

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1658 _____
 _____ Of the printed Bill
 Page _____ Section _____ Lines _____
 _____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Ken Miller

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1658

By: Myers of the Senate

and

Sullivan of the House

7
8
9 PROPOSED COMMITTEE SUBSTITUTE

10 [Insurance Commissioner and the Insurance
11 Department - insurance and fees collected -
12 nonappropriated agency -
13 effective date]

14
15
16
17 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

18 SECTION 1. AMENDATORY Section 1, Chapter 432, O.S.L.
19 2009 (36 O.S. Supp. 2009, Section 307.3), is amended to read as
20 follows:

21 Section 307.3 A. Effective July 1, 2009, there is hereby
22 created in the State Treasury a revolving fund for the Insurance
23 Commissioner called the State Insurance Commissioner Revolving Fund.

1 The revolving fund shall be used to fund the operations of the
2 Office of the Insurance Commissioner.

3 1. Notwithstanding any other law to the contrary, the revolving
4 fund shall consist of and consolidate all funds that are or have
5 been paid or collected by the Insurance Commissioner pursuant to the
6 laws of this state and the rules of the Insurance Department except
7 that the revolving fund shall not include:

8 a. premium taxes,

9 b. monies transferred to the Attorney General's Insurance
10 Fraud Unit Revolving Fund pursuant to Section 362 of
11 this title, and

12 c. funds paid to and collected pursuant to the Oklahoma
13 Certified Real Estate Appraisers Act, ~~Section~~ Sections
14 858-700 ~~et seq.~~ through 858-732 of Title ~~36~~ 59 of the
15 Oklahoma Statutes.

16 2. The revolving fund shall be a continuing fund, not subject
17 to fiscal year limitations. Expenditures from the revolving fund
18 shall be made pursuant to the laws of this state and the statutes
19 relating to the Insurance Department. Warrants for expenditures
20 from the revolving fund shall be drawn by the State Treasurer, based
21 on claims signed by an authorized employee or employees of the
22 Insurance Department and filed with the Director of the Office of
23 State Finance.

24

1 B. All funds collected by the Insurance Commissioner shall be
2 paid into the State Treasury weekly.

3 C. The State Treasury is authorized and directed to deduct from
4 the funds paid into the Insurance Commissioner Revolving Fund after
5 the effective date of this section a sum equal to seventy-six and
6 one half percent (76.5%) of such payment and place the same to the
7 credit of the General Revenue Fund of the state. The remainder of
8 said funds so paid and collected shall by the State Treasurer be
9 placed to the credit of the State Insurance Commissioner Revolving
10 Fund.

11 SECTION 2. AMENDATORY 36 O.S. 2001, Section 321, as last
12 amended by Section 3, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
13 Section 321), is amended to read as follows:

14 Section 321. A. ~~The Unless the~~ Insurance Commissioner ~~shall~~
15 ~~collect in advance~~ has set forth a fee as provided for in this
16 subsection through the promulgation of a rule, the following fees
17 and licenses shall be collected in advance by the Commissioner:

- 18 1. For filing charter documents:
19 Original charter documents,
20 articles of incorporation, bylaws,
21 or record of organization of alien
22 or foreign insurers, or certified
23 copies thereof.....\$50.00

24 2. Certificate of Authority:

1	(a) Issuance:	
2	Fraternal benefit societies,	
3	alien or foreign.....	\$150.00
4	Hospital service and medical	
5	indemnity corporations, alien	
6	or foreign.....	\$150.00
7	All other alien or foreign	
8	insurers.....	\$150.00
9	(b) Renewal:	
10	Fraternal benefit societies,	
11	alien or foreign.....	\$150.00
12	Hospital service and medical	
13	indemnity corporations, alien	
14	or foreign.....	\$150.00
15	All other alien or foreign	
16	insurers.....	\$150.00
17	3. For filing appointment of Insurance	
18	Commissioner as agent for service	
19	of process.....	\$10.00
20	4. Miscellaneous:	
21	(a) Copies of records, per page.....	\$0.40
22	(b) Amended charter documents,	
23	articles of incorporation or	
24	bylaws of domestic, alien or	

1	foreign insurers or health	
2	maintenance organizations.....	\$50.00
3	(c) Certificate of Commissioner,	
4	under seal.....	\$5.00
5	(d) For filing Merger and	
6	Acquisition Forms.....	\$1,000.00
7	(e) For filing Variable Product	
8	Forms.....	\$200.00
9	(f) For filing a Life, Accident	
10	and Health Policy and Health	
11	Maintenance Organization	
12	contract.....	\$50.00
13	(g) For filing an advertisement or	
14	rider application to a Life,	
15	Accident and Health Policy and	
16	Health Maintenance	
17	Organization contract.....	\$25.00
18	(h) Pending Company Review.....	\$1,000.00
19	(i) For filing a Viatical	
20	Settlement Contract or Life	
21	Settlement.....	\$50.00
22	(j) For filing an advertisement	
23	for Viatical Settlement or	
24	Life Settlement.....	\$25.00

- (k) For filing application for Viatical Settlement or Life Settlement Contract.....\$25.00
- (l) Miscellaneous form filing.....\$25.00

B. ~~There~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, there shall be assessed an annual fee of Five Hundred Dollars (\$500.00) payable by each insurer, health maintenance organization, fraternal benefit society, hospital service and medical indemnity corporation, charitable and benevolent corporation, or United States surplus lines insurance companies licensed to do business in this state, to pay for the filing, processing, and reviewing of annual and quarterly financial statements by personnel of the Office of the State Insurance Commissioner.

SECTION 3. AMENDATORY 36 O.S. 2001, Section 348.1, as last amended by Section 5, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009, Section 348.1), is amended to read as follows:

Section 348.1 A. ~~The~~ Unless the Insurance Commissioner has set forth a fee as provided for in this section through the promulgation of a rule, the Commissioner shall collect the following fees and licenses for the Property and Casualty Division:

- 1. Rating organizations, statistical agents and advisory organizations:

- 1 a. Application fee for issuance of
- 2 license.....\$200.00
- 3 b. License fee.....\$500.00

4 2. Miscellaneous:

- 5 a. Certificate of Insurance Commissioner,
- 6 under seal.....\$ 20.00

- 7 b. Upon each transaction of filing of
- 8 documents required pursuant to the
- 9 provisions of Sections 3610 and 6601 of
- 10 this title:

- 11 (1) For an individual insurer.....\$ 50.00

- 12 (2) For an approved joint underwriting
- 13 association, or rating or advisory
- 14 organization:

- 15 (a) Basic fee.....\$ 50.00

- 16 (b) Additional fee for each member
- 17 or subscriber insurer.....\$ 10.00,
- 18 not to exceed.....\$500.00.

19 3. For each rate, loss cost and rule filing request pursuant to

20 the provisions of Sections 6821 and 981 et seq. of this title:

- 21 a. For an individual insurer.....\$100.00

- 22 b. For an approved joint underwriting
- 23 association, rating or advisory
- 24 organization:

- 1 (1) Basic fee.....\$100.00
- 2 (2) Additional fee for each member
- 3 or subscriber insurer.....\$ 10.00,
- 4 not to exceed.....\$500.00.

5 B. The fees, licenses, and taxes imposed by the Commissioner
6 upon persons, firms, associations, or corporations licensed pursuant
7 to this section shall be payment in full with respect thereto of and
8 in lieu of all demands for any and all state, county, district, and
9 municipal license fees, license taxes, business privilege taxes,
10 business privilege fees, and charges of every kind now or hereafter
11 imposed upon all such persons, firms, associations, or corporations.
12 This subsection shall not affect other fees, licenses and taxes
13 imposed by the Insurance Code.

14 C. Any costs incurred by the Commissioner in the process of
15 review and analysis of a filing shall be assessed against the
16 company or organization making the filing.

17 SECTION 4. AMENDATORY 36 O.S. 2001, Section 362, as last
18 amended by Section 6, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
19 Section 362), is amended to read as follows:

20 Section 362. Unless the Insurance Commissioner has set forth
21 a fee as provided for in this subsection through the promulgation of
22 a rule, an annual fee of Seven Hundred Fifty Dollars (\$750.00) shall
23 be paid to the ~~Insurance~~ Commissioner to be expended by the
24 ~~Insurance~~ Commissioner for the purposes of investigation of

1 suspected insurance fraud and civil or administrative action in
2 cases involving suspected insurance fraud. The following shall pay
3 an annual fee of Seven Hundred Fifty Dollars (\$750.00) to the
4 Insurance Department which shall be payable quarterly in the amount
5 of One Hundred Eighty-seven Dollars and fifty cents (\$187.50):
6 Life, accident and health insurers; property and casualty insurers;
7 county mutual fire insurers; mutual benefit associations; fraternal
8 benefit societies; reciprocal insurers; motor service clubs; title
9 insurers; nonprofit insurers; health maintenance organizations
10 (HMOs); service warranty associations; surplus lines carriers;
11 multiple employer welfare arrangements (MEWAs); trusts which write
12 surety policies; prepaid dental plan organizations; and accredited
13 reinsurers. The payments shall be due on or before the last day of
14 the month following each calendar quarter. Beginning in the
15 calendar year 2010, payment of the annual fee shall be made as one
16 payment of Seven Hundred Fifty Dollars (\$750.00) which shall be paid
17 on or before July 1. Within sixty (60) days after each calendar
18 quarter in which monies are collected, the Commissioner shall
19 transfer twenty-five percent (25%) of all monies collected by the
20 Insurance Department pursuant to this section to the Attorney
21 General's Insurance Fraud Unit Revolving Fund created in Section
22 19.3 of Title 74 of the Oklahoma Statutes, for use by the Attorney
23 General in the investigation and prosecution of insurance fraud.

24

1 SECTION 5. AMENDATORY 36 O.S. 2001, Section 622, as
2 amended by Section 7, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
3 Section 622), is amended to read as follows:

4 Section 622. A. Triplicate copies of legal process against an
5 insurer for whom the Insurance Commissioner is agent shall be served
6 upon the Commissioner at the principal offices of the Insurance
7 Department. When legal process against an insurer for whom the
8 Insurance Commissioner is agent is issued, it shall be served in
9 triplicate by any manner now provided by law or in lieu thereof by
10 mailing triplicate copies of such legal process in the United States
11 mails with postage prepaid to the Insurance Commissioner with return
12 receipt requested, in which event service shall be sufficient upon
13 showing of proof of mailing to the Commissioner with the return
14 receipt attached. ~~At~~ Unless the Insurance Commissioner has set
15 forth a fee as provided for in this subsection through the
16 promulgation of a rule, at the time of service the plaintiff shall
17 pay to the Insurance Commissioner Twenty Dollars (\$20.00), taxable
18 as costs in the action. Upon receiving service, the Insurance
19 Commissioner shall promptly forward a copy thereof by mail with
20 return receipt requested to the person last so designated by the
21 insurer to receive the same.

22 B. Process served upon the Insurance Commissioner and copy
23 thereof forwarded as provided in this section shall constitute
24 service upon the insurer.

