

THE HOUSE OF REPRESENTATIVES  
Wednesday, April 9, 2008

Committee Substitute for  
ENGROSSED  
Senate Bill No. 2122

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 2122 - By:  
SPARKS AND BROWN of the Senate and PETERSON (RON) of the House.

An Act relating to insurance; creating the Crimes by or Affecting Persons Engaged in the Business of Insurance Act; providing short title; prohibiting certain persons from engaging or participating in the insurance business; specifying actions that the Insurance Commissioner may take regarding the enforcement of the Crimes by or Affecting Persons Engaged in the Business of Insurance Act; defining the act of doing the business of insurance in this state; providing procedures relating to the emergency cease and desist order; authorizing the Insurance Commissioner to promulgate certain rules; amending 36 O.S. 2001, Section 987, as last amended by Section 2, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007, Section 987), which relates to rate filings; specifying when certain filings shall be open to public inspection; amending 36 O.S. 2001, Sections 1435.4, 1435.5, 1435.7, as last amended by Section 3, Chapter 338, O.S.L. 2007, 1435.9, as amended by Section 16, Chapter 307, O.S.L. 2002, 1435.20, as amended by Section 4, Chapter 150, O.S.L. 2003, 1435.23, as last amended by Section 14, Chapter 125, O.S.L. 2007 and 1435.29, as last amended by Section 15, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007, Sections 1435.7, 1435.9, 1435.20, 1435.23 and 1435.29), which relate to the Oklahoma Producer Licensing Act; allowing certain penalty to be waived if application for licensure as a surplus lines broker is received within certain time period; exempting volunteer counselor assisting Medicare beneficiaries with enrollment in Medicare Part D plans from licensure; clarifying licensure requirements; modifying licensing requirement for certain nonresident producers; eliminating and adding categories for a limited lines producer license; modifying license fee; requiring Insurance Commissioner approval of resident provisional producer prelicensing education; allowing the Insurance Commissioner to certify providers and courses offered for license examination study; amending 36 O.S. 2001, Sections 1442 and 1450, as

amended by Section 10, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2007, Section 1450), which relate to the Third-party Administrator Act; modifying definition; specifying conditions regarding the eligibility of an administrator for a nonresident administrator license; defining terms; requiring certain administrators to provide certain information; amending 36 O.S. 2001, Section 1922, which relates to the Uniform Insurers Liquidation Act; specifying powers of the receiver; specifying time period for the commencement of certain actions; amending 36 O.S. 2001, Section 4424, which relates to the Long-Term Care Insurance Act; modifying definition; amending 36 O.S. 2001, Section 4501, which relates to group and blanket accident and health insurance; specifying time period for an association to be in existence with regard to certain policies; amending 36 O. S. 2001, Sections 5002 and 5005, which relate to title insurers; clarifying references; specifying laws and rules which are applicable to title insurers; amending 36 O.S. 2001, Section 6060, as amended by Section 1, Chapter 78, O.S.L. 2002 (36 O.S. Supp. 2007, Section 6060), which relates to mammography screening; eliminating references to low-dose mammography; amending 36 O.S. 2001, Sections 6210, as amended by Section 27, Chapter 125, O.S.L. 2007 and 6217, as amended by Section 29, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007, Sections 6210 and 6217), which relate to the Insurance Adjusters Licensing Act; specifying time period to take and pass certain examination; requiring a new application if applicant fails examination within the specified time period; requiring provider of continuing education to submit an annual fee; exempting certain providers from such fee; amending 36 O.S. 2001, Sections 6602, as last amended by Section 31, Chapter 125, O.S.L. 2007, 6609 and 6615, as last amended by Section 32, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2007, Sections 6602 and 6615), which relate to the Service Warranty Insurance Act; modifying definition; modifying dates; amending 59 O.S. 2001, Sections 1316, as last amended by Section 4, Chapter 386, O.S.L. 2005 and 1317, as amended by Section 1, Chapter 167, O.S.L. 2004 (59 O.S. Supp. 2007, Sections 1316 and 1317), which relate to bail bondsmen; requiring certain agreement to be submitted to the Insurance Commissioner; authorizing the Commissioner to suspend the appointment of the professional bondsman's bail agents if the bondsman's professional qualification is surrendered, suspended or revoked; providing procedures for the reinstatement of the appointment of the bail agents under certain conditions; specifying that the appointment of a surety bondsman or managing general agent is in effect until the expiration of the bail bondsman's license or the cancellation of the appointment by the Commissioner; amending Section 1,

Chapter 322, O.S.L. 2006, as amended by Section 14, Chapter 326, O.S.L. 2007 (47 O.S. Supp. 2007, Section 7-600.2), which relates to online verification systems for motor vehicle insurance; requiring cooperation of the Oklahoma Tax Commission in the development of the verification system; modifying date for which the verification system shall be installed and operational; exempting certain information from the provisions of the Oklahoma Open Records Act; repealing 36 O.S. 2001, Sections 1435.25, 1435.32, 1435.34, 1435.35, as amended by Section 11, Chapter 129, O.S.L. 2005, 1435.37 and 1924 (36 O.S. Supp. 2007, Section 1435.35), which relate to the Oklahoma Producer Licensing Act and the Uniform Insurers Liquidation Act; providing for codification; providing an effective date; and declaring an emergency.

