

1 ENGROSSED SENATE
2 BILL NO. 1658

By: Myers of the Senate

3 and

4 Sullivan of the House

5
6
7 [Insurance Commissioner and the Insurance
8 Department - insurance and fees collected - non-
9 appropriated agency -
10 effective date]

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

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SECTION 1. NEW LAW A new section of law to be codified

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in the Oklahoma Statutes as Section 301.1 of Title 36, unless there

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is created a duplication in numbering, reads as follows:

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A. The Legislature hereby declares its intent that beginning

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July 1, 2010, the Insurance Department shall be a non-appropriated

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agency of the State of Oklahoma.

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B. Beginning July 1, 2010, the Insurance Commissioner shall

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have the authority to establish, set, amend, revoke and collect any

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fee falling within the authority of the Commissioner or Department

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through the promulgation of necessary rules.

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1 C. No fee established, set, amended, revoked or collected
2 pursuant to subsection B of this section shall take effect prior to
3 July 1, 2011.

4 SECTION 2. AMENDATORY Section 1, Chapter 432, O.S.L.
5 2009 (36 O.S. Supp. 2009, Section 307.3), is amended to read as
6 follows:

7 Section 307.3 A. Effective July 1, 2009, there is hereby
8 created in the State Treasury a revolving fund for the Insurance
9 Commissioner called the State Insurance Commissioner Revolving Fund.
10 The revolving fund shall be used to fund the operations of the
11 Office of the Insurance Commissioner.

12 1. Notwithstanding any other law to the contrary, the revolving
13 fund shall consist of and consolidate all funds that are or have
14 been paid or collected by the Insurance Commissioner pursuant to the
15 laws of this state and the rules of the Insurance Department except
16 that the revolving fund shall not include:

- 17 a. premium taxes,
- 18 b. monies transferred to the Attorney General's Insurance
19 Fraud Unit Revolving Fund pursuant to Section 362 of
20 this title, and
- 21 c. funds paid to and collected pursuant to the Oklahoma
22 Certified Real Estate Appraisers Act, Section Sections
23 858-700 et seq. through 858-732 of Title ~~36~~ 59 of the
24 Oklahoma Statutes.

1 2. The revolving fund shall be a continuing fund, not subject
2 to fiscal year limitations. Expenditures from the revolving fund
3 shall be made pursuant to the laws of this state and the statutes
4 relating to the Insurance Department, and without legislative
5 appropriation. Warrants for expenditures from the revolving fund
6 shall be drawn by the State Treasurer, based on claims signed by an
7 authorized employee or employees of the Insurance Department and
8 filed with the Director of State Finance.

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

11 C. ~~The~~ After the effective date of this act, the State Treasury
12 is authorized and directed to deduct from the funds paid ~~into~~ or
13 collected by the Insurance Commissioner ~~Revolving Fund after the~~
14 ~~effective date of this section~~ a sum equal to seventy-six and one
15 half percent (76.5%) of such payment and place the same to the
16 credit of the General Revenue Fund of the state. The State
17 Treasurer shall place to the credit of the State Insurance
18 Commissioner Revolving Fund the remainder of ~~said~~ the funds so paid
19 and or collected ~~shall by the State Treasurer be placed to the~~
20 ~~credit of the State Insurance Commissioner Revolving Fund by the~~
21 Insurance Commissioner.

22 SECTION 3. AMENDATORY 36 O.S. 2001, Section 321, as last
23 amended by Section 3, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
24 Section 321), is amended to read as follows:

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

6 1. For filing charter documents:

7 Original charter documents,
8 articles of incorporation, bylaws,
9 or record of organization of alien
10 or foreign insurers, or certified
11 copies thereof.....\$50.00

12 2. Certificate of Authority:

13 (a) Issuance:

14 Fraternal benefit societies,
15 alien or foreign.....\$150.00
16 Hospital service and medical
17 indemnity corporations, alien
18 or foreign.....\$150.00
19 All other alien or foreign
20 insurers.....\$150.00

21 (b) Renewal:

22 Fraternal benefit societies,
23 alien or foreign.....\$150.00
24

1	Hospital service and medical	
2	indemnity corporations, alien	
3	or foreign.....	\$150.00
4	All other alien or foreign	
5	insurers.....	\$150.00
6	3. For filing appointment of Insurance	
7	Commissioner as agent for service	
8	of process.....	\$10.00
9	4. Miscellaneous:	
10	(a) Copies of records, per page.....	\$0.40
11	(b) Amended charter documents,	
12	articles of incorporation or	
13	bylaws of domestic, alien or	
14	foreign insurers or health	
15	maintenance organizations.....	\$50.00
16	(c) Certificate of Commissioner,	
17	under seal.....	\$5.00
18	(d) For filing Merger and	
19	Acquisition Forms.....	\$1,000.00
20	(e) For filing Variable Product	
21	Forms.....	\$200.00
22	(f) For filing a Life, Accident	
23	and Health Policy and Health	
24		