1 SECTION 6. AMENDATORY 36 O.S. 2001, Section 635, as
2 amended by Section 1, Chapter 129, O.S.L. 2002 (36 O.S. Supp. 2009,
3 Section 635), is amended to read as follows:

4 Section 635. A. To meet the requirements for issuance of a
5 license and to maintain a MEWA, a MEWA either ~~must~~ shall be:

6 1. a. nonprofit,

7 b. (1) established by a trade association, industry
8 association or professional association of
9 employers or professionals that has a
10 constitution or bylaws and that has been
11 organized and maintained in good faith for a
12 continuous period of five (5) years for purposes
13 other than that of obtaining or providing
14 insurance, or

15 (2) requires membership in an association described
16 in division (1) of this subparagraph in order to
17 obtain the insurance offered by the MEWA,

18 c. operated pursuant to a trust agreement by a board of
19 trustees that has complete fiscal control over the
20 MEWA and that is responsible for all operations of the
21 MEWA. Except as provided in this paragraph, the
22 trustees ~~must~~ shall:

23 (1) be owners, shareholders, partners, officers,
24 directors, or employees of one or more employers

1 in the MEWA. With the Insurance Commissioner's
2 approval, a person who is not such an owner,
3 shareholder, partner, officer, director, or
4 employee may serve as a trustee if that person
5 possesses the expertise required for ~~such~~ the
6 service. A trustee may not be an owner,
7 shareholder, partner, officer or employee of the
8 administrator or service company of the MEWA,

9 (2) have the authority to approve applications of
10 association members for participation in the
11 MEWA, and

12 (3) have the authority to contract with an authorized
13 administrator or service company to administer
14 the operations of the MEWA,

15 d. neither offered nor advertised to the public
16 generally,

17 e. operated in accordance with sound actuarial
18 principles, and

19 f. offered only after Two Hundred Thousand Dollars
20 (\$200,000.00) of cash or federally guaranteed
21 obligations of less than five-year maturity that have
22 a fixed or recoverable principal amount or ~~such~~ other
23 investments as the Commissioner may authorize by rule
24 is titled in ~~such~~ a manner that it may not be traded,

1 sold or otherwise expended without the consent of the
2 Insurance Commissioner; provided, ~~said~~ the funds shall
3 be taken into account in determining whether the MEWA
4 is actuarially sound, and evidence of ~~said~~ the
5 investment shall be filed with the State Treasurer; or

6 2. a. operated pursuant to a trust agreement for a trust
7 which has its situs in this state, is operated
8 pursuant to a trust agreement by a board of trustees
9 that has complete fiscal control over the MEWA, is
10 responsible for all operations of the MEWA, and which
11 has as one of its trustees a financial institution
12 which is independent of the entity which established
13 the MEWA. Except as provided in this paragraph, the
14 board of trustees ~~must~~ shall have owners,
15 shareholders, partners, officers, directors or
16 employees of one or more employers in the MEWA. With
17 the Insurance Commissioner's approval, a person who is
18 not such an owner, shareholder, partner, officer,
19 director or employee may serve as a trustee if that
20 person possesses the expertise required for ~~such~~ the
21 service. A trustee shall not be an owner,
22 shareholder, partner, officer, director or employee of
23 the administrator or service company of the MEWA,
24

1 b. operated and administered in a manner that causes all
2 assets of the MEWA to be held in trust until paid
3 either:

4 (1) for the benefit of individuals who receive
5 medical, dental or similar benefits from the
6 MEWA, or

7 (2) for the expenses of the MEWA, such as the fees of
8 the trustee, licensed agents, administrator,
9 service company, and all expenses of complying
10 with the provisions of Sections 633 through 650
11 of this act title,

12 c. offered only to employers for the benefit of their
13 employees,

14 d. operated in accordance with sound actuarial
15 principles, and

16 e. offered only after Two Hundred Thousand Dollars
17 (\$200,000.00) of cash or federally guaranteed
18 obligations of less than five-year maturity that have
19 a fixed or recoverable principal amount or such other
20 investments as the Commissioner may authorize by rule
21 is titled in ~~such~~ a manner that it may not be traded,
22 sold or otherwise expended without the consent of the
23 Insurance Commissioner; provided, ~~said~~ the funds shall
24 be taken into account in determining whether the MEWA

1 is actuarially sound, and evidence of ~~said~~ the
2 investment shall be filed with the State Treasurer.

3 B. 1. The MEWA shall issue to each covered employee a policy,
4 contract, certificate, summary plan description, or other evidence
5 of the benefits and coverages provided. The policy, contract,
6 certificate, summary plan description, or other evidence of the
7 benefits, coverages provided, premium rates to be charged and any
8 contracts between the MEWA and any administrator or service company,
9 including any changes to those documents, ~~must~~ shall be filed with
10 the Oklahoma Insurance Department. The evidence of benefits and
11 coverages provided shall contain, in boldface type on the face page
12 of the policy and the certificate, the following statement: "THE
13 BENEFITS AND COVERAGES DESCRIBED HEREIN ARE PROVIDED THROUGH A TRUST
14 FUND ESTABLISHED BY A GROUP OF EMPLOYERS (name of MEWA). THE TRUST
15 FUND IS NOT SUBJECT TO ANY INSURANCE GUARANTY ASSOCIATION. OTHER
16 RELATED FINANCIAL INFORMATION IS AVAILABLE FROM YOUR EMPLOYER OR
17 FROM THE (name of MEWA). EXCESS INSURANCE IS PROVIDED BY A LICENSED
18 INSURANCE COMPANY TO COVER CERTAIN CLAIMS WHICH EXCEED CERTAIN
19 AMOUNTS. THIS IS THE ONLY SOURCE OF FUNDING FOR THESE BENEFITS AND
20 COVERAGES."

21 2. If applicable, the same documents shall contain in boldface
22 type on the face page of the policy and the certificate: "THE
23 BENEFITS AND COVERAGE DESCRIBED HEREIN ARE FUNDED BY CONTRIBUTIONS
24

1 FROM EMPLOYERS, EMPLOYEES, AND OTHER INDIVIDUALS ELIGIBLE FOR
2 COVERAGE."

3 3. Any statement required by this subsection is not required on
4 identification cards issued to covered employees or other insureds.

5 C. The Commissioner shall not grant or continue a license to
6 any MEWA if the Commissioner reasonably deems that:

7 1. Any trust, manager or administrator is incompetent,
8 untrustworthy, or so lacking in insurance expertise as to make the
9 operations of the MEWA hazardous to the potential and existing
10 insureds;

11 2. Any trustee, manager or administrator has been found guilty
12 of or has pled guilty or no contest to a felony, a crime involving
13 moral turpitude, or a crime punishable by imprisonment of one (1)
14 year or more under the law of any state or country, whether or not a
15 judgment or conviction has been entered; or

16 3. Any trustee, manager or administrator has had any type of
17 insurance license justifiably revoked in this or any other state.

18 D. To qualify for and retain a license, a MEWA shall file all
19 contracts with administrators or service companies with the
20 Insurance Commissioner, and report any changes in such contracts to
21 the Commissioner in advance of their implementation. The
22 Commissioner shall have the authority to cause any contract with an
23 administrator or service company to be renegotiated if the
24 Commissioner reasonably determines that the charges under any such

1 contract are excessively high in light of the services being
2 delivered under the contract.

3 E. ~~An~~ Unless the Commissioner has set forth a fee as provided
4 for in this subsection through the promulgation of a rule, an
5 initial filing fee of One Thousand Dollars (\$1,000.00) is required
6 for licensure.—~~Each~~ and each subsequent year the MEWA is in
7 operation, an annual fee of Two Hundred Fifty Dollars (\$250.00)
8 shall be required.

9 F. Failure to maintain compliance with the eligibility
10 requirements established by this section ~~is~~ shall be a ground for
11 denial, suspension or revocation of the license of a MEWA.

12 SECTION 7. AMENDATORY 36 O.S. 2001, Section 1219.4, as
13 last amended by Section 23, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
14 2009, Section 1219.4), is amended to read as follows:

15 Section 1219.4 A. As used in this section:

16 1. "Direct contract" means a contractual arrangement tying the
17 ultimate seller purporting to offer discounts through the discount
18 card to the health care provider, which expressly states the intent
19 of this agreement to be used for the purpose of offering discounts
20 on health-related purchases to uninsured or noncovered persons;

21 2. "Discount card" means a card or any other purchasing
22 mechanism or device, which is not insurance, that purports to offer
23 discounts or access to discounts in health-related purchases from
24 health care providers;

1 3. "Discount medical plan" means a business arrangement or
2 contract in which a person, in exchange for fees, dues, charges, or
3 other consideration, provides access for plan members to providers
4 of medical services and the right to receive medical services from
5 those providers at a discount. The term discount medical plan does
6 not include any product regulated as an insurance product, group
7 health service product or health maintenance organization (HMO)
8 product in the State of Oklahoma or discounts provided by an
9 insurer, group health service, or health maintenance organizations
10 (HMOs) where those discounts are provided at no cost to the insured
11 or member and are offered due to coverage with a licensed insurer,
12 group health service, or HMO;

13 4. "Discount medical plan organization" means a person or an
14 entity which operates a discount medical plan;

15 5. "Health care provider" means any person or entity licensed
16 by this state to provide health care services including, but not
17 limited to, physicians, hospitals, home health agencies, pharmacies,
18 and dentists;

19 6. "Health care provider network" means an entity which
20 directly contracts with physicians and hospitals and has contractual
21 rights to negotiate on behalf of those health care providers with a
22 discount medical plan organization to provide medical services to
23 members of the discount medical plan organization;

24

1 7. "Marketer" means a person or entity who markets, promotes,
2 sells or distributes a discount medical plan, including a private
3 label entity that places its name on and markets or distributes a
4 discount medical plan but does not operate a discount medical plan;

5 8. "Medical services" means any care, service or treatment of
6 illness or dysfunction of, or injury to, the human body including,
7 but not limited to, physician care, inpatient care, hospital
8 surgical services, emergency services, ambulance services, dental
9 care services, vision care services, mental health services,
10 substance abuse services, chiropractic services, podiatric care
11 services, laboratory services, and medical equipment and supplies.
12 The term does not include pharmaceutical supplies or prescriptions;

13 9. "Member" means any person who pays fees, dues, charges, or
14 other consideration for the right to receive the purported benefits
15 of a discount medical plan; and

16 10. "Person" means an individual, corporation, business trust,
17 estate, trust, partnership, association, joint venture, limited
18 liability company, or any other government or commercial entity.

19 B. 1. Before doing business in this state as a discount
20 medical plan organization, an entity shall be a corporation, limited
21 liability corporation, partnership, limited liability partnership or
22 other legal entity, organized under the laws of this state or, if a
23 foreign entity, authorized to transact business in this state, and
24 shall be registered as a discount medical plan organization with the

1 Insurance Department of the State of Oklahoma or be licensed by the
2 Insurance Department of the State of Oklahoma as a licensed
3 insurance company, licensed HMO, licensed group health service
4 organization or motor service club.

5 2. ~~To~~ Unless the Insurance Commissioner has set forth a fee as
6 provided for in this paragraph through the promulgation of a rule,
7 to register as a discount medical plan organization, an applicant
8 shall:

9 a. file with the Insurance Department of the State of
10 Oklahoma an application on the form that the Insurance
11 Commissioner requires, and

12 b. pay to the Department an application fee of Two
13 Hundred Fifty Dollars (\$250.00).

14 3. A registration is valid for a one-year term.

15 4. A registration expires one year following the registration
16 unless it is renewed as provided in this subsection.

17 5. ~~Before~~ Unless the Insurance Commissioner has set forth a fee
18 as provided for in this paragraph through the promulgation of a
19 rule, before it expires, a registrant may renew the registration for
20 an additional one-year term if the registrant:

21 a. otherwise is entitled to be registered,

22 b. files with the Department a renewal application on the
23 form that the Insurance Commissioner requires, and
24

1 c. pays to the Department a renewal fee of Two Hundred
2 Fifty Dollars (\$250.00).

3 6. The Insurance Commissioner may deny a registration to an
4 applicant or refuse to renew, suspend, or revoke the registration of
5 a registrant if the applicant or registrant, or an officer,
6 director, or employee of the applicant or registrant:

7 a. makes a material misstatement or misrepresentation in
8 an application for registration,

9 b. fraudulently or deceptively obtains or attempts to
10 obtain a registration for the applicant or registrant
11 or for another,

12 c. in connection with the administration of a health care
13 discount program, commits fraud or engages in illegal
14 or dishonest activities, or

15 d. has violated any provisions of this section.

16 7. Prior to registration by the Insurance Department of the
17 State of Oklahoma, each discount medical plan organization shall
18 establish an Internet web site.

19 8. All amounts collected as registration or renewal fees shall
20 be deposited into the General Revenue Fund.

21 9. Nothing in this subsection shall require a provider who
22 provides discounts to his or her own patients to obtain and maintain
23 a registration as a discount medical plan organization.
24

1 10. a. Nothing in this subsection shall apply to an affiliate
2 of a licensed insurance company, HMO, group health
3 service organization or motor service club, provided
4 that the affiliate registers with and maintains
5 registration in good standing with the Insurance
6 Department of the State of Oklahoma in accordance with
7 subparagraphs b and c of this paragraph.

8 b. ~~A~~ Unless the Insurance Commissioner has set forth a
9 fee as provided for in this subparagraph through the
10 promulgation of a rule, an affiliate shall register as
11 a discount medical plan organization on a form
12 prescribed by the Insurance Commissioner prior to the
13 sale, marketing or solicitation of a discount medical
14 plan and pay an application fee of One Hundred Dollars
15 (\$100.00).