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

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

4           Sections 1 through 6 of this act shall be known and may be cited as the “Crimes By  
5 or Affecting Persons Engaged in the Business of Insurance Act”.

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

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

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

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

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

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

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

15 1. Revoke any license or registration issued or approved by the Insurance  
16 Commissioner;

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

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

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

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

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

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

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

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

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

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

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

20 a. the execution of contracts of insurance with citizens of this or any  
21 other state,

22 b. maintaining files or records of contracts of insurance,

- 1 c. the processing of claims, and
- 2 d. the receiving or collection of any premiums, commissions, membership
- 3 fees, assessments, dues or other consideration for any insurance or any
- 4 part thereof;

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

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

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

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

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

- 1           7. Contracting to provide indemnification or expense reimbursement in this state to  
2 persons domiciled in this state or for risks located in this state, whether as an insurer,  
3 agent, administrator, trust, funding mechanism, or by any other method, for any type of  
4 medical expenses including, but not limited to, surgical, chiropractic, physical therapy,  
5 speech pathology, audiology, professional mental health, dental, hospital, or optometric  
6 expenses, whether this coverage is by direct payment, reimbursement, or otherwise;
- 7           8. The doing of any kind of insurance business specifically recognized as  
8 constituting the doing of an insurance business within the meaning of the statutes  
9 relating to insurance;
- 10          9. Ownership in whole or in part, directly or indirectly, of any entity involved in the  
11 business of insurance;
- 12          10. Acquiring or assisting others in the acquisition or attempted acquisition of any  
13 entity involved in the business of insurance;
- 14          11. Possessing a license, registration or permit issued or approved by the Insurance  
15 Commissioner;
- 16          12. Any other transactions of business in this state by an insurance company,  
17 producer, title insurance producer, adjuster, third-party administrator, service warranty  
18 association, title insurer or any other person that is licensed by or registered with the  
19 Insurance Commissioner; or
- 20          13. The doing of or proposing to do any insurance business in substance equivalent  
21 to any of the foregoing in a manner designed to evade the provisions of the statutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Section 987. Rate Filings.

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

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

20 In a noncompetitive market, the filing shall be deemed in compliance with the filing  
21 provision of this section unless the Commissioner informs the insurer within ten (10)

1 days after receipt of the filings as to what supplementary rate information or supporting  
2 information is required to complete the filing.

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

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

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

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

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

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

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

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

20 Section 1435.5 A. Nothing in the Oklahoma Producer Licensing Act shall be  
21 construed to require an insurer to obtain an insurance producer license. In this section,

1 the term "insurer" does not include an insurer's officers, directors, employees,  
2 subsidiaries or affiliates.

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

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

- 8 a. the officer, director or employee's activities are executive,  
9 administrative, managerial, clerical or a combination of these, and are  
10 only indirectly related to the sale, solicitation or negotiation of  
11 insurance, or  
12 b. the officer, director or employee's function relates to underwriting, loss  
13 control, inspection or the processing, adjusting, investigating or  
14 settling of a claim on a contract of insurance, or  
15 c. the officer, director or employee is acting in the capacity of a special  
16 agent or agency supervisor assisting insurance producers where the  
17 person's activities are limited to providing technical advice and  
18 assistance to licensed insurance producers and do not include the sale,  
19 solicitation or negotiation of insurance;

20 2. A person who secures and furnishes information for the purpose of group life  
21 insurance, group property and casualty insurance, group annuities, group or blanket  
22 accident and health insurance; or for the purpose of enrolling individuals under plans,

1 issuing certificates under plans or otherwise assisting in administering plans; or  
2 performs administrative services related to mass-marketed property and casualty  
3 insurance, where no commission is paid to the person for the service;

4 3. An employer or association or its officers, directors, employees, or the trustees of  
5 an employee trust plan, to the extent that the employers, officers, employees, director or  
6 trustees are engaged in the administration or operation of a program of employee  
7 benefits for the employer's or association's own employees or the employees of its  
8 subsidiaries or affiliates, which program involves the use of insurance issued by an  
9 insurer, as long as the employers, associations, officers, directors, employees or trustees  
10 are not in any manner compensated, directly or indirectly, by the company issuing the  
11 contracts;

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

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

21 6. A person who is not a resident of this state who sells, solicits or negotiates a  
22 contract of insurance for commercial property and casualty risks to an insured with risks

1 located in more than one state insured under that contract, provided that that person is  
2 otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in  
3 the state where the insured maintains its principal place of business and the contract of  
4 insurance insures risks located in that state; ~~or~~

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

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

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

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

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

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

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

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

17 5. Has successfully passed the examinations for the lines of authority for which the  
18 person has applied.