1	Maintenance Organization	
2	contract.....	\$50.00
3	(g) For filing an advertisement or	
4	rider application to a Life,	
5	Accident and Health Policy and	
6	Health Maintenance	
7	Organization contract.....	\$25.00
8	(h) Pending Company Review.....	\$1,000.00
9	(i) For filing a Viatical	
10	Settlement Contract or Life	
11	Settlement.....	\$50.00
12	(j) For filing an advertisement	
13	for Viatical Settlement or	
14	Life Settlement.....	\$25.00
15	(k) For filing application for	
16	Viatical Settlement or Life	
17	Settlement Contract.....	\$25.00
18	(l) Miscellaneous form filing.....	\$25.00

19 B. ~~There~~ Unless the Commissioner has set forth a fee as
20 provided for in this subsection through the promulgation of a rule,
21 there shall be assessed an annual fee of Five Hundred Dollars
22 (\$500.00) payable by each insurer, health maintenance organization,
23 fraternal benefit society, hospital service and medical indemnity
24 corporation, charitable and benevolent corporation, or United States

1 surplus lines insurance companies licensed to do business in this
2 state, to pay for the filing, processing, and reviewing of annual
3 and quarterly financial statements by personnel of the Office of the
4 State Insurance Commissioner.

5 SECTION 4. AMENDATORY 36 O.S. 2001, Section 348.1, as
6 last amended by Section 5, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
7 2009, Section 348.1), is amended to read as follows:

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

13 1. Rating organizations, statistical agents and advisory
14 organizations:

- 15 a. Application fee for issuance of
- 16 license.....\$200.00
- 17 b. License fee.....\$500.00

18 2. Miscellaneous:

- 19 a. Certificate of Insurance Commissioner,
- 20 under seal.....\$ 20.00
- 21 b. Upon each transaction of filing of
- 22 documents required pursuant to the
- 23 provisions of Sections 3610 and 6601 of
- 24 this title:

- 1 (1) For an individual insurer.....\$ 50.00
- 2 (2) For an approved joint underwriting
- 3 association, or rating or advisory
- 4 organization:
- 5 (a) Basic fee.....\$ 50.00
- 6 (b) Additional fee for each member
- 7 or subscriber insurer.....\$ 10.00,
- 8 not to exceed.....\$500.00.

9 3. For each rate, loss cost and rule filing request pursuant to
 10 the provisions of Sections 6821 and 981 et seq. of this title:

- 11 a. For an individual insurer.....\$100.00
- 12 b. For an approved joint underwriting
- 13 association, rating or advisory
- 14 organization:
- 15 (1) Basic fee.....\$100.00
- 16 (2) Additional fee for each member
- 17 or subscriber insurer.....\$ 10.00,
- 18 not to exceed.....\$500.00.

19 B. The fees, licenses, and taxes imposed by the Commissioner
 20 upon persons, firms, associations, or corporations licensed pursuant
 21 to this section shall be payment in full with respect thereto of and
 22 in lieu of all demands for any and all state, county, district, and
 23 municipal license fees, license taxes, business privilege taxes,
 24 business privilege fees, and charges of every kind now or hereafter

1 imposed upon all such persons, firms, associations, or corporations.
2 This subsection shall not affect other fees, licenses and taxes
3 imposed by the Insurance Code.

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

7 SECTION 5. AMENDATORY 36 O.S. 2001, Section 362, as last
8 amended by Section 6, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
9 Section 362), is amended to read as follows:

10 Section 362. ~~An~~ Unless the Insurance Commissioner has set forth
11 a fee as provided for in this subsection through the promulgation of
12 a rule, an annual fee of Seven Hundred Fifty Dollars (\$750.00) shall
13 be paid to the Insurance Commissioner to be expended by the
14 Insurance Commissioner for the purposes of investigation of
15 suspected insurance fraud and civil or administrative action in
16 cases involving suspected insurance fraud. The following shall pay
17 an annual fee of Seven Hundred Fifty Dollars (\$750.00) to the
18 Insurance Department which shall be payable quarterly in the amount
19 of One Hundred Eighty-seven Dollars and fifty cents (\$187.50):
20 Life, accident and health insurers; property and casualty insurers;
21 county mutual fire insurers; mutual benefit associations; fraternal
22 benefit societies; reciprocal insurers; motor service clubs; title
23 insurers; nonprofit insurers; health maintenance organizations
24 (HMOs); service warranty associations; surplus lines carriers;