16 c. A registration shall expire one (1) year after the
17 date of registration, and each year on that date
18 thereafter. ~~A~~ Unless the Insurance Commissioner has
19 set forth a fee as provided for in this subparagraph
20 through the promulgation of a rule, a registrant may
21 renew the registration if the registrant pays an
22 annual registration fee of One Hundred Dollars
23 (\$100.00) and remains in good standing with the
24 Insurance Department of the State of Oklahoma.

1 d. For purposes of this section, "affiliate" means a
2 person that, directly or indirectly through one or
3 more intermediaries, controls or is controlled by or
4 is under common control with an insurance company,
5 HMO, group health service organization or motor
6 service club licensed in this state.

7 C. 1. The Department may examine or investigate the business
8 and affairs of any discount medical plan organization. The
9 Department may require any discount medical plan organization or
10 applicant to produce any records, books, files, advertising and
11 solicitation materials, or other information and may take statements
12 under oath to determine whether the discount medical plan
13 organization or applicant is in violation of the law or is acting
14 contrary to the public interest. The expenses incurred in
15 conducting any examination or investigation shall be paid by the
16 discount medical plan organization or applicant. Examinations and
17 investigations shall be conducted as provided in Sections 309.1 and
18 309.3 through 309.7 of this title. Discount medical plan
19 organizations shall be governed by the provisions of this section
20 and shall not be subject to the provisions of the Insurance Code
21 unless specifically referenced.

22 2. Failure by the discount medical plan organization to pay the
23 expenses incurred under paragraph 1 of this subsection shall be
24

1 grounds for denial or revocation of the discount medical plan
2 organization's registration.

3 D. 1. A discount medical plan organization may charge a
4 reasonable one-time processing fee and a periodic charge.

5 2. If the member cancels the membership within the first thirty
6 (30) days after receipt of the discount card and other membership
7 materials, the member shall receive a reimbursement of all periodic
8 charges paid. The return of all periodic charges shall be made
9 within thirty (30) days of the date of the cancellation. If all of
10 the periodic charges have not been paid within thirty (30) days,
11 interest shall be assessed and paid on the proceeds at a rate of the
12 Treasury Bill rate of the preceding calendar year, plus two (2)
13 percentage points.

14 3. The right of cancellation shall be set out in the contract
15 on the first page, in ten-point type or larger.

16 4. If a discount medical plan charges for a time period in
17 excess of one (1) month, the plan shall, in the event of
18 cancellation of the membership by either party, make a pro rata
19 reimbursement of all periodic charges to the member.

20 E. 1. A discount medical plan organization may not:

21 a. use in its advertisements, marketing material,
22 brochures, and discount cards the terms "insurance",
23 "health plan", "coverage", "copay", "copayments",
24 "preexisting conditions", "guaranteed issue",

1 "premium", "PPO", "preferred provider organization",
2 or other terms in a manner that could reasonably
3 mislead a person to believe that the discount medical
4 plan is health insurance,

5 b. except for hospital services, have restrictions on
6 free access to plan providers including waiting
7 periods and notification periods, or

8 c. pay providers any fees for medical services.

9 2. A discount medical plan organization may not collect or
10 accept money from a member for payment to a provider for specific
11 medical services furnished or to be furnished to the member unless
12 the organization has an active license from the Insurance Department
13 of the State of Oklahoma to act as an administrator.

14 F. 1. The following disclosures, to be printed in not less
15 than twelve-point type, shall be made in writing to any prospective
16 member and shall appear on the first page of any advertisements,
17 marketing materials or brochures relating to a discount medical
18 plan:

19 a. that the plan is not insurance,

20 b. that the plan provides discounts with certain health
21 care providers for medical services,

22 c. that the plan does not make payments directly to the
23 providers of medical services,
24

- 1 d. that the plan member is obligated to pay for all
2 health care services but will receive a discount from
3 those health care providers who have contracted with
4 the discount plan organization, and
- 5 e. the name and the location of the registered discount
6 medical plan organization, including the current
7 telephone number of the registered discount medical
8 plan organization or other entity responsible for
9 customer service for the plan, if different from the
10 registered discount medical plan organization.

11 2. If the discount medical plan is sold, marketed, or solicited
12 by telephone, the disclosures required by this section shall be made
13 orally and provided in the initial written materials that describe
14 the benefits under the discount medical plan provided to the
15 prospective or new member.

16 3. The discount card provided to members shall prominently
17 display the words "This is not insurance".

18 G. 1. All providers offering medical services to members under
19 a discount medical plan shall provide ~~such~~ the services pursuant to
20 a written agreement. The agreement may be entered into directly by
21 the health care provider or by a health care provider network to
22 which the provider belongs if the provider network has contracts
23 with the health care provider that allow the provider network to
24 contract on behalf of the health care provider.

1 2. A health care provider agreement shall provide the
2 following:

- 3 a. a description of the services and products to be
4 provided at a discount,
- 5 b. the amount or amounts of the discounts or,
6 alternatively, a fee schedule which reflects the
7 health care provider's discounted rates, and
- 8 c. a provision that the health care provider will not
9 charge members more than the discounted rates.

10 3. A health care provider agreement with a health care provider
11 network shall require that the health care provider network have
12 written agreements with its health care providers that:

- 13 a. contain the terms described in paragraph 2 of this
14 subsection,
- 15 b. authorize the health care provider network to contract
16 with the discount medical plan organization on behalf
17 of the provider, and
- 18 c. require the network to maintain an up-to-date list of
19 its contracted health care providers and to provide
20 that list on a quarterly basis to the discount medical
21 plan organization.

22 4. The discount medical plan organization shall maintain a copy
23 of each active health care provider agreement into which it has
24 entered.

1 H. 1. There shall be a written agreement between the discount
2 medical plan organization and the member specifying the benefits
3 under the discount medical plan and complying with the disclosure
4 requirements of this section.

5 2. All forms used, including the written agreement pursuant to
6 the provisions of subsection G of this section, shall first be filed
7 with the Department. Every form filed shall be identified by a
8 unique form number placed in the lower left corner of each form. A
9 Unless the Insurance Commissioner has set forth a fee as provided
10 for in this paragraph through the promulgation of a rule, a filing
11 fee of Twenty-five Dollars (\$25.00) per form shall be payable to the
12 Insurance Department of the State of Oklahoma for deposit into the
13 General Revenue Fund.

14 I. 1. Each discount medical plan organization required to be
15 registered pursuant to this section except an affiliate shall, at
16 all times, maintain a net worth of at least One Hundred Fifty
17 Thousand Dollars (\$150,000.00).

18 2. The Insurance Department of the State of Oklahoma may not
19 allow a registration unless the discount medical plan organization
20 has a net worth of at least One Hundred Fifty Thousand Dollars
21 (\$150,000.00).

22 J. 1. The Insurance Department of the State of Oklahoma may
23 suspend the authority of a discount medical plan organization to
24 enroll new members, revoke any registration issued to a discount

1 medical plan organization, or order compliance if the Department
2 finds that any of the following conditions exist:

- 3 a. the organization is not operating in compliance with
4 the provisions of this section,
- 5 b. the organization does not have the minimum net worth
6 as required by this section,
- 7 c. the organization has advertised, merchandised or
8 attempted to merchandise its services in such a manner
9 as to misrepresent its services or capacity for
10 service or has engaged in deceptive, misleading or
11 unfair practices with respect to advertising or
12 merchandising,
- 13 d. the organization is not fulfilling its obligations as
14 a discount medical plan organization, or
- 15 e. the continued operation of the organization would be
16 hazardous to its members.

17 2. If the Insurance Department of the State of Oklahoma has
18 cause to believe that grounds for the suspension or revocation of a
19 registration exist, the Department shall notify the discount medical
20 plan organization in writing, specifically stating the grounds for
21 suspension or revocation, and shall provide opportunity for a
22 hearing on the matter in accordance with the Administrative
23 Procedures Act and the Oklahoma Insurance Code.

24

1 3. When the certificate of registration of a discount medical
2 plan organization is nonrenewed, surrendered or revoked, ~~such~~ the
3 organization shall proceed, immediately following the effective date
4 of the order of revocation, or in the case of nonrenewal, the date
5 of expiration of the certificate of registration, to wind up its
6 affairs transacted under the certificate of registration. The
7 organization may not engage in any further advertising,
8 solicitation, collecting of fees, or renewal of contracts.

9 4. The Insurance Department of the State of Oklahoma shall, in
10 its order suspending the authority of a discount medical plan
11 organization to enroll new members, specify the period during which
12 the suspension is to be in effect and the conditions, if any, which
13 shall be met by the discount medical plan organization prior to
14 reinstatement of its registration to enroll new members. The order
15 of suspension is subject to rescission or modification by further
16 order of the Department prior to the expiration of the suspension
17 period. Reinstatement may not be made unless requested by the
18 discount medical plan organization; however, the Department may not
19 grant reinstatement if it finds that the circumstances for which the
20 suspension occurred still exist or are likely to reoccur.

21 K. Each discount medical plan organization required to be
22 registered pursuant to this section shall provide the Insurance
23 Department of the State of Oklahoma at least thirty (30) days'
24 advance notice of any change in the discount medical plan

1 organization's name, address, principal business address, or mailing
2 address.

3 L. Each discount medical plan organization shall maintain an
4 up-to-date list of the names and addresses of the providers with
5 which it has contracted on an Internet web site page, the address of
6 which shall be prominently displayed on all its advertisements,
7 marketing materials, brochures, and discount cards. This section
8 applies to those providers with whom the discount medical plan
9 organization has contracted directly, as well as those who are
10 members of a provider network with which the discount medical plan
11 organization has contracted.

12 M. 1. All advertisements, marketing materials, brochures and
13 discount cards used by marketers shall be approved in writing for
14 such use by the discount medical plan organization.

15 2. The discount medical plan organization shall have an
16 executed written agreement with a marketer prior to the marketer's
17 marketing, promoting, selling, or distributing the discount medical
18 plan.

19 N. The Insurance Commissioner may promulgate rules to
20 administer the provisions of this section.

21 O. Regulation of discount medical plan organizations shall be
22 done pursuant to the Administrative Procedures Act.

23 P. 1. A discount medical plan organization required to be
24 registered pursuant to this section except an affiliate shall

1 maintain a surety bond with the Insurance Department of the State of
2 Oklahoma, having at all times a value of not less than Thirty-five
3 Thousand Dollars (\$35,000.00), for use by the Department in
4 protecting plan members.

5 2. No judgment creditor or other claimant of a discount medical
6 plan organization, other than the Insurance Department of the State
7 of Oklahoma, shall have the right to levy upon the surety bond held
8 pursuant to the provisions of paragraph 1 of this subsection.

9 Q. 1. A person who knowingly and willfully operates as or aids
10 and abets another operating as a discount medical plan organization
11 in violation of subsection B of this section commits a felony,
12 punishable as provided for in Oklahoma law, as if the discount
13 medical plan organization were an unauthorized insurer, and the
14 fees, dues, charges, or other consideration collected from the
15 members by the discount medical plan organization or marketer were
16 insurance premium.

17 2. A person who collects fees for purported membership in a
18 discount medical plan but fails to provide the promised benefits
19 commits a theft, punishable as provided in Oklahoma law.

20 R. 1. In addition to the penalties and other enforcement
21 provisions of this section, the Department may seek both temporary
22 and permanent injunctive relief if:
23
24

1 a. a discount medical plan organization is being operated
2 by any person or entity that is not registered
3 pursuant to this section, or

4 b. any person, entity, or discount medical plan
5 organization has engaged in any activity prohibited by
6 this section or any rule adopted pursuant to this
7 section.

8 2. The venue for any proceeding brought pursuant to the
9 provisions of this section shall be in the district court of
10 Oklahoma County.

11 S. 1. The provisions of this section apply to the activities
12 of a discount medical plan organization that is not registered
13 pursuant to this section as if the discount medical plan
14 organization were an unauthorized insurer.

15 2. A discount medical plan organization being operated by any
16 person or entity that is not registered pursuant to this section, or
17 any person, entity or discount medical plan organization that has
18 engaged or is engaging in any activity prohibited by this section or
19 any rules adopted pursuant to this section shall be subject to the
20 Unauthorized Insurer Act as if the discount medical plan
21 organization were an unauthorized insurer, and shall be subject to
22 all the remedies available to the Insurance Commissioner under the
23 Unauthorized Insurer Act.

