commence an action, and this period has not expired  
23 before the date of the filing of the initial petition in a  
24 delinquency proceeding as defined in Section 1901 of Title 36 of the

1 Oklahoma Statutes, the receiver shall not by reason thereof be  
2 barred from commencing such an action if the receiver does so on or  
3 before the later of:

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

7 2. Four (4) years after the entry of the order commencing a  
8 delinquency proceeding or entry of a subsequent order granting a  
9 different form of relief in a delinquency proceeding.

10 B. Except as provided in subsection A of this section, if  
11 applicable law, an order or an agreement fixes, defines, extends or  
12 tolls a period within which the insurer may file any pleading,  
13 demand, notice, or proof of claim or loss, or cure a default in a  
14 case or proceeding, or perform any other similar act, and the period  
15 has not expired before the date of the filing of the initial  
16 petition in a delinquency proceeding, the receiver shall not by  
17 reason thereof be barred from filing, curing or performing, as the  
18 case may be, if the receiver does so on or before the later of:

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

22 2. One hundred eighty (180) days after the entry of the order  
23 granting the initial petition in the delinquency proceeding, or  
24 within such further extension thereof granted by the court which is

1 shown to the satisfaction of the court not to be unfairly  
2 prejudicial to the other party.

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

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

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

14 D. An allegation by the receiver of improper or fraudulent  
15 conduct against any person shall not be the basis of a defense to  
16 the enforcement of a contractual obligation owed to the insurer by a  
17 third party, but the third party is not barred by this section from  
18 seeking to establish independently as a defense that the conduct was  
19 materially and substantially related to the contractual obligation  
20 for which enforcement is sought.

21 E. No prior wrongful or negligent actions of any present or  
22 former officer, manager, director, trustee, owner, employee or agent  
23 of the insurer may be asserted as a defense to a claim by the  
24 receiver under a theory of estoppel, comparative fault, intervening

1 cause, proximate cause, reliance, mitigation of damages or  
2 otherwise; except that the affirmative defense of fraud in the  
3 inducement may be asserted against the receiver in a claim based on  
4 a contract and a principal under a surety bond or a surety  
5 undertaking shall be entitled to credit against any reimbursement  
6 obligation to the receiver for the value of any property pledged to  
7 secure the reimbursement obligation to the extent that the receiver  
8 has possession or control of the property or the insurer or its  
9 agents misappropriated such property. Evidence of fraud in the  
10 inducement will be admissible only if it is contained in the records  
11 of the insurer.

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

14 G. A judgment or order entered against an insured or the  
15 insurer in contravention of any stay or injunction under the Uniform  
16 Insurers Liquidation Act, or at any time by default or collusion,  
17 shall not be considered as evidence of liability or of the quantum  
18 of damages in adjudicating claims filed in the estate arising out of  
19 the subject matter of the judgment or order.

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

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

1 Section 4424. Unless the context requires otherwise, the  
2 definitions in this section apply throughout the Long-Term Care  
3 Insurance Act.

4 1. a. "Long-term care insurance" means any insurance policy,  
5 certificate or rider, including qualified long-term  
6 care insurance contracts and long-term care  
7 partnership program contracts, which are advertised,  
8 marketed, offered or designed primarily to provide  
9 coverage for not less than twelve (12) consecutive  
10 months for each covered person on an expense incurred,  
11 indemnity, prepaid, or other basis, for one or more  
12 necessary or medically necessary diagnostic,  
13 preventive, therapeutic, rehabilitative, maintenance,  
14 or personal care services, provided in a setting other  
15 than an acute care unit of a hospital.

16 b. This term includes group and individual health  
17 policies or riders or group and individual life  
18 policies or annuities or riders which provide,  
19 directly or as a supplement, coverage for long-term  
20 care, whether issued by insurers, fraternal benefit  
21 societies, nonprofit health, hospital, and medical  
22 service corporations, prepaid health plans, health  
23 maintenance organizations, life care communities, or  
24 any similar organization.