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

- 1           1. The business entity has paid the fees set forth in Section 1435.23 of this title;
- 2           2. The business entity has designated a licensed producer responsible for the
- 3 business entity's compliance with the insurance laws, rules and regulations of this state;
- 4           3. A domestic business entity is organized pursuant to the provisions of the laws of
- 5 this state and maintains its principal place of business in this state; and
- 6           4. No person whose license as an insurance producer has been revoked by order of
- 7 the Commissioner, nor any business entity in which such person has a majority
- 8 ownership interest, whether direct or indirect, owns any interest in the business entity
- 9 licensed as an insurance producer; ~~and~~
- 10          ~~5. The business entity has provided proof satisfactory to the Commissioner that a~~
- 11 ~~trade name has been lawfully registered for an insurance producer license to be issued in~~
- 12 ~~a trade name.~~
- 13          C. A business entity acting as an insurance producer shall notify the Commissioner
- 14 of all changes among its members, directors and officers and all other individuals
- 15 designated in the license within fifteen (15) days after the change.
- 16          D. An applicant for any license required by the provisions of the Oklahoma
- 17 Producer Licensing Act shall demonstrate to the Insurance Commissioner that the
- 18 applicant is competent, trustworthy, financially responsible, and of good personal and
- 19 business reputation.
- 20          E. The Insurance Commissioner may require any documents reasonably necessary
- 21 to verify the information contained in an application.

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

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

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

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

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

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

15 B. Any nonresident application submitted pursuant to this section shall constitute  
16 the applicant's designation of the Insurance Commissioner as the person upon whom  
17 may be served all lawful process in any action, suit, or proceeding instituted by or on  
18 behalf of any interested person arising out of the insurance business of the applicant in  
19 this state. This designation constitutes an agreement that said service of process is of  
20 the same legal force and validity as personal service of process in this state upon the  
21 nonresident licensee.

1 C. The Insurance Commissioner may verify the producer's licensing status through  
2 the Producer Database maintained by the National Association of Insurance  
3 Commissioners, its affiliates or subsidiaries.

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

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

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

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

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

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

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

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

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

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

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

19 ~~7. 2. Crop hail and multiperil crop hail - insurance providing protection against~~  
20 ~~damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect~~  
21 ~~infestation, disease or other yield-reducing conditions or perils provided by the private~~

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

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

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

9 a. is nontransferable,

10 b. applies only to the rental car that is the subject of the rental  
11 agreement, and

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

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

17 (2) liability insurance that provides protection to the renters and  
18 other authorized drivers of a rental car for liability arising from  
19 the operation or use of the rental car during the rental period,

20 (3) personal effects insurance that provides coverage to renters and  
21 other vehicle occupants for loss of, or damage to, personal effects  
22 in the rental car during the rental period,

1                   (4)    roadside assistance and emergency sickness protection  
2                                   insurance, or

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

4           4. Credit – credit life, credit disability, credit property, credit unemployment,  
5 involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability,  
6 guaranteed automobile protection insurance, or any other form of insurance offered in  
7 connection with an extension of credit that is limited to partially or wholly extinguishing  
8 that credit obligation and that is designated by the Insurance Commissioner as limited  
9 line credit insurance;

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

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

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

1 vending machine to be used is reasonably suitable and practical for the sale and issuance  
2 of said policies. Policies so sold do not have to be countersigned.

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

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

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

19 The Insurance Commissioner shall collect in advance the following fees and  
20 licenses:

- 21 1. For filing appointment of Insurance Commissioner as agent  
22 for service of process ..... \$ 20.00

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.



1	f.	Surplus lines broker's biennial license .....	\$100.00
2	g.	Insurance vending machine, each machine, biennial	
3		fee .....	\$100.00
4	h.	Insurance consultant's biennial license, resident or	
5		nonresident .....	\$100.00
6	i.	Customer service representative biennial license.....	\$ 40.00
7	j.	Insurance producer's provisional license.....	<del>\$ 40.00</del>
8			<u>\$ 20.00</u>

9       5.     Biennial fee for each appointed insurance producer,  
10             managing general agent, or limited lines producer by  
11             insurer, each license of each insurance producer or  
12             representative..... \$ 40.00

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

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

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

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

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

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

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

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

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

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

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

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

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

17 B. 1. The Insurance Commissioner shall approve courses and providers of resident  
18 provisional producer prelicensing education and continuing education. The Insurance  
19 Department may use one or more of the following to review and provide a nonbinding  
20 recommendation to the Insurance Commissioner on approval or disapproval of courses  
21 and providers of resident provisional producer prelicensing education and continuing  
22 education:

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

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

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

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

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

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

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

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

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

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

21           D. Failure of an insurance producer or customer service representative to comply  
22 with the requirements of ~~this act~~ the Oklahoma Producer Licensing Act may, after notice

1 and opportunity for hearing, result in censure, suspension, nonrenewal of license or a  
2 civil penalty of up to Five Hundred Dollars (\$500.00) or by both such penalty and civil  
3 penalty. Said civil penalty may be enforced in the same manner in which civil judgments  
4 may be enforced. Any civil penalties collected under this act shall be deposited in the  
5 State Insurance Commissioner Revolving Fund.