1 T. If the Insurance Commissioner finds that a discount medical
2 plan organization has violated any provision of this section or that
3 grounds exist for the discretionary revocation or suspension of a
4 registration, the Commissioner, in lieu of ~~such~~ the revocation or
5 suspension, may impose a fine upon the discount medical plan
6 organization in an amount not to exceed One Thousand Dollars
7 (\$1,000.00) per violation.

8 SECTION 8. AMENDATORY 36 O.S. 2001, Section 1435.23, as
9 last amended by Section 12, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
10 2009, Section 1435.23), is amended to read as follows:

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

17 ~~The~~ Unless the Commissioner has set forth a fee as provided for
18 in this subsection through the promulgation of a rule, the Insurance
19 Commissioner shall collect in advance the following fees and
20 licenses:

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

- 1 a. Certificate and Clearance of
 2 Commissioner..... \$ 3.00
- 3 b. Insurance producer's study manual:
 4 Life, Accident & Health..... not to exceed
 5 \$ 40.00
 6 Property and Casualty..... not to exceed
 7 \$ 40.00
- 8 c. For filing organizational documents of
 9 an entity applying for a license as an
 10 insurance producer..... \$ 20.00
- 11 3. Examination for license:
 12 For each examination covering laws
 13 and one or more lines of insurance.... not to exceed
 14 \$100.00
- 15 4. Licenses:
 16 a. Insurance producer's biennial license,
 17 regardless of number of companies
 18 represented..... \$ 60.00
- 19 b. Insurance producer's biennial license
 20 for sale or solicitation of separate
 21 accounts or agreements, as provided for
 22 in Section 6061 of this title..... \$ 60.00
- 23 c. Limited lines producer biennial license..... \$ 40.00
- 24 d. Temporary license as agent..... \$ 20.00

- 1 e. Managing general agent's biennial
- 2 license..... \$ 60.00
- 3 f. Surplus lines broker's biennial license..... \$100.00
- 4 g. Insurance vending machine, each machine,
- 5 biennial fee..... \$100.00
- 6 h. Insurance consultant's biennial license,
- 7 resident or nonresident..... \$100.00
- 8 i. Customer service representative biennial
- 9 license..... \$ 40.00
- 10 j. Insurance producer's provisional license \$ 20.00

11 5. Biennial fee for each appointed insurance
 12 producer, managing general agent, or limited
 13 lines producer by insurer, each license of
 14 each insurance producer or representative \$55.00

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

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

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

22 9. The administrative fee for submission of a change of legal
 23 name or address more than thirty (30) days after the change occurred
 24 shall be Fifty Dollars (\$50.00).

1 B. If for any reason an insurance producer license or
2 appointment is not issued or renewed by the Commissioner, all fees
3 accompanying the appointment or application for the license shall be
4 deemed earned and shall not be refundable except as provided in
5 Section 352 of this title.

6 C. The Insurance Commissioner, by order, may waive licensing
7 fees in extraordinary circumstances for a class of producers where
8 the Commissioner deems that the public interest will be best served.

9 SECTION 9. AMENDATORY 36 O.S. 2001, Section 1435.29, as
10 last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
11 2009, Section 1435.29), is amended to read as follows:

12 Section 1435.29 A. 1. Each insurance producer, with the
13 exception of title producers and aircraft title producers or any
14 other producer exempt by rule, shall, biennially, complete not less
15 than twenty-one (21) clock hours of continuing insurance education
16 which shall cover subjects in the lines for which the insurance
17 producer is licensed. ~~Such~~ The education may include a written or
18 oral examination.

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

24

1 3. Licensees, with the exception of title producers and
2 aircraft title producers or any other producer exempt by rule, shall
3 complete, in addition to the foregoing, three (3) clock hours of
4 ethics course work in this same period.

5 4. Each title producer and aircraft title producer shall,
6 biennially, complete not less than sixteen (16) clock hours of
7 continuing insurance education, two (2) hours of which shall be
8 ethics course work, which shall cover the line for which the
9 producer is licensed. ~~Such~~ The education may include a written or
10 oral examination.

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

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

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

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

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

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

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

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

7 Each course in the curriculum for the program shall total a
8 minimum of twenty-four (24) hours. Each approved professional
9 designation program included in this section shall be reviewed for
10 quality and compliance every three (3) years in accordance with
11 standardized criteria promulgated by rule. Continuation of approved
12 status is contingent upon the findings of the review. The list of
13 professional designation programs approved under this paragraph
14 shall be made available to producers and providers annually.

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

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

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

13 C. Annual fees and course submission fees shall be set forth as
14 a rule by the Commissioner. The fees are payable to the Insurance
15 Commissioner. Provided, public-funded educational institutions,
16 federal agencies, nonprofit organizations, not-for-profit
17 organizations, and Oklahoma state agencies shall be exempt from this
18 subsection.

19 D. Failure of an insurance producer or customer service
20 representative to comply with the requirements of the Oklahoma
21 Producer Licensing Act may, after notice and opportunity for
22 hearing, result in censure, suspension, nonrenewal of license or a
23 civil penalty of up to Five Hundred Dollars (\$500.00) or by both
24 such penalty and civil penalty. ~~Said~~ The civil penalty may be

1 enforced in the same manner in which civil judgments may be
2 enforced.

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

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

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

10 SECTION 10. AMENDATORY 36 O.S. 2001, Section 1450, as
11 last amended by Section 14, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
12 2009, Section 1450), is amended to read as follows:

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

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

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

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

23
24

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

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

18 D. ~~An~~ Unless the Commissioner has set forth a fee as provided
19 for in this subsection through the promulgation of a rule, an
20 application for an administrator's license shall be in a form
21 prescribed by the Commissioner and shall be accompanied by a fee of
22 One Hundred Dollars (\$100.00). This fee shall not be refundable if
23 the application is denied or refused for any reason by either the
24 applicant or the Commissioner.

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

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

21 G. After notice and opportunity for hearing, and upon
22 determining that the administrator has violated any of the
23 provisions of the Oklahoma Insurance Code or upon finding reasons
24 for which the issuance or nonrenewal of ~~such~~ a license could have

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

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

13 | I. Except as provided for in subsections F and G of this
14 | section, any person convicted of violating any provisions of the
15 | Third-party Administrator Act shall be guilty of a misdemeanor and
16 | shall be subject to a fine of not more than One Thousand Dollars
17 | (\$1,000.00).

18 | SECTION 11. AMENDATORY 36 O.S. 2001, Section 1661, as
19 | amended by Section 16, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
20 | Section 1661), is amended to read as follows:

21 | Section 1661. The Unless the Insurance Commissioner has set
22 | forth a fee as provided for in this section through the promulgation
23 | of a rule, the initial fee for registration required by the
24 | provisions of Section 1654 of this title shall be Two Hundred Fifty

1 Dollars (\$250.00) and an additional fee of One Hundred Dollars
2 (\$100.00) shall be payable on May 1 of each calendar year thereafter
3 so long as such registration continues.

4 SECTION 12. AMENDATORY 36 O.S. 2001, Section 3102, is
5 amended to read as follows:

6 Section 3102. A. No company shall sell, or offer for sale, any
7 motor club service without first having deposited with the Insurance
8 Commissioner the sum of Fifty Thousand Dollars (\$50,000.00), in cash
9 or securities approved by the Commissioner, or, in lieu thereof, a
10 corporate surety bond, approved by the Commissioner, in the form
11 described by the Commissioner, payable to the State of Oklahoma, in
12 the sum of One Hundred Thousand Dollars (\$100,000.00), and
13 conditioned upon the faithful performance in the sale or rendering
14 of motor club service and payment of any fines or penalties levied
15 against it for failure to comply with the provisions of this act.
16 Provided, however, that the aggregate liability of the surety for
17 all breaches of the conditions of the bond and for the payment of
18 all fines and penalties shall, in no event, exceed the amount of
19 ~~said~~ the bond.

20 B. No Certificate of Authority shall be issued by the
21 Commissioner until the company has filed with ~~him~~ the Commissioner
22 the following:
23
24

- 1 1. A formal application for the certificate in ~~such~~ the form
2 and detail as the Commissioner requires, executed under oath by its
3 president or another principal officer of the company;
- 4 2. A certified copy of its charter or articles of incorporation
5 and its bylaws, if any;
- 6 3. A certificate from the Secretary of State, State of
7 Oklahoma, in the event that it is a domestic corporation, signifying
8 that the company is in compliance with the corporation laws of the
9 State of Oklahoma;
- 10 4. A copy of its latest financial statement, or report of
11 independent audit, as the Commissioner may require; or, in the event
12 that neither is available, its most recent audited and certified
13 operating statement and balance sheet. Any ~~such~~ certified operating
14 statement, audit or audited and certified operating statement and
15 balance sheet shall be verified by the person compiling or making
16 the same and by an executive officer of the applicant;
- 17 5. A certificate from its domiciliary state regulatory
18 authority, in the event that it is a foreign corporation, to be
19 executed not more than thirty (30) days before the filing of its
20 application, signifying that it is duly authorized to do motor club
21 business in that state;
- 22 6. An explanation of its plan of doing business and copies of
23 the following:
 - 24 a. its application for membership,

- 1 b. the proposed membership certificate or identification
2 card and any proposed addendum thereto,
3 c. any individual insurance policy and any group master
4 policy and individual certificates thereunder to be
5 offered, and
6 d. any service contract to be issued; and

7 7. ~~Such~~ Any other information as the Commissioner may find
8 necessary in order to determine the applicant's qualifications.

9 C. ~~No~~ Unless the Commissioner has set forth a fee as provided
10 for in this subsection through the promulgation of a rule, no
11 Certificate of Authority shall be issued by the Commissioner until
12 the company has:

- 13 1. Paid an initial filing fee of Two Hundred Fifty Dollars
14 (\$250.00) to the General Fund of the State of Oklahoma;
15 2. Paid an annual license fee of One Hundred Dollars (\$100.00)
16 to the General Fund of the State of Oklahoma;
17 3. Had its name approved by the Commissioner under the
18 provisions of ~~Title 36 of the Oklahoma Statutes, Sections 620 and~~
19 ~~2104~~ Sections 620 and 2104 of this title, the provisions of which
20 are hereby made applicable to motor clubs;
21 4. Proved by affidavits of its officers, directors, managers
22 and individual owners of more than ten percent (10%), on a form
23 prescribed by the Commissioner, that it is not disqualified under
24

1 any provisions contained in this act or contained in the Insurance
2 Code; and

3 5. Proved to the Commissioner's satisfaction that it is a
4 separate legal entity capable of being examined by the Commissioner
5 as provided in this act.

6 D. Certificates of Authority issued hereunder shall expire
7 annually on July 1, unless sooner revoked or suspended, as
8 hereinafter provided.

9 SECTION 13. AMENDATORY Section 3, Chapter 183, O.S.L.
10 2008, as amended by Section 3, Chapter 344, O.S.L. 2008 (36 O.S.
11 Supp. 2009, Section 4055.3), is amended to read as follows:

12 Section 4055.3 A. 1. A person shall not operate as a viatical
13 settlement provider or viatical settlement broker without first
14 obtaining a license from the Insurance Commissioner of the state of
15 residence of the viator.

16 2. a. A life insurance producer who has been duly licensed
17 as a resident insurance producer with a life line of
18 authority in this state or his or her home state for
19 at least one (1) year and is licensed as a nonresident
20 producer in this state shall be deemed to meet the
21 licensing requirements of this section and shall be
22 permitted to operate as a viatical settlement broker.

23 b. Not later than thirty (30) days from the first day of
24 operating as a viatical settlement broker, the life

1 insurance producer shall notify the Commissioner that
2 he or she is acting as a viatical settlement broker on
3 a form prescribed by the Commissioner, and shall pay
4 any applicable fee to be determined by the
5 Commissioner. Notification shall include an
6 acknowledgement by the life insurance producer that he
7 or she will operate as a viatical settlement broker in
8 accordance with the Viatical Settlements Act of 2008.

9 c. The insurer that issued the policy being viaticated
10 shall not be responsible for any act or omission of a
11 viatical settlement broker or viatical settlement
12 provider arising out of or in connection with the
13 viatical settlement transaction, unless the insurer
14 receives compensation for the placement of a viatical
15 settlement contract from the viatical settlement
16 provider or viatical settlement broker in connection
17 with the viatical settlement contract.