- 1           c.    This term also includes a policy or rider which  
2                    provides for payment of long-term care benefits based  
3                    upon cognitive impairment or the loss of functional  
4                    capacity.
- 5           d.    Long-term care insurance shall not include any  
6                    insurance policy which is offered primarily to provide  
7                    basic Medicare supplement coverage, basic hospital  
8                    expense coverage, basic medical-surgical expense  
9                    coverage, hospital confinement indemnity coverage,  
10                  major medical expense coverage, disability income  
11                  protection coverage or related asset-protection  
12                  coverage, catastrophic coverage, comprehensive  
13                  coverage, accident only coverage, specified disease or  
14                  specified accident coverage, or limited benefit health  
15                  coverage.
- 16          e.    With regard to life insurance, this term does not  
17                    include life insurance policies which accelerate the  
18                    death benefit specifically for one or more of the  
19                    qualifying events of terminal illness, medical  
20                    conditions requiring extraordinary medical  
21                    intervention, or permanent institutional confinement,  
22                    and which provide the option of a lump-sum payment for  
23                    those benefits and in which neither the benefits nor  
24

1 the eligibility for the benefits is conditioned upon  
2 the receipt of long-term care.

3 f. Notwithstanding any other provision contained herein,  
4 any product advertised, marketed or offered as long-  
5 term care insurance shall be subject to the provisions  
6 of this act.

7 2. "Applicant" means:

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

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

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

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

19 a. one or more employers or labor organizations, or to a  
20 trust or to the trustees of a fund established by one  
21 or more employers or labor organizations, or a  
22 combination thereof, for employees or former  
23 employees, or a combination thereof or for members or  
24

1 former members, or a combination thereof, of the labor  
2 organizations, or

3 b. any professional, trade or occupational association  
4 for its members or former or retired members, or  
5 combination thereof, if such association:

6 (1) is composed of individuals, all of whom are or  
7 were actively engaged in the same profession,  
8 trade or occupation, and

9 (2) has been maintained in good faith for purposes  
10 other than insurance, or

11 c. an association, a trust, or the trustee or trustees of  
12 a fund established, created, or maintained for the  
13 benefit of members of one or more associations. Prior  
14 to advertising, marketing or offering such policy  
15 within this state, the association or associations, or  
16 the insurer of the association or associations, shall  
17 file evidence with the Insurance Commissioner that the  
18 association or associations shall have at the outset  
19 of transacting long-term care insurance in this state  
20 a minimum of one hundred (100) persons in the  
21 association or associations and shall have been  
22 organized and maintained in good faith for purposes  
23 other than that of obtaining insurance; shall have  
24 been in active existence for at least one (1) year;



1 and shall have a constitution and bylaws which provide  
2 that (i) the association or associations hold regular  
3 meetings not less than annually to further purposes of  
4 the members, (ii) except for credit unions, the  
5 association or associations collect dues or solicit  
6 contributions from members, and (iii) the members have  
7 voting privileges and representation on the governing  
8 board and committees. Thirty (30) days after such  
9 filing the association or associations shall be deemed  
10 to satisfy such organizational requirements, unless  
11 the Commissioner makes a finding that the association  
12 or associations do not satisfy those organizational  
13 requirements, or

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

- 17 (1) the issuance of the group policy is not contrary  
18 to the best interest of the public,  
19 (2) the issuance of the group policy would result in  
20 economies of acquisition or administration, and  
21 (3) the benefits are reasonable in relation to the  
22 premiums charged.

23 5. "Life care community" means any arrangement pursuant to  
24 which a person contracts for a place of residence and personal care

1 services, including but not limited to services which progress from  
2 independent living to semi-dependent nursing care to acute nursing  
3 care, in consideration of a payment or payments of fees prior to the  
4 delivery of services and accommodations. Life care community shall  
5 not include the following:

- 6 a. traditional landlord and tenant agreements utilizing  
7 periodic rental and security deposit payments,
- 8 b. residential care homes licensed pursuant to the  
9 Oklahoma Residential Care Act,
- 10 c. assisted living centers and continuum of care  
11 facilities licensed pursuant to the Oklahoma Continuum  
12 of Care and Assisted Living Act, or
- 13 d. facilities licensed pursuant to the Oklahoma Nursing  
14 Home Care Act.

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

21 7. "Qualified long-term care insurance contract" means any:  
22 a. individual or group insurance contract if the contract  
23 meets the requirements of Section 7702(B) of the  
24 Internal Revenue Code, as amended, and if:

- 1 (1) the only insurance protection provided under the  
2 contract is coverage of qualified long-term care  
3 services,
- 4 (2) the contract does not pay or reimburse expenses  
5 incurred for services or items to the extent that  
6 such expenses are reimbursable under Title XVIII  
7 of the Social Security Act as amended, or would  
8 be so reimbursable but for the application of a  
9 deductible or coinsurance amount. The  
10 requirements of this subparagraph do not apply to  
11 contracts where Medicare is a secondary payor, or  
12 where the contract makes per diem or other  
13 periodic payments without regard to expenses,
- 14 (3) the contract is guaranteed renewable,
- 15 (4) the contract does not provide for a cash  
16 surrender value or other money that can be paid,  
17 assigned, pledged as collateral for a loan, or  
18 borrowed. All refunds of premiums and all  
19 policyholder dividends or similar amounts, under  
20 such contract are to be applied as a reduction in  
21 future premiums or to increase future benefits,  
22 except that a refund of the aggregate premium  
23 paid under the contract may be allowed in the  
24