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

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

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

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

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

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

20 1. "Administrator" means any person who collects premiums for an insurer or trust  
21 or who adjusts or settles claims for an insurer or trust, in connection with life or health  
22 insurance coverage ~~or~~, annuities or employee benefit stop loss in this state, but shall not

1 include any person who collects premiums or who adjusts or settles claims under the  
2 following circumstances:

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

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

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

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

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

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

14 1. "Home state" means the United States jurisdiction that has adopted the Third-  
15 party Administrator Act or a substantially similar law governing third-party  
16 administrators and which has been designated by the administrator as its principal  
17 regulator. The administrator may designate either its state of incorporation or its  
18 principal place of business within the United States if that jurisdiction has adopted the  
19 Third-party Administrator Act or a substantially similar law governing third-party  
20 administrators. If neither the administrator's state of incorporation nor its principal  
21 place of business within the United States has adopted the Third-party Administrator  
22 Act or a substantially similar law governing third-party administrators, then the third-

1 party administrator shall designate a United States jurisdiction in which it does business  
2 and which has adopted the Third-party Administrator Act or a substantially similar law  
3 governing third-party administrators. For purposes of this definition, “United States  
4 jurisdiction” means the District of Columbia or a state or territory of the United States.

5 2. “Nonresident administrator” means a person who is applying for licensure or is  
6 licensed in any state other than the administrator’s home state.

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

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

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

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

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

1        ~~G.~~ H. Any person who is acting as or presenting himself or herself to be an  
2 administrator without a valid license shall be subject, upon conviction, to a fine of not  
3 less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars  
4 (\$10,000.00) for each occurrence. This fine shall be in addition to any other penalties  
5 which may be imposed for violations of the Oklahoma Insurance Code or other laws of  
6 this state.

7        ~~H.~~ I. Except as provided for in subsections ~~E~~ F and ~~F~~ G of this section, any person  
8 convicted of violating any provisions of the Third-party Administrator Act shall be guilty  
9 of a misdemeanor and shall be subject to a fine of not more than One Thousand Dollars  
10 (\$1,000.00).

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

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

17        Section 1922. ~~The monies collected by the Insurance Commissioner in a proceeding~~  
18 ~~under this article shall be from time to time deposited in one or more state or national~~  
19 ~~banks, savings banks, or trust companies, and in the case of the insolvency or voluntary~~  
20 ~~or involuntary liquidation of any such depository which is an institution organized and~~  
21 ~~supervised under the laws of this state, such deposits shall be entitled to priority of~~  
22 ~~payment on an equality with any other priority given by the banking laws of this state.~~

1 The Insurance Commissioner may in his discretion deposit such monies or any part  
2 thereof in a national bank or trust company as a trust fund

3 A. The receiver shall have the power:

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

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

12 3. To conduct litigation, including:

- 13 a. to continue to prosecute or defend, and to institute in the name of the  
14 insurer or in the receiver's own name, suits or other legal proceedings,  
15 in this state or elsewhere,
- 16 b. to abandon the prosecution of claims the receiver deems unprofitable  
17 to pursue further,
- 18 c. to collect all debts and monies due and claims belonging to the insurer,  
19 wherever located, and in furtherance of this purpose to institute action  
20 in this or other jurisdictions in order to forestall garnishment and  
21 attachment proceedings against those debts, including the power to  
22 sell, compound, compromise or assign debts for purposes of collection

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

21           The receiver shall have exclusive standing in any action that may exist to assert  
22           claims or defenses on behalf of the creditors, members, policyholders or shareholders of

1 the insurer or the public against any person, except to the extent that a claim is personal  
2 to a specific creditor, member, policyholder or shareholder and recovery on the claim  
3 would not inure to the benefit of the estate. If the receiver sells or dissolves the corporate  
4 entity or charter of the insurer, the receiver shall have the power to apply to any court in  
5 this state or elsewhere for leave to substitute the receiver for the insurer as a party. This  
6 paragraph does not infringe or impair any of the rights provided to a guaranty  
7 association pursuant to its enabling statute or otherwise;

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

17 b. to transfer rights to payment under ceding reinsurance agreements  
18 covering policies to a third-party transferee. The transferee shall have  
19 the rights to collect and enforce collection of the reinsurance for the  
20 amount payable to the ceding insurer or to its receiver, without  
21 diminution because of the insolvency or because the receiver has failed  
22 to pay all or a portion of the claim. The transfer of these rights shall

1 not give rise to any defense regarding the reinsurer's obligations under  
2 the reinsurance agreement regardless of whether the agreement or  
3 other applicable law prohibits the transfer of rights under the  
4 reinsurance agreement. Except as provided in this subparagraph, any  
5 transfer of rights pursuant to this provision shall not impair any rights  
6 or defenses of the reinsurer that existed prior to the transfer or would  
7 have existed in the absence of the transfer. Except as otherwise  
8 provided in this subparagraph, any transfer of rights pursuant to this  
9 provision shall not relieve the transferee or the receiver from  
10 obligations owed to the reinsurer pursuant to the reinsurance or other  
11 agreement, and  
12 c. to execute, acknowledge and deliver any deeds, assignments, releases  
13 and other instruments necessary or proper to effectuate any sale of  
14 property or other transaction in connection with the liquidation or  
15 rehabilitation and to file any necessary documents for record in the  
16 office of any recorder of deeds or record office in this state or elsewhere  
17 where property of the insurer is located;  
18 5. a. To use property of the estate to transfer policy obligations to a solvent  
19 assuming insurer, if the transfer can be arranged without prejudice to  
20 applicable priorities under Section 1927.1 of this title,  
21 b. to use property of the estate to transfer the insurer's obligations under  
22 surety bonds and surety undertakings, and collateral held by the