18 3. A person licensed as an attorney, certified public
19 accountant or financial planner accredited by a nationally
20 recognized accreditation agency, who is retained to represent the
21 viator, whose compensation is not paid directly or indirectly by the
22 viatical settlement provider, may negotiate viatical settlement
23 contracts on behalf of the viator without having to obtain a license
24 as a viatical settlement broker.

1 B. Application for a viatical settlement provider or a viatical
2 settlement broker license shall be made to the Commissioner by the
3 applicant on a form prescribed by the Commissioner. ~~The~~ Unless the
4 Commissioner has set forth a fee as provided for in this subsection
5 through the promulgation of a rule, the application shall be
6 accompanied by a fee of Five Hundred Dollars (\$500.00).

7 C. ~~Licenses~~ Unless the Commissioner has set forth a fee as
8 provided for in this subsection through the promulgation of a rule,
9 licenses may be renewed from year to year on the anniversary date
10 upon payment of the annual renewal fees of Five Hundred Dollars
11 (\$500.00). Failure to pay the fees by the renewal date results in
12 expiration of the license.

13 D. The applicant shall provide information on forms required by
14 the Commissioner. The Commissioner shall have authority, at any
15 time, to require the applicant to fully disclose the identity of all
16 stockholders, partners, officers, members and employees, and the
17 Commissioner may, in the exercise of the Commissioner's discretion,
18 refuse to issue a license in the name of a legal entity if not
19 satisfied that any officer, employee, stockholder, partner or member
20 thereof who may materially influence the applicant's conduct meets
21 the standards of the Viatical Settlements Act of 2008.

22 E. A license issued to a legal entity authorizes all partners,
23 officers, members and designated employees to act as viatical
24 settlement providers, viatical settlement brokers as applicable,

1 under the license, and all those persons shall be named in the
2 application and any supplements to the application.

3 F. Upon the filing of an application and the payment of the
4 license fee, the Commissioner shall make an investigation of each
5 applicant and issue a license if the Commissioner finds that the
6 applicant:

7 1. If a viatical settlement provider, has provided a detailed
8 plan of operation;

9 2. Is competent and trustworthy and intends to act in good
10 faith in the capacity involved by the license applied for;

11 3. Has a good business reputation and has had experience,
12 training or education so as to be qualified in the business for
13 which the license is applied for;

14 4. a. If a viatical settlement provider, has demonstrated
15 evidence of financial responsibility in a format
16 prescribed by the Commissioner, through a surety bond
17 executed and issued by an insurer authorized to issue
18 surety bonds in this state, a policy of errors and
19 omissions insurance, or a deposit of cash,
20 certificates of deposit or securities or any
21 combination thereof in an amount not to exceed Fifty
22 Thousand Dollars (\$50,000.00), or

23 b. If a viatical settlement broker, has demonstrated
24 evidence of financial responsibility in a format

1 prescribed by the Commissioner, through a surety bond
2 executed and issued by an insurer authorized to issue
3 surety bonds in this state, a policy of errors and
4 omissions insurance, or a deposit of cash,
5 certificates of deposit or securities or any
6 combination thereof in an amount not to exceed Fifty
7 Thousand Dollars (\$50,000.00), or

8 c. The Commissioner may ask for evidence of financial
9 responsibility at any time the Commissioner deems
10 necessary;

11 5. If a legal entity, provides a certificate of good standing
12 from the state of its domicile; and

13 6. If a viatical settlement provider or viatical settlement
14 broker, has provided an antifraud plan that meets the requirements
15 of subsection G of Section ~~13 of Enrolled Senate Bill No. 1980 of~~
16 ~~the 2nd Session of the 51st Oklahoma Legislature~~ 4055.13 of this
17 title.

18 G. The Commissioner shall not issue a license to a nonresident
19 applicant, unless a written designation of an agent for service of
20 process is filed and maintained with the Commissioner, or the
21 applicant has filed with the Commissioner the applicant's written
22 irrevocable consent that any action against the applicant may be
23 commenced against the applicant by service of process on the
24 Commissioner.

1 H. A viatical settlement provider, viatical settlement broker
2 or viatical settlement investment agent shall provide to the
3 Commissioner new or revised information about officers, ten percent
4 (10%) or more stockholders, partners, directors, members or
5 designated employees within thirty (30) days of the change.

6 I. An individual licensed as a viatical settlement broker shall
7 complete on a biennial basis eight (8) hours of training related to
8 viatical settlements and viatical settlement transactions, as
9 required by the Commissioner; provided, however, that a life
10 insurance producer who is operating as a viatical settlement broker
11 pursuant to paragraph 2 of subsection A of this section shall not be
12 subject to the requirements of this subsection. Any person failing
13 to meet the requirements of this subsection shall be subject to the
14 penalties imposed by the Commissioner.

15 SECTION 14. AMENDATORY 36 O.S. 2001, Section 6124, as
16 last amended by Section 3, Chapter 294, O.S.L. 2009 (36 O.S. Supp.
17 2009, Section 6124), is amended to read as follows:

18 Section 6124. A. ~~Each~~ Unless the Insurance Commissioner has
19 set forth a fee as provided for in this subsection through the
20 promulgation of a rule, each organization desiring to accept money
21 or anything of value for prepaid funeral benefits or an agreement to
22 provide funeral benefits in the future at a fixed or predetermined
23 cost, shall file an application for a permit with the Insurance
24 Commissioner, and shall at the time of filing an application pay one

1 initial filing fee of Fifty Dollars (\$50.00). The Insurance
2 Commissioner shall issue a permit upon:

- 3 1. The receipt of the application and payment of the filing
4 fee;
- 5 2. Determination that the organization is in good standing as a
6 funeral establishment with the Oklahoma Funeral Board; and
- 7 3. Making a finding that the organization has complied with the
8 rules promulgated under ~~this act~~ Sections 6121 through 6136.18 of
9 this title by the Insurance Commissioner. All applications shall be
10 signed by the organization requesting the permit, and shall contain
11 a statement that the organization ~~will~~ shall comply with all the
12 requirements as established by this act. ~~All~~ Unless the Insurance
13 Commissioner has set forth a fee as provided for in this subsection
14 through the promulgation of a rule, all permits shall expire on
15 December 31 of the year the permit is first issued, unless renewed;
16 permits may be renewed for a period not to exceed the succeeding
17 December 31 upon the payment of a renewal fee of Fifty Dollars
18 (\$50.00). Late application for renewal of a permit shall require a
19 fee of double the renewal fee. No application for renewal of a
20 permit shall be accepted after January 31 of each year. The
21 Insurance Commissioner may authorize acceptance of a new permit
22 application pursuant to this section prior to the expiration of the
23 one-year period upon good cause shown.

24

1 B. The Insurance Commissioner may cancel a permit or refuse to
2 issue a permit or refuse to issue a renewal of a permit for failure
3 to comply with any provision of ~~this act~~ Sections 6121 through
4 6136.18 of this title, or any valid rule, which the Insurance
5 Commissioner has promulgated, after reasonable notice to the
6 organization and after hearing if the organization requests a
7 hearing. When the Insurance Commissioner cancels a permit or
8 refuses to issue a renewal of a permit for a violation as provided
9 by this subsection, the Insurance Commissioner shall notify the
10 Oklahoma Funeral Board of the action and the nature of any
11 violations.

12 C. No organization shall be entitled to a new permit for a
13 period of one (1) year after cancellation, or refusal by the
14 Insurance Commissioner to renew the permit of the organization but
15 shall thereafter be entitled to a new permit upon satisfactory proof
16 of compliance with this law, after the expiration of the one-year
17 period.

18 D. Any person or organization aggrieved by the actions of the
19 Insurance Commissioner may appeal therefrom as provided by Article
20 II of the Administrative Procedures Act.

21 SECTION 15. AMENDATORY 36 O.S. 2001, Section 6128, is
22 amended to read as follows:

23 Section 6128. Each organization shall file an annual report
24 with the Insurance Commissioner on or before March 15 of each year

1 in such form as the Insurance Commissioner may require, showing the
2 names and addresses of all persons with whom contracts for prepaid
3 funeral benefits have been made prior to December 31 of the
4 preceding year which had not been fully discharged on December 31
5 and, also showing the date of the contract, the name of the bank or
6 depository holding the trust fund and the amount of the trust fund
7 under each contract on the preceding December 31. Any organization
8 which has discontinued the sale of prepaid funeral benefits, but
9 which still has outstanding contracts, shall not be required to
10 obtain a renewal of its permit, but it shall continue to make annual
11 reports to the Insurance Commissioner until all such contracts have
12 been fully discharged. A Unless the Insurance Commissioner has set
13 forth a fee as provided for in this subsection through the
14 promulgation of a rule, a filing fee of Fifty Dollars (\$50.00) shall
15 accompany each report. If any officer of any organization fails or
16 refuses to file an annual report, or to cause it to be filed within
17 thirty (30) days after ~~he~~ the officer has been notified by the
18 Insurance Commissioner that the report is due and has not been
19 received, he shall be guilty of a misdemeanor and shall be punished
20 as prescribed in Section 6130 of this title.

21 SECTION 16. AMENDATORY 36 O.S. 2001, Section 6144, as
22 amended by Section 20, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
23 Section 6144), is amended to read as follows:

24

1 Section 6144. A. An application for a certificate of authority
2 to operate as a prepaid dental plan organization shall be filed with
3 the Insurance Commissioner in a form prescribed by the Commissioner.
4 The application shall be verified by an officer or authorized
5 representative of the applicant, and shall set forth or be
6 accompanied by:

7 1. A copy of any basic organizational document of the applicant
8 such as the articles of incorporation, articles of association,
9 partnership agreement, trust agreement, or other applicable
10 documents, with all amendments to such documents;

11 2. A copy of any bylaws, rules or regulations, or similar
12 documents regulating the conduct of the internal affairs of the
13 applicant;

14 3. A list of the names, addresses, and official positions of
15 the persons who are responsible for the conduct of the business
16 affairs of the applicant, including all members of the board of
17 directors, board of trustees, executive committee or other governing
18 board or committee, and the principal officers in the case of a
19 corporation, and the partners or members in the case of a
20 partnership or association;

21 4. A copy of any contract made or to be made between any
22 providers of dental services or persons listed in paragraph 3 of
23 this subsection and the applicant;

24

1 5. A statement generally describing the prepaid dental plan
2 organization, all prepaid dental plans offered by ~~said~~ the
3 organizations, and facilities, and personnel;

4 6. A copy of the form of individual or group membership
5 coverage or a copy of the contract to be issued to the members;

6 7. Financial statements showing assets, liabilities, and
7 sources of financial support of the applicant. If the financial
8 affairs of the applicant are audited by independent certified public
9 accountants, a copy of the most recent regular certified financial
10 statement for the applicant shall satisfy this requirement unless
11 the Commissioner determines that additional or more recent financial
12 information is required;

13 8. A description of the proposed method of marketing the
14 prepaid dental plan, a financial prospectus which includes a
15 three-year projection of the initial operating results anticipated,
16 and a statement as to the sources of working capital available for
17 the operation of the prepaid dental plan as well as any other
18 sources of funding;

19 9. A power of attorney, duly executed by ~~said~~ the applicant if
20 not domiciled in this state appointing the Commissioner, as the true
21 and lawful representative for service of process for ~~said~~ the
22 applicant in this state, upon whom all lawful process in any legal
23 action or proceeding against the prepaid dental plan organization on
24 a cause of action arising in this state may be served;

1 10. A Unless the Commissioner has set forth a fee as provided
2 for in this subsection through the promulgation of a rule, a fee of
3 One Hundred Dollars (\$100.00) for issuance of a certificate of
4 authority; and

5 11. Such other information as the Commissioner may require.

6 B. Within ten (10) days following any ~~said~~ the modification of
7 information previously furnished as required by subsection A of this
8 section, a prepaid dental plan organization shall file notice of
9 ~~said~~ the modification with the Commissioner.