1 event of death of the insured or a complete  
2 surrender or cancellation of the contract, and  
3 (5) the contract contains the consumer protection  
4 provisions set forth in Section 7702(B)(g) of the  
5 Internal Revenue Code, or

6 b. life insurance contract which provides long-term care  
7 coverage by rider or as part of the contract if the  
8 contract complies with the applicable provisions of  
9 Section 7702(B) of the Internal Revenue Code, as  
10 amended.

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

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

19 Section 4501. Group accident and health insurance is hereby  
20 declared to be that form of accident and health insurance covering  
21 groups of persons as defined below, with or without one or more  
22 members of their families or one or more of their dependents, or  
23 covering one or more members of the families or one or more  
24

1 dependents of persons in such groups, and issued upon the following  
2 basis:

3 1. Under a policy issued to an association, which has been in  
4 existence for at least twelve (12) months, including a labor union,  
5 which shall have a constitution and bylaws and which has been  
6 organized and is maintained in good faith for purposes other than  
7 that of obtaining insurance, insuring at least ten members,  
8 employees, or employees of members of the association for the  
9 benefit of persons other than the association or its officers or  
10 trustees. The term "employees" as used herein shall be deemed to  
11 include retired employees;

12 2. Under a policy issued to the trustees of a fund established  
13 by two or more employers or by one or more labor unions or by one or  
14 more employers and one or more labor unions, which trustees shall be  
15 deemed the policyholder, to insure employees of the employers or  
16 members of the unions for the benefit of persons other than the  
17 employers or the unions. The term "employees" as used herein shall  
18 be deemed to include the officers, managers and employees of the  
19 employer, and the individual proprietor or partners if the employer  
20 is an individual proprietor or partnership. The term "employees" as  
21 used herein shall be deemed to include retired employees. The  
22 policy may provide that the term "employees" shall include the  
23 trustees or their employees, or both, if their duties are  
24 principally connected with such trusteeship;

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

5           4. Under a health insurance policy issued to an employer or  
6 trustees of a fund established by an employer, who shall be deemed  
7 the policyholder insuring at least one employee of such employer for  
8 the benefit of persons other than the employer. The term "employee"  
9 as used herein shall be deemed to include the officers, managers,  
10 and employees of the employer, the individual proprietor or partners  
11 if the employer is an individual proprietor or partnership, the  
12 officers, managers, and employees of subsidiary or affiliated  
13 corporations, the individual proprietors, partners and employees of  
14 individuals and firms, if the business of the employer and such  
15 individual or firm is under common control through stock ownership,  
16 contract, or otherwise. The term "employee" as used herein shall be  
17 deemed to include retired employees and their dependents and the  
18 dependents of employees eligible for Medicare. A policy issued to  
19 insure employees of a public body may provide that the term  
20 "employees" shall include elected or appointed officials;

21           5. Under a policy issued to cover any other substantially  
22 similar group which, in the discretion of the Insurance  
23 Commissioner, may be subject to the issuance of a group accident and  
24 health policy or contract; and

1       6. Nothing in this article validates any charge or practice  
2 illegal under any rule of law or regulation governing usury, small  
3 loans, retail installment sales, or the like, or extends the  
4 application of any such rule of law or regulation to any transaction  
5 not otherwise subject thereto.

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

8       Section 5002. A. A domestic title insurer shall invest its  
9 capital accumulations, up to the sum of One Hundred Thousand Dollars  
10 (\$100,000.00), in capital investments as defined in ~~subsection A of~~  
11 section 1606 of article 16 (Investments), but subject to the  
12 exception in subsection B, below.

13       B. A domestic title insurer may invest its capital and  
14 accumulations in excess of One Hundred Thousand Dollars  
15 (\$100,000.00) in such investments as are made eligible for funds of  
16 domestic insurers by article 16; except, that any such insurer may  
17 invest an amount not exceeding fifty per cent (50%) of its combined  
18 capital and surplus in the preparation and purchase of material or  
19 plants or both necessary to enable it to engage in the business of  
20 title insurance, and such materials and plants shall be deemed to be  
21 capital funds investments and shall be valued as the actual cost  
22 thereof.