1 insurer with respect to the reimbursement obligations of the principals  
2 under those surety bonds and surety undertakings, to a solvent  
3 assuming insurer, if the transfer can be arranged without prejudice to  
4 applicable priorities under Section 1927.1 of this title; and if the  
5 receivership court so orders, the estate shall have no further liability  
6 under the transferred policies, surety bonds, or surety undertakings  
7 after the transfer is made, and  
8 c. upon the issuance of an order of liquidation and a finding of  
9 insolvency, policies or portions of policies of life, disability income,  
10 long-term care or health insurance or annuities covered by one or more  
11 guaranty associations, under applicable law, shall continue in force,  
12 subject to the terms of the policy, including any terms restructured  
13 pursuant to a court-approved rehabilitation plan, to the extent  
14 necessary to permit the guaranty associations to discharge their  
15 statutory obligations. Policies or portions of policies of life, disability  
16 income, long-term care or health insurance or annuities, not covered by  
17 one or more guaranty associations, and other types of policies, shall  
18 terminate by operation of law, except to the extent the liquidator  
19 proposes and the receivership court approves the use of property of the  
20 estate, consistent with subparagraphs a and b of this paragraph, for  
21 the purpose of continuing the contracts or coverage by transferring  
22 them to an assuming reinsurer;

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

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

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

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

16       10. To invest the assets of the estate;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           b.     This term includes group and individual health policies or riders or  
2                     group and individual life policies or annuities or riders which provide,  
3                     directly or as a supplement, coverage for long-term care, whether  
4                     issued by insurers, fraternal benefit societies, nonprofit health,  
5                     hospital, and medical service corporations, prepaid health plans,  
6                     health maintenance organizations, life care communities, or any  
7                     similar organization.
- 8           c.     This term also includes a policy or rider which provides for payment of  
9                     long-term care benefits based upon cognitive impairment or the loss of  
10                    functional capacity.
- 11          d.     Long-term care insurance shall not include any insurance policy which  
12                     is offered primarily to provide basic Medicare supplement coverage,  
13                     basic hospital expense coverage, basic medical-surgical expense  
14                     coverage, hospital confinement indemnity coverage, major medical  
15                     expense coverage, disability income protection coverage or related  
16                     asset-protection coverage, catastrophic coverage, comprehensive  
17                     coverage, accident only coverage, specified disease or specified accident  
18                     coverage, or limited benefit health coverage.
- 19          e.     With regard to life insurance, this term does not include life insurance  
20                     policies which accelerate the death benefit specifically for one or more  
21                     of the qualifying events of terminal illness, medical conditions  
22                     requiring extraordinary medical intervention, or permanent

1 institutional confinement, and which provide the option of a lump-sum  
2 payment for those benefits and in which neither the benefits nor the  
3 eligibility for the benefits is conditioned upon the receipt of long-term  
4 care.

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

8 2. "Applicant" means:

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

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

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

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

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

1           b.     any professional, trade or occupational association for its members or  
2                 former or retired members, or combination thereof, if such association:  
3                 (1)    is composed of individuals, all of whom are or were actively  
4                         engaged in the same profession, trade or occupation, and  
5                 (2)    has been maintained in good faith for purposes other than  
6                         insurance, or  
7           c.     an association, a trust, or the trustee or trustees of a fund established,  
8                 created, or maintained for the benefit of members of one or more  
9                 associations. Prior to advertising, marketing or offering such policy  
10                within this state, the association or associations, or the insurer of the  
11                association or associations, shall file evidence with the Insurance  
12                Commissioner that the association or associations shall have at the  
13                outset of transacting long-term care insurance in this state a minimum  
14                of one hundred (100) persons in the association or associations and  
15                shall have been organized and maintained in good faith for purposes  
16                other than that of obtaining insurance; shall have been in active  
17                existence for at least one (1) year; and shall have a constitution and  
18                bylaws which provide that (i) the association or associations hold  
19                regular meetings not less than annually to further purposes of the  
20                members, (ii) except for credit unions, the association or associations  
21                collect dues or solicit contributions from members, and (iii) the  
22                members have voting privileges and representation on the governing

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 board and committees. Thirty (30) days after such filing the  
2 association or associations shall be deemed to satisfy such  
3 organizational requirements, unless the Commissioner makes a  
4 finding that the association or associations do not satisfy those  
5 organizational requirements, or

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

- 8 (1) the issuance of the group policy is not contrary to the best  
9 interest of the public,
- 10 (2) the issuance of the group policy would result in economies of  
11 acquisition or administration, and
- 12 (3) the benefits are reasonable in relation to the premiums charged.

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

- 18 a. traditional landlord and tenant agreements utilizing periodic rental  
19 and security deposit payments,
- 20 b. residential care homes licensed pursuant to the Oklahoma Residential  
21 Care Act,

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~~Strike thru~~ language denotes deletion from present Statutes.

- 1 c. assisted living centers and continuum of care facilities licensed  
2 pursuant to the Oklahoma Continuum of Care and Assisted Living Act,  
3 or  
4 d. facilities licensed pursuant to the Oklahoma Nursing Home Care Act.