10 SECTION 17. AMENDATORY 36 O.S. 2001, Section 6145, is
11 amended to read as follows:

12 Section 6145. A. Issuance of a certificate of authority for a
13 prepaid dental plan organization shall be granted by the Insurance
14 Commissioner if the Commissioner is satisfied that the following
15 conditions are met:

16 1. The persons responsible for conducting the business affairs
17 of the prepaid dental plan organization are competent and
18 trustworthy and are professionally capable of providing or arranging
19 for the provision of services offered; and

20 2. The prepaid dental plan organization constitutes an
21 appropriate mechanism to achieve an effective prepaid dental plan;
22 and

23 3. Each officer, responsible for conducting the business
24 affairs of the prepaid dental plan organization, has filed with the

1 Commissioner a fidelity bond in the amount of Fifty Thousand Dollars
2 (\$50,000.00), ~~said~~ the bond to be subject to the approval of the
3 Commissioner; and

4 4. The financial structure of the prepaid dental plan
5 organization may reasonably be expected to meet obligations for
6 payment of services for members and prospective members. In making
7 this determination the Commissioner may consider:

- 8 a. the financial soundness of the arrangements made
9 pursuant to the provisions of the prepaid dental plan
10 for services and the schedule of charges used; and
- 11 b. any agreement with an insurer, a hospital, a medical
12 service corporation, or any other organization for
13 ensuring the payment of prepaid dental services; and
- 14 c. provisions in the plan for automatic coverage of
15 dental service if the prepaid dental plan is
16 discontinued; and
- 17 d. the sufficiency of the agreement for prepaid dental
18 services with providers of dental services.

19 B. A certificate of authority shall expire at midnight on June
20 30, following the date of issuance or last renewal date. ~~If~~ Unless
21 the Commissioner has set forth a fee as provided for in this
22 subsection through the promulgation of a rule, if the prepaid dental
23 plan organization remains in compliance with the provisions of the
24 Prepaid Dental Plan Act and pays a renewal fee of One Hundred

1 Dollars (\$100.00), the certificate of authority of ~~said~~ the plan may
2 be renewed. The renewal fee shall be deposited in the State
3 Insurance Commissioner Revolving Fund.

4 SECTION 18. AMENDATORY 36 O.S. 2001, Section 6209, as
5 amended by Section 45, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2009,
6 Section 6209), is amended to read as follows:

7 Section 6209. A. Each examination for a license as an adjuster
8 shall be prescribed by the Insurance Commissioner and shall be of
9 sufficient scope to reasonably test the knowledge of the applicant
10 as to the kinds of insurance contracts which may be dealt with in
11 accordance with the license applied for, the duties and
12 responsibilities of insurers pursuant to said contracts and pursuant
13 to the laws of this state applicable to the adjusting claims of
14 losses in accordance with the license applied for.

15 B. An applicant for a license as an adjuster may qualify in
16 any one of the following classes of insurance or combinations
17 thereof, and the license when issued may be limited to cover
18 adjusting in any one of the following classes of insurance or
19 combinations thereof. The application for a license shall specify
20 which of the following classes of business the application and
21 license are to cover:

22 1. ~~motor~~ Motor vehicle physical damage, meaning damages to all
23 land motor vehicles and trailers whether or not covered by first
24

1 party physical damage coverages or property damage liability
2 coverages; ~~or~~

3 2. ~~fire~~ Fire and allied lines, including marine, inland marine,
4 and aircraft; ~~or~~

5 3. ~~casualty~~ Casualty, meaning all lines of liability insurance
6 coverages for bodily injuries, personal injury, and property
7 damages; ~~or~~

8 4. ~~workers'~~ Workers' compensation; ~~or~~

9 5. ~~crime~~ Crime and fidelity bonds; or

10 6. ~~crop/hail~~ Crop/hail.

11 C. The Unless the Commissioner has set forth a fee as provided
12 for in this subsection through the promulgation of a rule, the
13 Commissioner shall prepare and make available to applicants a manual
14 of instructions stating in general terms the subjects which may be
15 covered in any examination for a license as an adjuster. The
16 Commissioner may charge a reasonable amount not to exceed Forty
17 Dollars (\$40.00) for the study manual.

18 SECTION 19. AMENDATORY 36 O.S. 2001, Section 6212, as
19 amended by Section 47, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2009,
20 Section 6212), is amended to read as follows:

21 Section 6212. A. The Unless the Insurance Commissioner has set
22 forth a fee as provided for in this subsection through the
23 promulgation of a rule, the Commissioner or an administrator
24 approved by the ~~Insurance~~ Commissioner shall collect a fee of Twenty

1 Dollars (\$20.00) for an examination for an adjuster's license in any
2 of the following single classes of business. The fee for any
3 examination which includes two or more classes of business shall not
4 exceed Forty Dollars (\$40.00). The classes of business are:

- 5 1. Motor vehicle physical damage;
- 6 2. Fire and allied lines (property);
- 7 3. Casualty;
- 8 4. Workers' compensation;
- 9 5. Crime and fidelity bonds; and
- 10 6. Crop/hail.

11 B. The Unless the Commissioner has set forth a fee as provided
12 for in this subsection through the promulgation of a rule, the
13 Commissioner shall collect the following fees for an adjuster's
14 license:

- 15 1. For a license in any single class of business, every two (2)
16 years, Thirty Dollars (\$30.00);
- 17 2. For a license in any combination of two or more classes of
18 business, every two years, Fifty Dollars (\$50.00);
- 19 3. Public adjuster, every two years, Thirty Dollars (\$30.00);
- 20 4. Emergency adjuster, as provided for in Section 6218 of this
21 title, each year, Fifteen Dollars (\$15.00); and
- 22 5. Apprentice adjuster, as provided for in Section 6204.1 of
23 this title, Twenty Dollars (\$20.00).

24

1 C. The fees prescribed in this section shall accompany the
2 application for an original license or a renewal of a license.

3 D. The fee for the original license or renewal license shall be
4 collected in advance of issuance. Late application for renewal
5 shall require a fee of double the amount of the original license
6 fee.

7 E. The Commissioner may issue a duplicate license for any lost,
8 stolen, or destroyed license issued pursuant to the provisions of
9 the Insurance Adjusters Licensing Act if an affidavit is submitted
10 by the licensee to the Commissioner concerning the facts of ~~such~~ the
11 loss, theft, or destruction. ~~Said~~ The affidavit shall be in a form
12 prescribed by the Commissioner. The fee for a duplicate license
13 shall be one-half (1/2) the fee of the license.

14 F. ~~The~~ Unless the Commissioner has set forth a fee as provided
15 for in this subsection through the promulgation of a rule, the
16 administrative fee for submission of a change of legal name or
17 address more than thirty (30) days after the change occurred shall
18 be Fifty Dollars (\$50.00).

19 SECTION 20. AMENDATORY 36 O.S. 2001, Section 6465, as
20 amended by Section 22, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
21 Section 6465), is amended to read as follows:

22 Section 6465. ~~There~~ Unless the Insurance Commissioner has set
23 forth a fee as provided for in this section through the promulgation
24 of a rule, there shall be collected, at the time of filing of

1 information for a risk retention group, a fee payable annually, of
2 Four Hundred Dollars (\$400.00). In addition, risk retention groups
3 chartered for domicile in this state shall pay the same fees
4 applicable to insurers in this state.

5 ~~Purchasing~~ Unless the Commissioner has set forth a fee as
6 provided for in this section through the promulgation of a rule,
7 purchasing groups shall pay annually at the time of registration, a
8 fee of Four Hundred Dollars (\$400.00).

9 SECTION 21. AMENDATORY Section 10, Chapter 334, O.S.L.
10 2004, as amended by Section 2, Chapter 265, O.S.L. 2006 (36 O.S.
11 Supp. 2009, Section 6470.3), is amended to read as follows:

12 Section 6470.3 A. A captive insurance company, when permitted
13 by its articles of incorporation or charter, may apply to the
14 Insurance Commissioner for a license to do any and all insurance,
15 except workers' compensation insurance, authorized by Title 36 of
16 the Oklahoma Statutes; however:

17 1. A pure captive insurance company may not insure any risks
18 other than those of its parent, affiliated companies, controlled
19 unaffiliated business, or a combination thereof;

20 2. An association captive insurance company may not insure any
21 risks other than those of the member organizations of its
22 association and their affiliated companies;

23 3. An industrial insured captive insurance company may not
24 insure any risks other than those of the industrial insureds that

1 | comprise the industrial insured group and their affiliated
2 | companies;

3 | 4. A special purpose captive insurance company may only insure
4 | the risks of its parent. Notwithstanding any other provisions of
5 | the Oklahoma Captive Insurance Company Act, a special purpose
6 | captive insurance company may provide insurance or reinsurance, or
7 | both, for risks as approved by the Insurance Commissioner;

8 | 5. A captive insurance company may not provide personal motor
9 | vehicle or homeowner's insurance coverage or any component of these
10 | coverages; and

11 | 6. A captive insurance company may not accept or cede
12 | reinsurance except as provided in Section 6470.16 of this title.

13 | B. To conduct insurance business in this state a captive
14 | insurance company shall:

15 | 1. Obtain from the Insurance Commissioner a license authorizing
16 | it to conduct insurance business in this state;

17 | 2. Hold at least one board of directors meeting, or in the case
18 | of a reciprocal insurer, a subscriber's advisory committee meeting,
19 | each year in this state;

20 | 3. Maintain its principal place of business in this state, or
21 | in the case of a branch captive insurance company, maintain the
22 | principal place of business for its branch operations in this state;
23 | and

24 |

1 4. Appoint a resident registered agent to accept service of
2 process and to otherwise act on its behalf in this state. The agent
3 shall be licensed by the Oklahoma Insurance Department as a licensed
4 third-party administrator or managing general agent and maintain its
5 principal place of business in this state. In the case of a captive
6 insurance company:

7 a. formed as a corporation, whenever the registered agent
8 cannot with reasonable diligence be found at the
9 registered office of the captive insurance company,
10 the Insurance Commissioner must be an agent of the
11 captive insurance company upon whom any process,
12 notice, or demand may be served, or

13 b. formed as a reciprocal insurer, whenever the
14 registered agent cannot with reasonable diligence be
15 found at the registered office of the captive
16 insurance company, the Insurance Commissioner ~~must~~
17 shall be an agent of the captive insurance company
18 upon whom any process, notice, or demand may be
19 served.

20 C. 1. Before receiving a license, a captive insurance company:

21 a. formed as a corporation, shall file with the Insurance
22 Commissioner a certified copy of its charter and
23 bylaws, a statement under oath of its president and
24 secretary showing its financial condition, and any

1 other statements or documents required by the
2 Insurance Commissioner, or

3 b. formed as a reciprocal shall:

4 (1) file with the Insurance Commissioner a certified
5 copy of the power of attorney of its attorney-in-
6 fact, a certified copy of its subscribers'
7 agreement, a statement under oath of its
8 attorney-in-fact showing its financial condition
9 and any other statements or documents required by
10 the Insurance Commissioner, and

11 (2) submit to the Insurance Commissioner for approval
12 a description of the coverages, deductibles,
13 coverage limits, and rates and any other
14 information the Insurance Commissioner may
15 reasonably require. If there is a subsequent
16 material change in an item in the description,
17 the reciprocal captive insurance company shall
18 submit to the Insurance Commissioner for approval
19 an appropriate revision and may not offer any
20 additional kinds of insurance until a revision of
21 the description is approved by the Insurance
22 Commissioner. The reciprocal captive insurance
23 company shall inform the Insurance Commissioner

24

1 of any material change in rates within thirty
2 (30) days of the adoption of the change.

3 2. In addition to the information required by paragraph 1 of
4 this subsection, an applicant captive insurance company shall file
5 with the Insurance Commissioner evidence of:

- 6 a. the amount and liquidity of its assets relative to the
7 risks to be assumed,
- 8 b. the adequacy of the expertise, experience, and
9 character of the person or persons who will manage it,
- 10 c. the overall soundness of its plan of operation,
- 11 d. the adequacy of the loss prevention programs of its
12 parent, member organizations, or industrial insureds
13 as applicable, and
- 14 e. ~~such~~ other factors considered relevant by the
15 Insurance Commissioner in ascertaining whether the
16 proposed captive insurance company will be able to
17 meet its policy obligations.

