

EHB 1963

THE STATE SENATE
Monday, April 2, 2007

ENGROSSED

House Bill No. 1963

As Amended

ENGROSSED HOUSE BILL NO. 1963 - By: PETERSON (Ron) of the House and BROWN of the Senate.

[insurance - requirements of certain insurance policies - Insurance Adjusters Licensing Act - clarifying grounds for certain actions by Insurance Commissioner - effective date]

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

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

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

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

a. The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by

1 conditions pertaining to their employment. The policy
2 may provide that the term "employees" shall include
3 the employees of one or more subsidiary corporations,
4 and the employees, individual proprietors and partners
5 of one or more affiliated corporations, proprietors or
6 partnerships if the business of the employer and of
7 such affiliated corporations, proprietors or
8 partnerships is under common control through stock
9 ownership or contract, or otherwise. The policy may
10 provide that the term "employees" shall include the
11 individual proprietor or partners if the employer is
12 an individual proprietor or a partnership. The policy
13 may provide that the term "employees" shall include
14 retired employees. No director of a corporate
15 employer shall be eligible for insurance under the
16 policy unless such a person is otherwise eligible as a
17 bona fide employee of the corporation by performing
18 services other than the usual duties of a director.
19 No individual proprietor or partner shall be eligible
20 for insurance under the policy unless he is actively
21 engaged in and devotes a substantial part of his time
22 to the conduct of the business of the proprietor or
23 partnership. The policy may provide that the term

1 "employees" shall include the trustees or their
2 employees, or both, if their duties are principally
3 connected with such trusteeship. A policy issued to
4 insure the employees of a public body may provide that
5 the term "employee" shall include elected or appointed
6 officials.

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

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

4 2. A policy issued to a creditor, who shall be deemed to be the
5 policyholder, to insure debtors of the creditor. Credit unions and
6 associations formed for the purpose of making loans to their members
7 shall be deemed to be creditors within the meaning of this section.
8 Policies issued to a creditor to insure debtors of the creditor are
9 subject to the following requirements:

10 a. The debtors eligible for insurance under the policy
11 shall be all of the debtors of the creditor or all of
12 any class or classes thereof determined by conditions
13 pertaining to the indebtedness or to the purchase
14 giving rise to the indebtedness. The policy may
15 provide that the term "debtors" shall include the
16 debtors of one or more subsidiary corporations, and
17 the debtors of one or more affiliated corporations,
18 proprietors or partnerships if the business of the
19 policyholder and of such affiliated corporations,
20 proprietors or partnerships is under common control
21 through stock ownership, contract or otherwise.

22 b. The premium for the policy shall be paid by the
23 policyholder, either from the creditor's funds, or

1 from charges collected from the insured debtors, or
2 from both. A policy on which part or all of the
3 premium is to be derived from the collection from the
4 insured debtors of identifiable charges not required
5 of uninsured debtors shall not include, in the class
6 or classes of debtors eligible for insurance, debtors
7 under obligation outstanding at its date of issue
8 without evidence of individual insurability unless at
9 least seventy-five percent (75%) of the then eligible
10 debtors elect to pay the required charges. A policy
11 on which no part of the premium is to be derived from
12 the collection of such identifiable charges must
13 insure all eligible debtors, or all except any as to
14 whom evidence of individual insurability is not
15 satisfactory to the insurer.

16 c. The policy may be issued only if the group of eligible
17 debtors is then receiving new entrants at the rate of
18 at least one hundred persons yearly, or may reasonably
19 be expected to receive at least one hundred new
20 entrants during the first policy year, and only if the
21 policy reserves to the insurer the right to require
22 evidence of individual insurability if less than

1 seventy-five percent (75%) of the new entrants become
2 insured.

3 d. The amount of insurance on the life of any debtor
4 shall at no time exceed the amount owed by him which
5 is repayable to the creditor, or One Hundred Thousand
6 Dollars (\$100,000.00), whichever is less, provided
7 further, no company licensed to do business in this
8 state shall issue in excess of One Hundred Thousand
9 Dollars (\$100,000.00) group credit life insurance on
10 one individual in the State of Oklahoma.