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

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

- 10 a. individual or group insurance contract if the contract meets the  
11 requirements of Section 7702(B) of the Internal Revenue Code, as  
12 amended, and if:

13 (1) the only insurance protection provided under the contract is coverage  
14 of qualified long-term care services,

15 (2) the contract does not pay or reimburse expenses incurred for services  
16 or items to the extent that such expenses are reimbursable  
17 under Title XVIII of the Social Security Act as amended, or  
18 would be so reimbursable but for the application of a deductible  
19 or coinsurance amount. The requirements of this subparagraph  
20 do not apply to contracts where Medicare is a secondary payor,  
21 or where the contract makes per diem or other periodic  
22 payments without regard to expenses,

1 (3) the contract is guaranteed renewable,

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

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

13 b. life insurance contract which provides long-term care coverage by rider  
14 or as part of the contract if the contract complies with the applicable  
15 provisions of Section 7702(B) of the Internal Revenue Code, as  
16 amended.

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

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

3 Section 4501. Group accident and health insurance is hereby declared to be that  
4 form of accident and health insurance covering groups of persons as defined below, with  
5 or without one or more members of their families or one or more of their dependents, or  
6 covering one or more members of the families or one or more dependents of persons in  
7 such groups, and issued upon the following basis:

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

15 2. Under a policy issued to the trustees of a fund established by two or more  
16 employers or by one or more labor unions or by one or more employers and one or more  
17 labor unions, which trustees shall be deemed the policyholder, to insure employees of the  
18 employers or members of the unions for the benefit of persons other than the employers  
19 or the unions. The term "employees" as used herein shall be deemed to include the  
20 officers, managers and employees of the employer, and the individual proprietor or  
21 partners if the employer is an individual proprietor or partnership. The term  
22 "employees" as used herein shall be deemed to include retired employees. The policy may

1 provide that the term "employees" shall include the trustees or their employees, or both,  
2 if their duties are principally connected with such trusteeship;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 3. Article 12, Unfair Practices and Frauds;

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

19 5. Article 16A, Subsidiaries of Insurers;

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

21 7. Article 19, Rehabilitation and Liquidation.

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

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

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

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

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

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

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

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

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

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

15 C. An applicant who has failed to pass the first examination for the license for  
16 which applied may take a second examination within thirty (30) days following the first  
17 examination. An applicant who has failed to pass the first two examinations for the  
18 license for which applied shall not be permitted to take a subsequent examination until  
19 the expiration of thirty (30) days after the last previous examination. ~~A current~~ An  
20 applicant shall take and pass the examination within one hundred eighty (180) days of  
21 the date of the initial application and. If the applicant fails to pass an examination  
22 within the specified time period, the applicant shall submit a new application

1 accompanied by any applicable fees shall be submitted with each request to take a  
2 Examination fees for subsequent examination examinations shall not be waived.

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

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

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

15 The Insurance Department may use one or more of the following to review and  
16 provide a nonbinding recommendation to the Insurance Commissioner on approval or  
17 disapproval of courses and providers of continuing education:

- 18 1. Employees of the Insurance Commissioner;
- 19 2. A continuing education advisory committee. The continuing education advisory  
20 committee is separate and distinct from the Advisory Board established by Section 6221  
21 of this title;

1           3. An independent service whose normal business activities include the review and  
2 approval of continuing education courses and providers. The Commissioner may  
3 negotiate agreements with such independent service to review documents and other  
4 materials submitted for approval of courses and providers and present the Commissioner  
5 with its nonbinding recommendation. The Commissioner may require such independent  
6 service to collect the fee charged by the independent service for reviewing materials  
7 provided for review directly from the course providers.

8           C. An adjuster who, during the time period prior to renewal, participates in an  
9 approved professional designation program shall be deemed to have met the biennial  
10 requirement for continuing education. ~~Course~~ Each course in the curriculum for the  
11 program shall total a minimum of twenty (20) hours. Each approved professional  
12 designation program included in this section shall be reviewed for quality and  
13 compliance every three (3) years in accordance with standardized criteria promulgated  
14 by rule. Continuation of approved status is contingent upon the findings of the review.  
15 The list of professional designation programs approved under this subsection shall be  
16 made available to producers and providers annually.

17           D. The Insurance Department may promulgate rules providing that courses or  
18 programs offered by ~~specified~~ professional associations shall qualify for presumptive  
19 continuing education credit approval. The rules shall include standardized criteria for  
20 reviewing the professional associations' mission, membership, and other relevant  
21 information, and shall provide a procedure for the Department to disallow ~~all or part of a~~  
22 presumptively approved course. Professional association courses approved in accordance

1 with this subsection shall be reviewed every three (3) years to determine whether they  
2 continue to qualify for continuing education credit.

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

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

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

1           G. H. If the request, proof of compliance with the continuing education requirement  
2 and fee for renewal of a license as an adjuster are filed with the Commissioner prior to  
3 the expiration of the existing license, the licensee may continue to act pursuant to said  
4 license, unless revoked or suspended prior to the expiration date, until the issuance of a  
5 renewal license or until the expiration of ten (10) days after the Commissioner has  
6 refused to renew the license and has mailed notice of said refusal to the licensee. Any  
7 request for renewal filed after the date of expiration may be considered by the  
8 Commissioner as an application for a new license.