18 3. In addition to the information required by paragraphs 1 and
19 2 of this subsection, an applicant sponsored captive insurance
20 company shall file with the Insurance Commissioner:

- 21 a. a business plan demonstrating how the applicant will
22 account for the loss and expense experience of each
23 protected cell at a level of detail found to be
24 sufficient by the Insurance Commissioner, and how it

1 will report the experience to the Insurance
2 Commissioner,

3 b. a statement acknowledging that all financial records
4 of the sponsored captive insurance company, including
5 records pertaining to any protected cells, ~~must~~ shall
6 be made available for inspection or examination by the
7 Insurance Commissioner,

8 c. all contracts or sample contracts between the
9 sponsored captive insurance company and any
10 participants, and

11 d. evidence that expenses will be allocated to each
12 protected cell in an equitable manner.

13 4. Information submitted pursuant to this subsection is
14 confidential and may not be made public by the Insurance
15 Commissioner or an agent or employee of the Insurance Commissioner
16 without the written consent of the company, except that:

17 a. information may be discoverable by a party in a civil
18 action or contested case to which the captive
19 insurance company that submitted the information is a
20 party, upon a showing by the party seeking to discover
21 the information that:

22 (1) the information sought is relevant to and
23 necessary for the furtherance of the action or
24 case,

1 (2) the information sought is unavailable from other
2 nonconfidential sources, and

3 (3) a subpoena issued by a judicial or administrative
4 officer of competent jurisdiction has been
5 submitted to the Insurance Commissioner; however,
6 the provisions of this paragraph do not apply to
7 an industrial insured captive insurance company
8 insuring the risks of an industrial insured
9 group, and

10 b. the Insurance Commissioner may disclose the
11 information to a public officer having jurisdiction
12 over the regulation of insurance in another state if:

13 (1) the public official agrees in writing to maintain
14 the confidentiality of the information, and

15 (2) the laws of the state in which the public
16 official serves require the information to be
17 confidential.

18 D. A Unless the Insurance Commissioner has set forth a fee as
19 provided for in this subsection through the promulgation of a rule,
20 a captive insurance company shall pay to the Department a
21 nonrefundable fee of Two Hundred Dollars (\$200.00) for examining,
22 investigating, and processing its application for license, and the
23 Insurance Commissioner may retain legal, financial, and examination
24 services from outside the Department, the reasonable cost of which

1 may be charged against the applicant. Title 36 of the Oklahoma
2 Statutes applies to examinations, investigations, and processing
3 conducted under the authority of this section. ~~It~~ Unless the
4 Insurance Commissioner has set forth a fee as provided for in this
5 subsection through the promulgation of a rule, in addition, a
6 captive insurance company shall pay a license fee for the year of
7 registration and a renewal fee of Three Hundred Dollars (\$300.00).

8 E. If the Insurance Commissioner is satisfied that the
9 documents and statements filed by the captive insurance company
10 comply with the provisions of the Oklahoma Captive Insurance Company
11 Act, the Insurance Commissioner may grant a license authorizing the
12 company to do insurance business in this state until March 1 at
13 which time the license may be renewed.

14 SECTION 22. AMENDATORY 36 O.S. 2001, Section 6559, is
15 amended to read as follows:

16 Section 6559. A. Insurance companies and not-for-profit
17 hospital services and medical indemnity plans licensed by the
18 Insurance Commissioner that perform in-house utilization review
19 shall submit to the Commissioner the following information regarding
20 utilization review:

- 21 1. A utilization review plan that includes:
 - 22 a. an adequate summary description of review standards,
23 protocol and procedures to be used in evaluating
24 proposed or delivered hospital and medical care,

1 b. assurances that the standards and criteria to be
2 applied in review determinations are established with
3 input from health care providers representing major
4 areas of specialty and certified by the boards of the
5 various American medical specialties, and

6 c. the provisions by which patients or health care
7 providers may seek reconsideration or appeal of
8 adverse decisions concerning requests for medical
9 evaluation, treatment or procedures;

10 2. The type and qualifications of the personnel either employed
11 or under contract to perform the utilization review;

12 3. The procedures and policies to ensure that a representative
13 is reasonably accessible to patients and health care providers five
14 (5) days a week during normal business hours, ~~such~~ the procedures
15 and policies to include as a requirement a toll-free telephone
16 number to be available during ~~said~~ stated business hours; provided,
17 in the case of insurance companies, if the personnel performing
18 utilization review are out-of-state, the personnel shall be
19 available or make staff available by toll-free telephone for at
20 least forty (40) hours per week during normal business hours and
21 shall have a telephone system which is capable of accepting or
22 recording incoming telephone calls during other than normal hours,
23 and shall respond to ~~such~~ these calls within two (2) working days,

1 if sufficient information for response is provided to whomever
2 accepts the call or on a recorded message;

3 4. The policies and procedures to ensure that all applicable
4 state and federal laws to protect the confidentiality of individual
5 medical records are followed;

6 5. The policies and procedures to verify the identity and
7 authority of personnel performing utilization review by telephone;

8 6. A copy of the materials designed to inform applicable
9 patients and health care providers of the requirements of the
10 utilization review plan;

11 7. The procedures for receiving and handling complaints by
12 patients, hospitals and health care providers concerning utilization
13 review; and

14 8. Procedures to ensure that after a request for medical
15 evaluation, treatment, or procedures has been rejected in whole or
16 in part and in the event a copy of the report on ~~said~~ the rejection
17 is requested, a copy of the report of the personnel performing
18 utilization review concerning the rejection shall be mailed by the
19 insurer, postage prepaid, to the ill or injured person, the treating
20 health care provider, hospital or to the person financially
21 responsible for the patient's bill within fifteen (15) days after
22 receipt of the request for the report.

23 B. Insurance Unless the Commissioner has set forth a fee as
24 provided for in this subsection through the promulgation of a rule,

1 insurance companies that provide for in-house utilization review
2 shall pay an annual fee to the ~~Insurance~~ Commissioner of Five
3 Hundred Dollars (\$500.00).

4 SECTION 23. AMENDATORY 36 O.S. 2001, Section 6604, as
5 last amended by Section 23, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
6 2009, Section 6604), is amended to read as follows:

7 Section 6604. A. No person in this state shall act as a
8 service warranty association unless licensed by the Insurance
9 Commissioner.

10 B. A Unless the Commissioner has set forth a fee as provided
11 for in this subsection through the promulgation of a rule, a service
12 warranty association shall pay to the Insurance Department a license
13 fee of Four Hundred Dollars (\$400.00) for such license for each
14 year, or part thereof, the license is in force.

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

21 D. A service warranty association may appoint an administrator
22 or other designee to be responsible for any or all of the
23 administration of service contracts and compliance with the Service
24 Warranty Insurance Act.

1 E. An agreement which provides specified scheduled maintenance
2 services over a stated period of time does not constitute insurance
3 or a service warranty.

4 SECTION 24. AMENDATORY 36 O.S. 2001, Section 6609, as
5 amended by Section 27, Chapter 184, O.S.L. 2008 (36 O.S. Supp. 2009,
6 Section 6609), is amended to read as follows:

7 Section 6609. Each license issued to a service warranty
8 association shall expire on November 1 following the date of
9 issuance. ~~If~~ Unless the Insurance Commissioner has set forth a fee
10 as provided for in this subsection through the promulgation of a
11 rule, if the association is then qualified therefor under the
12 provisions of the Service Warranty Insurance Act, its license may be
13 renewed annually, upon its request, and upon payment to the
14 ~~Insurance~~ Commissioner of the license fee in the amount of Two
15 Hundred Dollars (\$200.00) in advance for each ~~such~~ license year.

16 SECTION 25. AMENDATORY 36 O.S. 2001, Section 6615, as
17 last amended by Section 24, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
18 2009, Section 6615), is amended to read as follows:

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

1 issuance of service warranties in this state during the preceding
2 calendar year and other relevant financial information as deemed
3 necessary by the Commissioner, using accounting principles which
4 ~~will~~ shall enable the Commissioner to ascertain whether the
5 financial requirements set forth in Section 6607 of this title have
6 been satisfied.

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

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

16 D. ~~Premiums~~ Unless the Commissioner has set forth a fee as
17 provided for in this subsection through the promulgation of a rule,
18 premiums and assessments received by associations and insurers for
19 service warranties shall not be subject to the premium tax provided
20 for in Section 624 of this title, but shall be subject to an
21 administrative fee of equal to two percent (2%) of the gross premium
22 received on the sale of all service contracts issued in this state
23 during the preceding calendar quarter. ~~Said~~ The fees shall be paid
24 quarterly to the Insurance Commissioner. ~~However~~ Unless the

1 Commissioner has set forth a fee as provided for in this subsection
2 through the promulgation of a rule, licensed associations, licensed
3 insurers and entities with applications for licensure as a service
4 warranty association pending with the Insurance Department that have
5 contractual liability insurance in place as of March 31, 2009, from
6 an insurer which satisfies the requirements of subsection C of
7 Section 6607 of this title and which covers one hundred percent
8 (100%) of the claims exposure of the association or insurer on all
9 contracts written may elect to pay an annual administrative fee of
10 Three Thousand Dollars (\$3,000.00) in lieu of the two-percent
11 administrative fee.

12 SECTION 26. AMENDATORY Section 5, Chapter 64, O.S.L.
13 2002 (40 O.S. Supp. 2009, Section 600.5), is amended to read as
14 follows:

15 Section 600.5 A. Initial registration. ~~Upon~~ Unless the
16 Insurance Commissioner has set forth a fee as provided for in this
17 subsection through the promulgation of a rule, upon filing an
18 initial registration statement under the Oklahoma Professional
19 Employer Organization Recognition and Registration Act, a PEO shall
20 pay an initial registration fee of Five Hundred Dollars (\$500.00).

21 B. Renewal. ~~Upon~~ Unless the Commissioner has set forth a fee
22 as provided for in this subsection through the promulgation of a
23 rule, upon each annual renewal of a registration statement filed
24 under the Oklahoma Professional Employer Organization Recognition

1 and Registration Act, a PEO shall pay a renewal fee of Two Hundred
2 Fifty Dollars (\$250.00).

3 C. Exemption. ~~Each~~ Unless the Commissioner has set forth a fee
4 as provided for in this subsection through the promulgation of a
5 rule, each PEO exempt from registration under the terms of this
6 subsection shall pay an exemption fee in the amount of Two Hundred
7 Fifty Dollars (\$250.00) upon initial application for exemption and
8 upon each annual renewal of such exemption.

9 SECTION 27. AMENDATORY 59 O.S. 2001, Section 1305, as
10 amended by Section 5, Chapter 204, O.S.L. 2003 (59 O.S. Supp. 2009,
11 Section 1305), is amended to read as follows:

12 Section 1305. A. The application for license to serve as a
13 bail bondsman ~~must~~ shall affirmatively show that the applicant:

- 14 1. Is a person who has reached the age of twenty-one (21)
15 years;
- 16 2. Is of good character and reputation;
- 17 3. Has not been previously convicted of, or pled guilty or nolo
18 contendere to, any felony, or to a misdemeanor involving moral
19 turpitude or dishonesty;
- 20 4. Is a citizen of the United States;
- 21 5. Has been a bona fide resident of the state for at least one
22 (1) year;
- 23 6. Will actively engage in the bail bond business;

24

1 7. Has knowledge or experience, or has received instruction in
2 the bail bond business; and

3 8. Has a high school diploma or its equivalent; provided,
4 however, the provisions of this paragraph shall apply only to
5 initial applications for license submitted on or after November 1,
6 1997, and shall not apply to renewal applications for license.

7 B. The applicant shall apply in writing on forms prepared and
8 supplied by the Insurance Commissioner, and the Commissioner may
9 propound any reasonable interrogatories to an applicant for a
10 license pursuant to ~~Section~~ Sections 1301 ~~et seq.~~ through 1340 of
11 this title, or on any renewal thereof, relating to qualifications,
12 residence, prospective place of business and any other matters
13 which, in the opinion of the Commissioner, are deemed necessary or
14 expedient in order to protect the public and ascertain the
15 qualifications of the applicant. The Commissioner may also conduct
16 any reasonable inquiry or investigation relative to the
17 determination of the applicant's fitness to be licensed or to
18 continue to be licensed including, but not limited to, requiring a
19 national criminal history record check as defined by Section 150.9
20 of Title 74 of the Oklahoma Statutes.