11 e. The insurance shall be payable to the policyholder.
12 Such payment shall reduce or extinguish the unpaid
13 indebtedness of the debtor to the extent of such
14 payment;

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

19 a. The members eligible for insurance under the policy
20 shall be all of the members of the union, or all of
21 any class or classes thereof determined by conditions
22 pertaining to their employment, or to membership in
23 the union, or both.

- 1 b. The premium for the policy shall be paid by the
2 policyholder, either wholly from the union's funds, or
3 partly from such funds and partly from funds
4 contributed by the insured members specifically for
5 their insurance, or from funds contributed wholly by
6 the insured members. ~~A policy on which part or all of~~
7 ~~the premium is to be derived from funds contributed by~~
8 ~~the insured members specifically for their insurance~~
9 ~~may be placed in force only if at least seventy five~~
10 ~~percent (75%) of the then eligible members, excluding~~
11 ~~any as to whom evidence of individual insurability is~~
12 ~~not satisfactory to the insurer, elect to make the~~
13 ~~required contributions.~~ A policy on which no part of
14 the premium is to be derived from funds contributed by
15 the insured members specifically for their insurance
16 must insure all eligible members or all except any as
17 to whom evidence of individual insurability is not
18 satisfactory to the insurer.
- 19 c. ~~The policy must cover at least ten members at date of~~
20 ~~issue.~~
- 21 ~~d.~~ The amount of insurance under the policy must be based
22 upon some plan precluding individual selection either
23 by the members or by the union;

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

17 a. The persons eligible for insurance shall be all of the
18 employees of the employers or all of the members of
19 the union, or all the members of an association of
20 persons, licensed by the State of Oklahoma to engage
21 in a recognized profession, or all of any class or
22 classes thereof determined by conditions pertaining to
23 their employment, or to membership in the unions, or

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

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

1 ~~excluding any as to whom evidence of insurability is~~
2 ~~not satisfactory to the insurer, elect to make the~~
3 ~~required contribution.~~ A policy on which no part of
4 the premium is to be derived from funds contributed by
5 the insured persons specifically for their insurance
6 must insure all eligible persons, or all except any as
7 to whom evidence of individual insurability is not
8 satisfactory to the insurer.

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

22 d. The amounts of insurance under the policy must be
23 based upon some plan precluding individual selection

1 either by the insured persons or by the policyholder,
2 employers, or unions;

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

15 6. A policy issued to a credit union which shall be deemed the
16 policyholder, to insure eligible members for the benefit of someone
17 other than the credit union or its officials and subject to the
18 following requirements:

19 a. The members eligible for insurance under the policy
20 shall be all the members of the credit union or all of
21 any class or classes thereof.

22 b. The premiums for the policy shall be paid by the
23 policyholder, either wholly from the credit union's

1 funds, or partly from such funds and partly from funds
2 contributed by the insured members specifically for
3 their insurance. A policy on which no part of the
4 premium is to be derived from funds contributed by the
5 insured members specifically for their insurance must
6 insure all eligible members or all except any as to
7 whom evidence of individual insurability is not
8 satisfactory to the insurer.

9 c. The amount of insurance under the policy may be based
10 on the amount of the member's savings in the credit
11 union or upon some other plan precluding individual
12 selection either by the members or by the credit
13 union;

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

18 8. A policy issued to an alumni association of an institution
19 of higher education accredited by the Oklahoma State Regents for
20 Higher Education, to insure the members thereof for the purpose set
21 forth in subsection E of Section 3604 of this title;

22 9. A policy to an association, which has a constitution and
23 bylaws and which has been organized and is maintained in good faith

1 for purposes other than that of obtaining insurance, that insures at
2 least ten members, employees, or employees of members of the
3 association or its officers or trustees. The term "employees" as
4 used in this paragraph shall include retired employees.