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

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

13           1. “Commissioner” means the Insurance Commissioner;

14           2. “Consumer product” means tangible personal property primarily used for  
15 personal, family, or household purposes;

16           3. “Department” means the Insurance Department;

17           4. “Gross income” means the total amount of revenue received in connection with  
18 business-related activity;

19           5. “Gross written premiums” means the total amount of premiums, inclusive of  
20 commissions, for which the association is obligated under service warranties issued in  
21 this state;

22           6. “Impaired” means having liabilities in excess of assets;

1           7. “Indemnify” means to undertake repair or replacement of a consumer product or  
2 a newly-constructed residential structure, including any appliances, electrical, plumbing,  
3 heating, cooling or air conditioning systems, in return for the payment of a segregated  
4 premium, when the consumer product or residential structure becomes defective or  
5 suffers operational failure;

6           8. “Insolvent” means any actual or threatened delinquency including, but not  
7 limited to, any one or more of the following circumstances:

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

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

20                   (2)     submits a guarantee on a form provided by the Insurance  
21                   Commissioner by rule that contains a provision which requires  
22                   that the guarantee be irrevocable and contains a provision

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

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

17 (4) submits annually to the Commissioner, within three (3) months  
18 after the end of its fiscal year, a statement from an independent  
19 certified public accountant of the guaranteeing agency attesting  
20 that the net assets of the guaranteeing company meet or exceed  
21 the net assets requirement as provided in division 1 of this  
22 subparagraph, and

1                   (5)    the receivables are maintained as cash or as securities described  
2   in Sections 1607, 1608, 1610 and 1620 of this title,  
3                   b.    the business of any such association is being conducted fraudulently, or  
4                   c.    the association has knowingly overvalued its assets;  
5           9. “Insurer” means any property or casualty insurer duly authorized to transact  
6 such business in this state;  
7           10. “Net assets” means the amount by which the total assets of an association,  
8 excluding goodwill, franchises, customer lists, patents or trademarks, and receivables  
9 from or advances to officers, directors, employees, salesmen, and affiliated companies,  
10 exceed the total liabilities of the association. For purposes of the Service Warranty  
11 Insurance Act, the term “total liabilities” does not include the capital stock, paid-in  
12 capital, or retained earning of an association;  
13           11. “Person” includes an individual, company, corporation, association, insurer,  
14 agent and any other legal entity;  
15           12. “Premium” means the total consideration received or to be received, by  
16 whatever name called, by an insurer or service warranty association for, or related to,  
17 the issuance and delivery of a service warranty, including any charges designated as  
18 assessments or fees for membership, policy, survey, inspection, or service or other  
19 charges. However, a repair charge is not a premium unless it exceeds the usual and  
20 customary repair fee charged by the association, provided the repair is made before the  
21 issuance and delivery of the warranty;

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

10           14. “Service warranty” means any warranty, home warranty, guaranty, extended  
11 warranty or extended guaranty, contract agreement, or other written promise entered  
12 into between a consumer and a service warranty association under the terms of which  
13 there is an undertaking to indemnify against the cost of repair or replacement of a  
14 consumer product or newly-constructed residential structure, including any appliances,  
15 electrical, plumbing, heating, cooling or air conditioning systems, in return for the  
16 payment of a segregated charge by the consumer; however:

- 17           a.       maintenance service contracts under the terms of which there are no  
18                   provisions for such indemnification are expressly excluded from this  
19                   definition,  
20           b.       those contracts issued solely by the manufacturer, distributor,  
21                   importer or seller of the product, or any affiliate or subsidiary of the  
22                   foregoing entities, whereby such entity has contractual liability

1 insurance in place, from an insurer licensed in the state, which covers  
2 one hundred percent (100%) of the claims exposure on all contracts  
3 written without being predicated on the failure to perform under such  
4 contracts, are expressly excluded from this definition,  
5 c. the term “service warranty” does not include service contracts entered  
6 into between consumers and nonprofit organizations or cooperatives  
7 the members of which consist of condominium associations and  
8 condominium owners, which contracts require the performance of  
9 repairs and maintenance of appliances or maintenance of the  
10 residential property,  
11 d. the term “service warranty” does not include warranties, guarantees,  
12 extended warranties, extended guarantees, contract agreements or any  
13 other service contracts issued by a company which performs at least  
14 seventy percent (70%) of the service work itself and not through  
15 subcontractors, which has been selling and honoring such contracts in  
16 Oklahoma for at least twenty (20) years, and  
17 e. the term “service warranty” does not include warranties, guarantees,  
18 extended warranties, extended guarantees, contract agreements or any  
19 other service contracts issued by a company which has net assets in  
20 excess of One Hundred Million Dollars (\$100,000,000.00). The  
21 calculation of the net assets shall include the assets of a parent  
22 company. When the net assets of the parent company are used to

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 calculate the total net assets of the company, the net assets of the  
2 company issuing the policy shall total at least Twenty-five Million  
3 Dollars (\$25,000,000.00);

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

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

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

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

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

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

4 Section 6615. A. In addition to the license fees provided in the Service Warranty  
5 Insurance Act for service warranty associations each such association and insurer shall,  
6 annually on or before ~~the last day of February~~ May 1, file with the Insurance  
7 Commissioner its annual statement in the form prescribed by the Commissioner showing  
8 all premiums or assessments received by it in connection with the issuance of service  
9 warranties in this state during the preceding calendar year and other relevant financial  
10 information as deemed necessary by the Commissioner, using accounting principles  
11 which will enable the Commissioner to ascertain whether the financial requirements set  
12 forth in Section 6607 of this title have been satisfied.