1 multiple employer welfare arrangements (MEWAs); trusts which write
2 surety policies; prepaid dental plan organizations; and accredited
3 reinsurers. The payments shall be due on or before the last day of
4 the month following each calendar quarter. Beginning in the
5 calendar year 2010, payment of the annual fee shall be made as one
6 payment of Seven Hundred Fifty Dollars (\$750.00) which shall be paid
7 on or before July 1. Within sixty (60) days after each calendar
8 quarter in which monies are collected, the Commissioner shall
9 transfer twenty-five percent (25%) of all monies collected by the
10 Insurance Department pursuant to this section to the Attorney
11 General's Insurance Fraud Unit Revolving Fund created in Section
12 19.3 of Title 74 of the Oklahoma Statutes, for use by the Attorney
13 General in the investigation and prosecution of insurance fraud.

14 SECTION 6. AMENDATORY 36 O.S. 2001, Section 622, as
15 amended by Section 7, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
16 Section 622), is amended to read as follows:

17 Section 622. A. Triplicate copies of legal process against an
18 insurer for whom the Insurance Commissioner is agent shall be served
19 upon the Commissioner at the principal offices of the Insurance
20 Department. When legal process against an insurer for whom the
21 Insurance Commissioner is agent is issued, it shall be served in
22 triplicate by any manner now provided by law or in lieu thereof by
23 mailing triplicate copies of such legal process in the United States
24 mails with postage prepaid to the Insurance Commissioner with return

1 receipt requested, in which event service shall be sufficient upon
2 showing of proof of mailing to the Commissioner with the return
3 receipt attached. ~~At~~ Unless the Insurance Commissioner has set
4 forth a fee as provided for in this subsection through the
5 promulgation of a rule, at the time of service the plaintiff shall
6 pay to the Insurance Commissioner Twenty Dollars (\$20.00), taxable
7 as costs in the action. Upon receiving service, the Insurance
8 Commissioner shall promptly forward a copy thereof by mail with
9 return receipt requested to the person last so designated by the
10 insurer to receive the same.

11 B. Process served upon the Insurance Commissioner and copy
12 thereof forwarded as provided in this section shall constitute
13 service upon the insurer.

14 SECTION 7. AMENDATORY 36 O.S. 2001, Section 635, as
15 amended by Section 1, Chapter 129, O.S.L. 2002 (36 O.S. Supp. 2009,
16 Section 635), is amended to read as follows:

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

- 19 1. a. nonprofit,
- 20 b. (1) established by a trade association, industry
21 association or professional association of
22 employers or professionals that has a
23 constitution or bylaws and that has been
24 organized and maintained in good faith for a

1 continuous period of five (5) years for purposes
2 other than that of obtaining or providing
3 insurance, or

4 (2) requires membership in an association described
5 in division (1) of this subparagraph in order to
6 obtain the insurance offered by the MEWA,

7 c. operated pursuant to a trust agreement by a board of
8 trustees that has complete fiscal control over the
9 MEWA and that is responsible for all operations of the
10 MEWA. Except as provided in this paragraph, the
11 trustees ~~must~~ shall:

12 (1) be owners, shareholders, partners, officers,
13 directors, or employees of one or more employers
14 in the MEWA. With the Insurance Commissioner's
15 approval, a person who is not such an owner,
16 shareholder, partner, officer, director, or
17 employee may serve as a trustee if that person
18 possesses the expertise required for ~~such~~ the
19 service. A trustee may not be an owner,
20 shareholder, partner, officer or employee of the
21 administrator or service company of the MEWA,

22 (2) have the authority to approve applications of
23 association members for participation in the
24 MEWA, and

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

4 d. neither offered nor advertised to the public
5 generally,

6 e. operated in accordance with sound actuarial
7 principles, and

8 f. offered only after Two Hundred Thousand Dollars

9 (\$200,000.00) of cash or federally guaranteed

10 obligations of less than five-year maturity that have

11 a fixed or recoverable principal amount or ~~such~~ other

12 investments as the Commissioner may authorize by rule

13 is titled in ~~such~~ a manner that it may not be traded,

14 sold or otherwise expended without the consent of the

15 Insurance Commissioner; provided, ~~said~~ the funds shall

16 be taken into account in determining whether the MEWA

17 is actuarially sound, and evidence of ~~said~~ the

18 investment shall be filed with the State Treasurer; or

19 2. a. operated pursuant to a trust agreement for a trust

20 which has its situs in this state, is operated

21 pursuant to a trust agreement by a board of trustees

22 that has complete fiscal control over the MEWA, is

23 responsible for all operations of the MEWA, and which

24 has as one of its trustees a financial institution

1 which is independent of the entity which established
2 the MEWA. Except as provided in this paragraph, the
3 board of trustees ~~must~~ shall have owners,
4 shareholders, partners, officers, directors or
5 employees of one or more employers in the MEWA. With
6 the Insurance Commissioner's approval, a person who is
7 not such an owner, shareholder, partner, officer,
8 director or employee may serve as a trustee if that
9 person possesses the expertise required for ~~such~~ the
10 service. A trustee shall not be an owner,
11 shareholder, partner, officer, director or employee of
12 the administrator or service company of the MEWA,