21 C. ~~An~~ Unless the Commissioner has set forth a fee as provided
22 for in this subsection through the promulgation of a rule, an
23 applicant shall furnish to the Commissioner a license fee of Two
24 Hundred Fifty Dollars (\$250.00) with the application, a complete set

1 of the applicant's fingerprints and two recent credential-size full
2 face photographs of the applicant. The applicant's fingerprints
3 shall be certified by an authorized law enforcement officer. ~~The~~
4 Unless the Commissioner has set forth a fee as provided for in this
5 subsection through the promulgation of a rule, the applicant shall
6 provide with the application an investigative fee of One Hundred
7 Dollars (\$100.00) with which the Commissioner will conduct an
8 investigation of the applicant. All fees shall be nonrefundable.

9 D. Failure of the applicant to secure approval of the
10 Commissioner shall not preclude the applicant from reapplying, but a
11 second application shall not be considered by the Commissioner
12 within three (3) months after denial of the last application.

13 SECTION 28. AMENDATORY 59 O.S. 2001, Section 1308, is
14 amended to read as follows:

15 Section 1308. A. The applicant for bail bondsman shall be
16 required to appear in person and take a written examination prepared
17 by the Insurance Commissioner, testing the applicant's ability and
18 qualifications to be a bail bondsman. Applications are valid for
19 six (6) months after submission. If an applicant has not acted upon
20 the application within that period, a new application and fees shall
21 be submitted for the applicant to be considered for licensure.

22 B. Each applicant shall become eligible for examination ninety
23 (90) days after the date the application is received by the
24 Commissioner, if the applicant has completed sixteen (16) hours of

1 education as required by Section 1308.1 of this title and the
2 Commissioner is otherwise satisfied as to the applicant's fitness to
3 take the examination. Examinations shall be held at times and
4 places as designated by the Commissioner, and the applicant shall be
5 given notice of the time and place not less than fifteen (15) days
6 prior to taking the examination.

7 C. The Unless the Insurance Commissioner has set forth a fee as
8 provided for in this subsection through the promulgation of a rule,
9 the fee for the examination shall be One Hundred Dollars (\$100.00)
10 in addition to the license fee heretofore provided and shall be
11 submitted after approval of the application but prior to taking the
12 examination. Results will be mailed to the applicant within thirty
13 (30) days after the applicant is examined.

14 D. The failure of an applicant to pass an examination shall not
15 preclude the applicant from taking subsequent examinations;
16 provided, however, that at least three (3) months must intervene
17 between examinations; and provided further, after a third or
18 subsequent examination failure, an applicant may not apply and be
19 examined for at least one (1) year after the last examination
20 failure.

21 SECTION 29. AMENDATORY 59 O.S. 2001, Section 1308.1, is
22 amended to read as follows:

23 Section 1308.1 A. In order to be eligible to take the
24 examination required to be licensed as a bail bondsman, each person

1 shall complete not less than sixteen (16) clock hours of education
2 in subjects pertinent to the duties and responsibilities of a bail
3 bondsman, including all laws and regulations related thereto.
4 Further, each licensee shall complete annually not less than eight
5 (8) clock hours of continuing education in ~~said~~ the subjects prior
6 to renewal of the license. ~~Such~~ The continuing education shall not
7 include a written or oral examination.

8 Provided, any person licensed as a bail bondsman prior to
9 November 1, 1989, shall not be required to complete sixteen (16)
10 clock hours of education prior to licensure but shall be subject to
11 the eight-hours continuing education requirement in order to renew
12 ~~said~~ the license, except that a licensed bail bondsman who is sixty-
13 five (65) years of age or older and who has been licensed as a bail
14 bondsman for fifteen (15) years or more shall be exempt from both
15 the education and continuing education requirements of this section.

16 B. The Oklahoma Bondsman Association shall provide education
17 for bail bondsman licensure as required by this section; provided
18 that the Insurance Commissioner shall approve the courses offered
19 and provided further ~~such~~ the education meets the general standards
20 for education otherwise established by the Insurance Commissioner.

21 C. The Unless the Insurance Commissioner has set forth a fee as
22 provided for in this subsection through the promulgation of a rule,
23 the Oklahoma Bondsman Association shall submit an annual fee of One
24 Hundred Dollars (\$100.00), payable to the Insurance Commissioner

1 which shall be deposited in the Bail Bondsmen Revolving Fund for the
2 purposes of fulfilling and accomplishing the conditions and purposes
3 of this section.

4 D. Any person who falsely represents to the Insurance
5 Commissioner that compliance with this section has been met shall be
6 subject, after notice and hearing, to the penalties and fines set
7 out in Section 1310 of this title.

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

10 SECTION 30. AMENDATORY 59 O.S. 2001, Section 1309, is
11 amended to read as follows:

12 Section 1309. A. A Unless the Insurance Commissioner has set
13 forth a fee as provided for in this subsection through the
14 promulgation of a rule, a renewal license shall be issued by the
15 ~~Insurance~~ Commissioner to a licensee who has continuously maintained
16 same in effect, without further examination, upon payment of a
17 renewal fee of One Hundred Dollars (\$100.00) for a bail bondsman and
18 proof of completion of eight (8) hours of continuing education as
19 required by Section 1308.1 of this title. The renewal fee shall be
20 submitted by September 15 of each year. Such licensee shall in all
21 other respects be required to comply with and be subject to the
22 provisions of ~~Section~~ Sections 1301 ~~et seq.~~ through 1340 of this
23 title.

24

1 B. In case of renewal of a professional bondsman license, the
2 application shall also provide a financial statement prepared by an
3 accounting firm or individual holding a permit to practice public
4 accounting in this state in accordance with generally accepted
5 principles of accounting procedures showing assets, liabilities, and
6 net worth, ~~said~~ the statement to be as of a date not earlier than
7 ninety (90) days prior to submission of the license renewal
8 application. The statements shall be attested to by an unqualified
9 opinion of the accounting firm or individual holding a permit to
10 practice public accounting in this state that prepared the statement
11 or statements. The statement shall be submitted by September 15 of
12 each year.

13 C. In case of renewal of a property bondsman license, the
14 application shall also provide a county assessor's written statement
15 stating the property's assessed value for each property used to post
16 bonds and a written statement from any lien holder stating the
17 current payoff amount on each lien for each property used to post
18 bonds. The written statements shall be submitted by September 15 of
19 each year.

20 D. If the license is not renewed or the renewal fee is not paid
21 by September 30 of each year, such license shall expire
22 automatically pursuant to Section 1304 of this title. If after
23 November 30 of each year the license has not been renewed or the
24

1 renewal fee paid, then ~~such~~ the licensee shall be required to apply
2 for a license as a new applicant.

3 E. Late renewal fees shall be double the original fee.

4 SECTION 31. AMENDATORY 59 O.S. 2001, Section 1314, as
5 amended by Section 25, Chapter 432, O.S.L. 2009 (59 O.S. Supp. 2009,
6 Section 1314), is amended to read as follows:

7 Section 1314. A. When a bail bondsman or managing general
8 agent accepts collateral, he or she shall give a written receipt for
9 same, and this receipt shall give in detail a full description of
10 the collateral received. A description of the collateral shall be
11 listed on the undertaking by affidavit. All property taken as
12 collateral, whether personal, intangible or real, shall be receipted
13 for and deemed, for all purposes, to be in the name of, and for the
14 use and benefit of, the surety company or licensed professional
15 bondsman, as the case may be. Every receipt, encumbrance, mortgage
16 or other evidence of ~~such~~ custody, possession or claim shall
17 facially indicate that it has been taken or made on behalf of the
18 surety company or professional bondsman through its authorized
19 agent, the individual licensed bondsman or managing general agent
20 who has transacted the undertaking with the bond principal. Any
21 mortgage or other encumbrance against real property taken under the
22 provisions of this section which does not indicate beneficial
23 ownership of the claim to be in favor of the surety company or
24 professional bondsman shall be deemed to constitute a cloud on the

1 title to real estate and shall subject the person filing, or causing
2 same to be filed, in the real estate records of the county, to a
3 penalty of treble damages or One Thousand Dollars (\$1,000.00),
4 whichever is greater, in an action brought by the person,
5 organization or corporation injured thereby. For collateral taken,
6 or liens or encumbrances taken or made pursuant to the provisions of
7 this section, the individual bondsman or managing general agent
8 taking possession of the property or making the lien, claim or
9 encumbrance shall do so on behalf of his or her surety company or
10 professional bondsman, as the case may be, and ~~such~~ the individual
11 licensed bondsman shall be deemed to act in the capacity of
12 fiduciary in relation to both:

13 1. The principal or other person from whom ~~such~~ the property is
14 taken or claimed against, and

15 2. The surety company or professional bondsman whose agent is
16 the licensed bondsman ~~is~~.

17 As fiduciary and bailee for hire, the individual bondsman shall be
18 liable in criminal or civil actions at law for failure to properly
19 receipt or account for, maintain or safeguard, release or deliver
20 possession upon lawful demand, in addition to any other penalties
21 set forth in this subsection. No person who takes possession of
22 property as collateral pursuant to this section shall use or
23 otherwise dissipate ~~such~~ the asset, or do otherwise with ~~such~~ the
24 property than to safeguard and maintain its condition pending its

1 return to its lawful owner, or deliver to the surety company or
2 professional bondsman, upon lawful demand pursuant to the terms of
3 the bailment.

4 B. Every licensed bondsman shall file monthly by mail with
5 return receipt requested with the Insurance Commissioner and on
6 forms prescribed by the Commissioner as follows:

7 1. A notarized monthly report showing every bond written,
8 amount of bond, whether released or revoked during each month,
9 showing the court and county, and the style and number of the case,
10 premiums charged and collateral received; and

11 2. Professional bondsmen shall submit by mail with return
12 receipt requested notarized monthly reports showing total current
13 liabilities, all bonds written during the month by the professional
14 bondsman and by any licensed bondsman who may countersign for him or
15 her, all bonds terminated during the month, and the total liability
16 and a list of all bondsmen currently employed by ~~such~~ the
17 professional bondsmen.

18 Monthly reports shall be postmarked or stamped "received" by the
19 Insurance Commissioner by the fifteenth day of each month. ~~Said~~ The
20 records shall be maintained by the Commissioner as public records.

21 C. Every licensee shall keep at his or her place of business
22 the usual and customary records pertaining to transactions
23 authorized by his or her license. All ~~such~~ of these records shall
24 be available and open to the inspection of the Commissioner at any

1 time during business hours during the three (3) years immediately
2 following the date of the transaction. The Commissioner may require
3 a financial examination or market conduct survey during any
4 investigation of a licensee.

5 D. ~~Each~~ Unless the Commissioner has set forth a fee as provided
6 for in this subsection through the promulgation of a rule, each bail
7 bondsman shall submit each month with his or her monthly report, a
8 reviewal fee equal to two-tenths of one percent (2/10 of 1%) of the
9 new liability written for that month. ~~Such~~ The fee shall be payable
10 to the Insurance Commissioner who shall deposit same with the State
11 Treasurer.

12 SECTION 32. AMENDATORY 59 O.S. 2001, Section 1317, as
13 last amended by Section 30, Chapter 184, O.S.L. 2008 (59 O.S. Supp.
14 2009, Section 1317), is amended to read as follows:

15 Section 1317. A. Every surety who appoints a surety bondsman
16 or managing general agent in the state, shall give notice thereof to
17 the Insurance Commissioner. ~~The~~ Unless the Commissioner has set
18 forth a fee as provided for in this subsection through the
19 promulgation of a rule, the filing fee for appointment of each
20 surety bondsman or managing general agent shall be Ten Dollars
21 (\$10.00), payable to the Commissioner and shall be submitted with
22 the appointment. The appointment shall remain in effect until the
23 surety submits a notice of cancellation to the Commissioner, the
24 bail bondsman's license expires, or the Commissioner cancels the

1 appointment. ~~If~~ Unless the Commissioner has set forth a fee as
2 provided for in this subsection through the promulgation of a rule,
3 if the surety changes the liability limitations of the surety
4 bondsman or the managing general agent, or any other provisions of
5 the appointment, the surety shall submit an amended appointment form
6 and a filing fee of Ten Dollars (\$10.00) payable to the
7 Commissioner.

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

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

23 D. Every bail bondsman who negotiates and posts a bond shall,
24 in any controversy between the defendant, indemnitor, or guarantor

1 and the bail bondsman or surety, be regarded as representing the
2 surety. This provision shall not affect the apparent authority of a
3 bail bondsman as an agent for the insurer.

4 SECTION 33. This act shall become effective September 1, 2010.

5
6 52-2-10563 SDR 04/07/10
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24