5 "Association" means, with respect to life insurance coverage
6 offered, an association which:

- 7 a. has been actively in existence for at least five (5)
8 years,
- 9 b. has been formed and maintained in good faith for
10 purposes other than obtaining insurance,
- 11 c. does not condition membership in the association on
12 any health status-related factor relating to an
13 individual, including an employee of an employer or a
14 dependent of an employee or association member,
- 15 d. makes life insurance coverage offered through the
16 association available to all members regardless of any
17 health status-related factor relating to such member
18 or individuals eligible for coverage through a member,
- 19 e. does not make life insurance coverage offered through
20 the association available other than in connection
21 with a member of the association, and
- 22 f. meets such additional requirements as may be imposed
23 under state law;

1 10. A policy issued to cover any other group subject to the
2 following requirements:

3 a. no such group life insurance policy shall be delivered
4 in this state unless the Commissioner of Insurance
5 finds that:

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

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

10 (3) the benefits are reasonable in relation to the
11 premiums charged, and

12 b. the premium for the policy shall be paid either from
13 the policyholder's funds or from funds contributed by
14 the covered person or from both; or

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

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

20 Section 4101.1 A. Insurance under any group life insurance
21 policy issued pursuant to subsections A, C, and D, of Section 4101
22 of this title, may ~~if seventy five percent (75%) of the then insured~~
23 ~~employees or members who then have eligible dependents elect,~~ be

1 extended to insure the dependents, or any class or classes thereof,
2 of each insured employee or member who so elects in amounts in
3 accordance with a plan which precludes individual selection ~~and for~~
4 ~~each insured dependent shall not be in excess of fifty percent (50%)~~
5 ~~of the insurance on the life of such employee or member.~~ The term
6 "dependent" is the spouse of the insured employee or member and an
7 insured employee's or member's child under twenty-one (21) years of
8 age or his or her child twenty-one (21) years or older who is
9 attending an educational institution and relying upon the insured
10 employee or member for financial support.

11 B. Premiums for the insurance on such dependents shall be paid
12 by the policyholder either wholly from policyholder's funds, or from
13 funds contributed wholly by the employees or members, or partly from
14 funds contributed by the policyholder and partly by the employees or
15 members.

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

19 D. Notwithstanding the provisions of paragraph 7 of Section
20 4103 of this title, only one certificate need be issued for each
21 family unit if a statement concerning any dependent's coverage is
22 included in such certificate.

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

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

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

7 2. "Adjuster" means either an insurance adjuster or a public
8 adjuster;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~4. The nonresident applicant shall pay the fee required for a~~
2 ~~license as a resident adjuster in this state.~~ Unless denied
3 licensure pursuant to Section 6220 of this title, a nonresident
4 applicant shall receive a nonresident adjuster license if:

5 1. The applicant has passed an examination in the applicant's
6 home state;

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

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

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

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

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

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

1 B. The requirement of an examination shall not apply to the
2 following:

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

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

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

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

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

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

6 SECTION 7. AMENDATORY 36 O.S. 2001, Section 6602, as
7 last amended by Section 1, Chapter 169, O.S.L. 2004 (36 O.S. Supp.
8 2006, Section 6602), is amended to read as follows:

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

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

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

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

7 a. an association's total liabilities exceed the total
8 assets of the association,

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

11 c. the association has knowingly overvalued its assets;

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

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

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

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

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

1 14. "Service warranty" means ~~any warranty, home warranty,~~
2 ~~guaranty, extended warranty or extended guaranty, contract~~
3 ~~agreement, or other written promise entered into between a consumer~~
4 ~~and a service warranty association under the terms of which there is~~
5 ~~an undertaking to indemnify against the cost of repair or~~
6 ~~replacement of a consumer product or newly constructed residential~~
7 ~~structure, including any appliances, electrical, plumbing, heating,~~
8 ~~cooling or air conditioning systems, in return for the payment of a~~
9 ~~segregated charge by the consumer~~ a contract or agreement for a
10 separately stated consideration for a specific duration to perform
11 the repair or replacement of property or indemnification for repair
12 or replacement for the operational or structural failure due to a
13 defect in materials or workmanship, with or without additional
14 provision for incidental payment of indemnity under limited
15 circumstances, including, but not limited to, failure due to normal
16 wear and tear, towing, rental and emergency road service, road
17 hazard, power surge, and accidental damage from handling; however:

18 a. maintenance service contracts under the terms of which
19 there are no provisions for such indemnification are
20 expressly excluded from this definition,

21 b. those contracts issued solely by the manufacturer,
22 distributor, importer or seller of the product, or any
23 affiliate or subsidiary of the foregoing entities,