23       C. ~~Subsections B and C of section~~ Section 1606 of article 16  
24 shall not apply to domestic title insurers, nor shall such insurers

1 be subject to the limitations as to amount invested in real estate  
2 for home office and branch office purposes contained in ~~subdivision~~  
3 A subsection 1 of section 1624 of article 16.

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

6 Section 5005. A. Title insurers shall be governed by this  
7 article and, to the extent not modified by or inconsistent with the  
8 provisions of this article or the provisions of this code made  
9 applicable to such insurers, by the general laws of this state  
10 governing corporations organized for profit.

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

14 C. No new insurance law hereafter enacted shall be deemed to  
15 apply to title insurers unless they be expressly referred to  
16 therein.

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

- 21 1. Section 311 of this title, Annual Financial Statements;  
22 2. Section 615.2 of this title, Duty of Domestic Insurers and  
23 Health Maintenance Organizations to Keep Biographical Information  
24 Current;



1        3. Article 12, Unfair Practices and Frauds Act;

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

3        5. Article 16A, the Insurance Holding Company System Act;

4        6. Article 18, The Supervision and Conservation of Insurers

5 Act; and

6        7. Article 19, The Rehabilitation and Liquidation Act.

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

10        Section 6060. A. All individual and group health insurance  
11 policies providing coverage on an expense incurred basis, and all  
12 individual and group service or indemnity type contracts issued by a  
13 nonprofit corporation, including the Oklahoma State and Education  
14 Employees Group Insurance Board, which provide coverage for a female  
15 thirty-five (35) years old or older in this state, except for  
16 policies that provide coverage for specified disease or other  
17 limited benefit coverage, shall include the coverage specified by  
18 this section for a ~~routine low dose~~ mammography screening in a  
19 reimbursement amount not to exceed One Hundred Fifteen Dollars  
20 (\$115.00) for the presence of occult breast cancer. Such coverage  
21 shall not:

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

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

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

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

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

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

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

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

1 C. An applicant who has failed to pass the first examination  
2 for the license for which applied may take a second examination  
3 within thirty (30) days following the first examination. An  
4 applicant who has failed to pass the first two examinations for the  
5 license for which applied shall not be permitted to take a  
6 subsequent examination until the expiration of thirty (30) days  
7 after the last previous examination. ~~A current application and~~  
8 ~~applicable fees shall be submitted with each request to take a~~  
9 ~~subsequent examination.~~ An applicant shall take and pass the  
10 examination within one hundred eighty (180) days of the date of the  
11 initial application. If the applicant fails to pass an examination  
12 within the specified time period, the applicant shall submit a new  
13 application accompanied by any applicable fees. Examination fees  
14 for subsequent examinations shall not be waived.

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

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

21 B. Any licensee applying for renewal of a license as an  
22 adjuster shall have completed not less than twelve (12) clock hours  
23 of continuing insurance education within the previous twenty-four  
24 (24) months prior to renewal of the license. Such continuing

1 education shall cover subjects in the classes of insurance for which  
2 the adjuster is licensed. Such continuing education shall not  
3 include a written or oral examination. The Insurance Commissioner  
4 shall approve courses and providers of continuing education for  
5 insurance adjusters as required by this section.

6 The Insurance Department may use one or more of the following to  
7 review and provide a nonbinding recommendation to the Insurance  
8 Commissioner on approval or disapproval of courses and providers of  
9 continuing education:

10 1. Employees of the Insurance Commissioner;

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

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

23 C. An adjuster who, during the time period prior to renewal,  
24 participates in an approved professional designation program shall

1 be deemed to have met the biennial requirement for continuing  
2 education. ~~Course~~ Each course in the curriculum for the program  
3 shall total a minimum of twenty (20) hours. Each approved  
4 professional designation program included in this section shall be  
5 reviewed for quality and compliance every three (3) years in  
6 accordance with standardized criteria promulgated by rule.  
7 Continuation of approved status is contingent upon the findings of  
8 the review. The list of professional designation programs approved  
9 under this subsection shall be made available to producers and  
10 providers annually.