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

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

20 D. Premiums and assessments received by associations and insurers for service  
21 warranties shall not be subject to the premium tax provided for in Section 624 of this  
22 title, but shall be subject to an administrative fee of Two Dollars (\$2.00) for each service

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

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

19 Section 1316. A. 1. A bail bondsman shall neither sign nor countersign in blank  
20 any bond, nor shall the bondsman give a power of attorney to, or otherwise authorize,  
21 anyone to countersign his or her name to bonds unless the person so authorized is a  
22 licensed surety bondsman or managing general agent directly employed by a licensed

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

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

1 B. Premium charged must be indicated on the appearance bond prior to the filing of  
2 the bond.

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

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

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

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

13 Section 1317. A. Every surety who appoints a surety bondsman or managing  
14 general agent in the state, shall give notice thereof to the Insurance Commissioner. The  
15 filing fee for appointment of each surety bondsman or managing general agent shall be  
16 Ten Dollars (\$10.00), payable to the Commissioner and shall be submitted with the  
17 appointment. The appointment shall remain in effect until the surety submits a notice of  
18 cancellation to the Commissioner, the bail bondsman's license expires, or the  
19 Commissioner cancels the appointment. If the surety changes the liability limitations of  
20 the surety bondsman or the managing general agent, or any other provisions of the  
21 appointment, the surety shall submit an amended appointment form and a filing fee of  
22 Ten Dollars (\$10.00) payable to the Commissioner.

**UNDERLINED** language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 B. A surety terminating the appointment of a surety bondsman or managing  
2 general agent immediately shall file written notice thereof with the Commissioner,  
3 together with a statement that it has given or mailed notice to the surety bondsman or  
4 managing general agent. The notice filed with the Commissioner shall state the reasons,  
5 if any, for the termination.

6 C. Prior to issuance of a new surety appointment for a surety bondsman or  
7 managing general agent, the bondsman or agent shall file an affidavit with the  
8 Commissioner stating that no forfeitures are owed to any court, no fines are owed to the  
9 insurance department, and no premiums or indemnification for forfeitures or fines are  
10 owed to any insurer. This provision shall not require that all outstanding liabilities have  
11 been exonerated, but may provide that the liabilities are still being monitored by the  
12 bondsman or agent.

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

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

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

- 1           1. The Oklahoma Tax Commission and the Insurance Department shall cooperate  
2 with the ~~Oklahoma Tax Commission~~ Department of Public Safety in the development of  
3 the verification system;
- 4           2. The verification system shall be accessible through the Internet, World Wide  
5 Web or a similar proprietary or common carrier electronic system by authorized  
6 personnel of the Department, the Oklahoma Tax Commission, the courts, law  
7 enforcement personnel, and any other entities authorized by the Department;
- 8           3. The verification system shall provide for direct inquiry and response between the  
9 Department and insurance carriers, or such other method of inquiry and response as  
10 agreed to by the Department and individual insurance carriers, and direct access to  
11 insurers' records by personnel authorized by the Department;
- 12           4. The verification system shall be available twenty-four (24) hours a day to verify  
13 the insurance status of any vehicle registered in this state through the vehicle's  
14 identification number, policy number, registered owner's name or other identifying  
15 characteristic or marker as prescribed by the Department in its rules;
- 16           5. The Department shall conduct a pilot project to test the system prior to  
17 statewide use;
- 18           6. The verification system shall be installed and operational no later than ~~July 1~~  
19 December 31, 2008, following an appropriate testing period;
- 20           7. The Department may contract with a private vendor to assist in establishing and  
21 maintaining the verification system;

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

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

6           10. Any law enforcement officer, during a traffic stop or accident investigation, may  
7 access information from the online verification system to establish compliance with the  
8 Compulsory Insurance Law and to verify the current validity of the policy described on a  
9 security verification form and produced by the operator of a motor vehicle during the  
10 traffic stop or accident investigation; and

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

15           B. This section shall not apply to a policy issued pursuant to paragraph 3 of  
16 subsection A of Section 7-601.1 of this title or paragraph 3 of subsection A of Section 7-  
17 602 of this title to insure a commercial motor vehicle.

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

1 SECTION 32. REPEALER 36 O.S. 2001, Sections 1435.25, 1435.32, 1435.34,  
2 1435.35, as amended by Section 11, Chapter 129, O.S.L. 2005, 1435.37 and 1924 (36 O.S.  
3 Supp. 2007, Section 1435.35), are hereby repealed.

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

5 SECTION 34. It being immediately necessary for the preservation of the public  
6 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
7 this act shall take effect and be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND  
9 FINANCIAL SERVICES, dated 04-08-08 - DO PASS, As Amended.