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

1 e. the term "service warranty" does not include
2 warranties, guarantees, extended warranties, extended
3 guarantees, contract agreements or any other service
4 contracts, whether or not such service contracts
5 otherwise meet the definition of "service warranty",
6 issued by a company which has net assets in excess of
7 One Hundred Million Dollars (\$100,000,000.00). ~~The~~
8 ~~calculation of the net assets shall include the assets~~
9 ~~of a parent company. When the net assets of the~~
10 ~~parent company are used to calculate the total net~~
11 ~~assets of the company, A service warranty association~~
12 may use the net assets of a parent company to qualify
13 under this section if the net assets of the company
14 issuing the policy ~~shall~~ total at least Twenty-five
15 Million Dollars (\$25,000,000.00) and the parent
16 company maintains net assets of at least Seventy-five
17 Million Dollars (\$75,000,000.00);

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

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

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

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

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

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

21 C. An insurer, while authorized to transact property or
22 casualty insurance in this state, may also transact a service
23 warranty business without additional qualifications or licensure as

1 required by the Service Warranty Insurance Act, but shall be
2 otherwise subject to the provisions of the Service Warranty
3 Insurance Act.

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

7 E. An agreement which provides specified scheduled maintenance
8 services over a stated period of time does not constitute insurance
9 or a service warranty.

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

12 Section 6605. The Insurance Commissioner shall not issue or
13 renew a license to any service warranty association unless the
14 association:

15 1. Is a solvent association;

16 2. Furnishes the Insurance Department with evidence
17 satisfactory to it that the management of the association is
18 competent and trustworthy and can successfully manage the affairs of
19 the association in compliance with law;

20 3. Proposes to use and uses in its business a name together
21 with a trademark or emblem, if any, which is distinctive and not so
22 similar to the name or trademark of any other person already doing

1 business in this state as will tend to mislead or confuse the
2 public; and

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

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

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

10 Section 6607. A. An association licensed pursuant to the
11 Service Warranty Insurance Act shall maintain a funded, unearned
12 ~~premium~~ reserve account, consisting of unencumbered assets, equal to
13 a minimum of twenty-five percent (25%) of the gross written ~~premiums~~
14 consideration received on all warranty contracts in force, wherever
15 written. In the case of multiyear contracts which are offered by
16 associations having net assets of less than Five Hundred Thousand
17 Dollars (\$500,000.00) for which ~~premiums are~~ consideration is
18 collected in advance for coverage in a subsequent year, one hundred
19 percent (100%) of the ~~premiums~~ consideration for such subsequent
20 years shall be placed in the funded, unearned ~~premium~~ reserve
21 account. Additionally, an association establishing such reserve
22 account shall also place in trust with the Insurance Commissioner a
23 surety bond issued by an authorized surety having a value of not

1 less than five percent (5%) of the gross consideration received,
2 less claims paid, on the sale of the service warranties for all
3 service contracts issued and in force in this state, but in no event
4 shall the bond be less than Twenty-five Thousand Dollars
5 (\$25,000.00).

6 B. An association shall not be required to establish an
7 unearned ~~premium~~ reserve or demonstrate minimum net worth if it has
8 purchased ~~contractual liability~~ an insurance policy which
9 demonstrates to the satisfaction of the Insurance Commissioner that
10 one hundred percent (100%) of its claim exposure is covered by such
11 policy and satisfies the requirements of this section. The
12 ~~contractual liability~~ insurance shall be obtained from an insurer
13 that holds a certificate of authority to do business within the
14 state or from an insurer approved by the Commissioner as financially
15 capable of meeting the obligations incurred pursuant to the policy
16 is licensed, registered, or otherwise authorized to do business in
17 this state and that meets the requirements of subsection C of this
18 section. For the purposes of this subsection, the ~~contractual~~
19 ~~liability~~ insurance policy shall contain the following provisions:

20 1. In the event that the service warranty association is unable
21 to fulfill its obligation under contracts issued in this state for
22 any reason, including insolvency, bankruptcy, or dissolution, the
23 ~~contract liability~~ insurer will pay losses and unearned ~~premiums~~

1 consideration under such plans directly to the person making a claim
2 under the contract;