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

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

1        F. Each provider of continuing education shall, after approval  
2 by the Commissioner, submit an annual fee. A fee may be assessed  
3 for each course submission at the time it is first submitted for  
4 review and upon submission for renewal at expiration. Annual fees  
5 and course submission fees shall be set forth as a rule by the  
6 Commissioner. The fees are payable to the Insurance Commissioner  
7 and shall be deposited in the State Insurance Commissioner Revolving  
8 Fund, created in subsection C of Section 1435.23 of this title, for  
9 the purposes of fulfilling and accomplishing the conditions and  
10 purposes of the Oklahoma Producer Licensing Act and the Insurance  
11 Adjusters Licensing Act. Public-funded educational institutions,  
12 federal agencies and Oklahoma state agencies shall be exempt from  
13 this subsection.

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

21        ~~G.~~ H. If the request, proof of compliance with the continuing  
22 education requirement and fee for renewal of a license as an  
23 adjuster are filed with the Commissioner prior to the expiration of  
24 the existing license, the licensee may continue to act pursuant to

1 said license, unless revoked or suspended prior to the expiration  
2 date, until the issuance of a renewal license or until the  
3 expiration of ten (10) days after the Commissioner has refused to  
4 renew the license and has mailed notice of said refusal to the  
5 licensee. Any request for renewal filed after the date of  
6 expiration may be considered by the Commissioner as an application  
7 for a new license.

8 SECTION 26. AMENDATORY 36 O.S. 2001, Section 6602, as  
9 last amended by Section 31, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
10 2007, Section 6602), is amended to read as follows:

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

- 12 1. "Commissioner" means the Insurance Commissioner;
- 13 2. "Consumer product" means tangible personal property  
14 primarily used for personal, family, or household purposes;
- 15 3. "Department" means the Insurance Department;
- 16 4. "Gross income" means the total amount of revenue received in  
17 connection with business-related activity;
- 18 5. "Gross written premiums" means the total amount of premiums,  
19 inclusive of commissions, for which the association is obligated  
20 under service warranties issued in this state;
- 21 6. "Impaired" means having liabilities in excess of assets;
- 22 7. "Indemnify" means to undertake repair or replacement of a  
23 consumer product or a newly-constructed residential structure,  
24 including any appliances, electrical, plumbing, heating, cooling or

1 air conditioning systems, in return for the payment of a segregated  
2 premium, when the consumer product or residential structure becomes  
3 defective or suffers operational failure;

4 8. "Insolvent" means any actual or threatened delinquency  
5 including, but not limited to, any one or more of the following  
6 circumstances:

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

- 20 (1) has been in continuous operation for ten (10)  
21 years or more and has net assets in excess of  
22 Fifty Million Dollars (\$50,000,000.00),  
23 (2) submits a guarantee on a form provided by the  
24 Insurance Commissioner by rule that contains a



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

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

23 (4) submits annually to the Commissioner, within  
24 three (3) months after the end of its fiscal

1           year, a statement from an independent certified  
2           public accountant of the guaranteeing agency  
3           attesting that the net assets of the guaranteeing  
4           company meets or exceeds the net assets  
5           requirement as provided in division 1 of this  
6           subparagraph, and

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

10           b. the business of any such association is being  
11           conducted fraudulently, or

12           c. the association has knowingly overvalued its assets;

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

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

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

1        12. "Premium" means the total consideration received or to be  
2 received, by whatever name called, by an insurer or service warranty  
3 association for, or related to, the issuance and delivery of a  
4 service warranty, including any charges designated as assessments or  
5 fees for membership, policy, survey, inspection, or service or other  
6 charges. However, a repair charge is not a premium unless it  
7 exceeds the usual and customary repair fee charged by the  
8 association, provided the repair is made before the issuance and  
9 delivery of the warranty;

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

22       14. "Service warranty" means any warranty, home warranty,  
23 guaranty, extended warranty or extended guaranty, contract  
24 agreement, or other written promise entered into between a consumer

1 and a service warranty association under the terms of which there is  
2 an undertaking to indemnify against the cost of repair or  
3 replacement of a consumer product or newly-constructed residential  
4 structure, including any appliances, electrical, plumbing, heating,  
5 cooling or air conditioning systems, in return for the payment of a  
6 segregated charge by the consumer; however:

7 a. maintenance service contracts under the terms of which  
8 there are no provisions for such indemnification are  
9 expressly excluded from this definition,

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

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

1 repairs and maintenance of appliances or maintenance  
2 of the residential property,

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

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

22 15. "Service warranty association" or "association" means any  
23 person, other than an authorized insurer, issuing service  
24

1 warranties; provided, this term shall not mean any person engaged in  
2 the business of erecting or otherwise constructing a new home;