3 2. The insurer issuing the ~~contractual liability~~ insurance
4 policy shall assume full responsibility for the administration of
5 claims in the event of the inability of the association to do so;
6 and

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

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

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

16 a. maintain surplus as to policyholders and paid-in
17 capital of at least Fifteen Million Dollars
18 (\$15,000,000.00), and

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

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

3 a. maintain surplus as to policyholders and paid-in
4 capital of less than Fifteen Million Dollars
5 (\$15,000,000.00) but at least equal to Ten Million
6 Dollars (\$10,000,000.00),

7 b. demonstrate to the satisfaction of the Commissioner
8 that the company maintains a ratio of net written
9 premiums, wherever written, to surplus as to
10 policyholders and paid-in capital of not greater than
11 three to one, and

12 c. annually file copies of the audited financial
13 statements of the insurer, its NAIC Annual Statement,
14 and the actuarial certification required by and filed
15 in the state of domicile of the insurer.

16 D. No warrantor or warranty seller shall allow its gross
17 written premiums consideration to exceed seven to one ratio to net
18 assets.

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

21 E. If the gross written ~~premiums~~ consideration of a warrantor
22 or a warranty seller ~~exceed~~ exceeds the required net asset ratios,

1 the Commissioner may require, in addition to other measures as the
2 Commissioner deems necessary, any one or more of the following:

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

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

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

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

17 C. Each service warranty contract shall contain a cancellation
18 provision. In the event the contract is canceled by the warranty
19 holder, return of ~~premium~~ consideration shall be based upon ninety
20 percent (90%) of the unearned pro rata ~~premium~~ consideration less
21 the actual cost of any service provided under the service warranty
22 contract. In the event the contract is canceled by the association,
23 return of ~~premium~~ consideration shall be based upon one hundred

1 percent (100%) of unearned pro rata ~~premium~~ consideration less the
2 actual cost of any service provided under the service warranty
3 contract.

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

6 1. Violates the Service Warranty Insurance Act;

7 2. Is misleading in any respect; or

8 3. Is reproduced so that any material provision is
9 substantially illegible.

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

13 Section 6615. A. In addition to the license fees provided in
14 the Service Warranty Insurance Act for service warranty associations
15 each such association and insurer shall, annually on or before the
16 last day of ~~February~~ April, file with the Insurance Commissioner its
17 annual statement in the form prescribed by the Commissioner showing
18 ~~all premiums~~ gross written consideration or assessments received by
19 it in connection with the issuance of service warranties in this
20 state during the preceding calendar year and other relevant
21 financial information as deemed necessary by the Commissioner, using
22 accounting principles which will enable the Commissioner to

1 ascertain whether the financial requirements set forth in Section
2 6607 of this title have been satisfied.

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

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

12 D. ~~Premiums~~ Consideration and assessments received by
13 associations and insurers for service warranties shall not be
14 subject to the premium tax provided for in Section 624 of this
15 title, but shall be subject to an administrative fee of Two Dollars
16 (\$2.00) for each service warranty issued that provides coverage not
17 to exceed Seventy-five Dollars (\$75.00), Five Dollars (\$5.00) for
18 each service warranty issued that provides coverage in excess of
19 Seventy-five Dollars (\$75.00) but not to exceed Two Hundred Fifty
20 Dollars (\$250.00), and Ten Dollars (\$10.00) for each service
21 warranty that provides coverage in excess of Two Hundred Fifty
22 Dollars (\$250.00). However, associations and insurers that have
23 contractual liability insurance in place, from ~~a company licensed or~~