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

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

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

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

20 SECTION 28. AMENDATORY 36 O.S. 2001, Section 6615, as  
21 last amended by Section 32, Chapter 125, O.S.L. 2007 (36 O.S. Supp.  
22 2007, Section 6615), is amended to read as follows:

23 Section 6615. A. In addition to the license fees provided in  
24 the Service Warranty Insurance Act for service warranty associations

1 each such association and insurer shall, annually on or before ~~the~~  
2 ~~last day of February~~ May 1, file with the Insurance Commissioner its  
3 annual statement in the form prescribed by the Commissioner showing  
4 all premiums or assessments received by it in connection with the  
5 issuance of service warranties in this state during the preceding  
6 calendar year and other relevant financial information as deemed  
7 necessary by the Commissioner, using accounting principles which  
8 will enable the Commissioner to ascertain whether the financial  
9 requirements set forth in Section 6607 of this title have been  
10 satisfied.

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

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

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

1 Dollars (\$75.00), Five Dollars (\$5.00) for each service warranty  
2 issued that provides coverage in excess of Seventy-five Dollars  
3 (\$75.00) but not to exceed Two Hundred Fifty Dollars (\$250.00), and  
4 Ten Dollars (\$10.00) for each service warranty that provides  
5 coverage in excess of Two Hundred Fifty Dollars (\$250.00). However,  
6 associations and insurers that have contractual liability insurance  
7 in place, from a company licensed in the state, which covers one  
8 hundred percent (100%) of the claims exposure of the association or  
9 insurer on all contracts written shall be subject to an annual  
10 administrative fee of Two Thousand Five Hundred Dollars (\$2,500.00).  
11 Said fees shall be paid quarterly to the Insurance Commissioner.  
12 All such fees, up to a maximum of Two Hundred Seventy-five Thousand  
13 Dollars (\$275,000.00) per year, received by the Insurance  
14 Commissioner shall be deposited into the State Treasury to the  
15 credit of the Insurance Commissioner Revolving Fund for the payment  
16 of costs incurred by the Insurance Department in the administration  
17 of the Service Warranty Insurance Act. Amounts received in excess  
18 of the annual limitation shall be deposited to the credit of the  
19 General Revenue Fund.

20 SECTION 29. AMENDATORY 59 O.S. 2001, Section 1316, as  
21 last amended by Section 4, Chapter 386, O.S.L. 2005 (59 O.S. Supp.  
22 2007, Section 1316), is amended to read as follows:

23 Section 1316. A. 1. A bail bondsman shall neither sign nor  
24 countersign in blank any bond, nor shall the bondsman give a power



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

1 suspension or revocation, then the professional bondsman shall  
2 submit new agent appointments to the Commissioner.

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

9 B. Premium charged must be indicated on the appearance bond  
10 prior to the filing of the bond.

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

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

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

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

23 Section 1317. A. Every surety who appoints a surety bondsman  
24 or managing general agent in the state, shall give notice thereof to

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

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

18 C. Prior to issuance of a new surety appointment for a surety  
19 bondsman or managing general agent, the bondsman or agent shall file  
20 an affidavit with the Commissioner stating that no forfeitures are  
21 owed to any court, no fines are owed to the insurance department,  
22 and no premiums or indemnification for forfeitures or fines are owed  
23 to any insurer. This provision shall not require that all  
24

1 outstanding liabilities have been exonerated, but may provide that  
2 the liabilities are still being monitored by the bondsman or agent.

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

8 SECTION 31. AMENDATORY Section 1, Chapter 322, O.S.L.  
9 2006, as amended by Section 14, Chapter 326, O.S.L. 2007 (47 O.S.  
10 Supp. 2007, Section 7-600.2), is amended to read as follows:

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

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

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

23 3. The verification system shall provide for direct inquiry and  
24 response between the Department and insurance carriers, or such

1 other method of inquiry and response as agreed to by the Department  
2 and individual insurance carriers, and direct access to insurers'  
3 records by personnel authorized by the Department;

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

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

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

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

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

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

22 10. Any law enforcement officer, during a traffic stop or  
23 accident investigation, may access information from the online  
24 verification system to establish compliance with the Compulsory

1 Insurance Law and to verify the current validity of the policy  
2 described on a security verification form and produced by the  
3 operator of a motor vehicle during the traffic stop or accident  
4 investigation; and

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

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

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

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

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

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

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

3 Passed the Senate the 12th day of March, 2008.

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\_\_\_\_\_  
Presiding Officer of the Senate

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7 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

8 2008.

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Presiding Officer of the House  
of Representatives

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