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

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

18 Section 6616. A. Service warranty associations licensed
19 pursuant to the Service Warranty Insurance Act are subject to
20 periodic examination by the Insurance Commissioner, in the same
21 manner and subject to the same terms and conditions that apply to
22 insurers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (\$40.00) for each sales representative shall be paid by the service
2 warranty association or insurer to the Commissioner. All such
3 filing fees shall be deposited in the State Treasury to the credit
4 of the Insurance Commissioner Revolving Fund to be used for the
5 implementation of the Service Warranty Insurance Act. Any sales
6 representative utilized subsequent to the March 1 filing date shall
7 be registered with the Commissioner within ten (10) days after such
8 utilization. Pursuant to ~~Section 6619 of this title, any individual~~
9 ~~who is an attorney licensed to practice law in the State of Oklahoma~~
10 ~~or an individual licensed under the Oklahoma Real Estate License~~
11 ~~Code, Oklahoma Mortgage Broker Licensure Act, or Home Inspection~~
12 ~~Licensing Act, shall not be subject to the registration or filing~~
13 ~~fee requirements of this section.~~ No employee or sales
14 representative of a service warranty association or insurer may
15 directly or indirectly solicit or negotiate insurance contracts, or
16 hold himself out in any manner to be an insurance agent, unless so
17 qualified and licensed pursuant to Section 1421 et seq. of ~~Title 36~~
18 ~~of the Oklahoma Statutes~~ this title.

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

21 Section 6622. The Insurance Commissioner shall deny, suspend,
22 revoke, or refuse to renew or continue the registration of any sales

1 representative if it is found that any one or more of the following
2 grounds applicable to the sales representative exist:

3 1. Material misstatement, misrepresentation, or fraud in
4 registration;

5 2. The registration is willfully used to circumvent any of the
6 requirements or prohibitions of the Service Warranty Insurance Act;

7 3. Willful misrepresentation of any service warranty contract
8 or willful deception with regard to any such contract, done either
9 in person or by any form of dissemination of information or
10 advertising;

11 4. In the adjustment of claims arising out of warranties,
12 material misrepresentation to a service warranty holder or other
13 interested party of the terms and coverage of a contract with the
14 intent and for the purpose of effecting settlement of such claim on
15 less favorable terms than those provided in and contemplated by the
16 contract;

17 5. Demonstrated lack of fitness or trustworthiness to engage in
18 the business of service warranty;

19 6. Demonstrated lack of adequate knowledge and technical
20 competence to engage in the transactions authorized by the
21 registration;

22 7. Fraudulent or dishonest practices in the conduct of business
23 under the registration;

1 8. Misappropriation, conversion, or unlawful withholding of
2 moneys belonging to an association, insurer, or warranty holder, or
3 to others, and received in the conduct of business under the
4 registration;

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

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

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

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

19 Section 6626. A. If, pursuant to procedures provided for in
20 the Service Warranty Insurance Act, it is found that one or more
21 grounds exist for the suspension, revocation, or refusal to renew or
22 continue any registration issued under the Service Warranty
23 Insurance Act, on a first offense and except when such suspension,

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

20 B. The order may allow the registrant a reasonable period, not
21 to exceed thirty (30) days, within which to pay to the Insurance
22 Commissioner the amount of the penalty so imposed. If the
23 registrant fails to pay the penalty in its entirety to the

1 Commissioner within the period allowed, the registration of the
2 registrant shall stand suspended or revoked or renewal or
3 continuation may be refused, as the case may be, upon expiration of
4 such period and without any further proceedings.

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

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

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

20 Section 6631. A. Any person damaged by a violation of the
21 provisions of the Service Warranty Insurance Act may bring a civil
22 action against a person violating such provisions in the district
23 court of the county in which the alleged violator resides or has his

1 principal place of business or in the county in which the alleged
2 violation occurred. Upon adverse adjudication, the defendant shall
3 be liable for actual damages or Five Hundred Dollars (\$500.00)
4 whichever is greater, together with court costs and reasonable
5 attorney's fees incurred by the plaintiff. Liability under this
6 section shall not exceed Fifty Thousand Dollars (\$50,000.00) in the
7 aggregate for all violations of a similar nature. For purposes of
8 this section, violations shall be of a similar nature if the
9 violation consists of the same or similar course of conduct, action,
10 or practice, irrespective of the number of times the act, conduct,
11 or practice which is determined to be a violation of the Service
12 Warranty Insurance Act occurred.

13 B. This section shall not be construed to authorize a civil
14 action against the Insurance Department, its employees, or the
15 Insurance Commissioner.

16 SECTION 21. REPEALER 36 O.S. 2001, Section 6606, is
17 hereby repealed.

18 SECTION 22. This act shall become effective November 1, 2007.

19 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
20 3-29-07 - DO PASS, As Amended.