13 b. operated and administered in a manner that causes all
14 assets of the MEWA to be held in trust until paid
15 either:

16 (1) for the benefit of individuals who receive
17 medical, dental or similar benefits from the
18 MEWA, or

19 (2) for the expenses of the MEWA, such as the fees of
20 the trustee, licensed agents, administrator,
21 service company, and all expenses of complying
22 with the provisions of ~~this act~~ Sections 633
23 through 650 of this title,

1 c. offered only to employers for the benefit of their
2 employees,

3 d. operated in accordance with sound actuarial
4 principles, and

5 e. offered only after Two Hundred Thousand Dollars

6 (\$200,000.00) of cash or federally guaranteed

7 obligations of less than five-year maturity that have

8 a fixed or recoverable principal amount or such other

9 investments as the Commissioner may authorize by rule

10 is titled in ~~such~~ a manner that it may not be traded,

11 sold or otherwise expended without the consent of the

12 Insurance Commissioner; provided, ~~said~~ the funds shall

13 be taken into account in determining whether the MEWA

14 is actuarially sound, and evidence of ~~said~~ the

15 investment shall be filed with the State Treasurer.

16 B. 1. The MEWA shall issue to each covered employee a policy,

17 contract, certificate, summary plan description, or other evidence

18 of the benefits and coverages provided. The policy, contract,

19 certificate, summary plan description, or other evidence of the

20 benefits, coverages provided, premium rates to be charged and any

21 contracts between the MEWA and any administrator or service company,

22 including any changes to those documents, ~~must~~ shall be filed with

23 the Oklahoma Insurance Department. The evidence of benefits and

24 coverages provided shall contain, in boldface type on the face page

1 of the policy and the certificate, the following statement: "THE
2 BENEFITS AND COVERAGES DESCRIBED HEREIN ARE PROVIDED THROUGH A TRUST
3 FUND ESTABLISHED BY A GROUP OF EMPLOYERS (name of MEWA). THE TRUST
4 FUND IS NOT SUBJECT TO ANY INSURANCE GUARANTY ASSOCIATION. OTHER
5 RELATED FINANCIAL INFORMATION IS AVAILABLE FROM YOUR EMPLOYER OR
6 FROM THE (name of MEWA). EXCESS INSURANCE IS PROVIDED BY A LICENSED
7 INSURANCE COMPANY TO COVER CERTAIN CLAIMS WHICH EXCEED CERTAIN
8 AMOUNTS. THIS IS THE ONLY SOURCE OF FUNDING FOR THESE BENEFITS AND
9 COVERAGES."

10 2. If applicable, the same documents shall contain in boldface
11 type on the face page of the policy and the certificate: "THE
12 BENEFITS AND COVERAGE DESCRIBED HEREIN ARE FUNDED BY CONTRIBUTIONS
13 FROM EMPLOYERS, EMPLOYEES, AND OTHER INDIVIDUALS ELIGIBLE FOR
14 COVERAGE."

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

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

19 1. Any trust, manager or administrator is incompetent,
20 untrustworthy, or so lacking in insurance expertise as to make the
21 operations of the MEWA hazardous to the potential and existing
22 insureds;

23 2. Any trustee, manager or administrator has been found guilty
24 of or has pled guilty or no contest to a felony, a crime involving

1 moral turpitude, or a crime punishable by imprisonment of one (1)
2 year or more under the law of any state or country, whether or not a
3 judgment or conviction has been entered; or

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

6 D. To qualify for and retain a license, a MEWA shall file all
7 contracts with administrators or service companies with the
8 Insurance Commissioner, and report any changes in such contracts to
9 the Commissioner in advance of their implementation. The
10 Commissioner shall have the authority to cause any contract with an
11 administrator or service company to be renegotiated if the
12 Commissioner reasonably determines that the charges under any such
13 contract are excessively high in light of the services being
14 delivered under the contract.

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

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

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1 SECTION 8. AMENDATORY 36 O.S. 2001, Section 1219.4, as
2 last amended by Section 23, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
3 2009, Section 1219.4), is amended to read as follows:

4 Section 1219.4 A. As used in this section:

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

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

14 3. "Discount medical plan" means a business arrangement or
15 contract in which a person, in exchange for fees, dues, charges, or
16 other consideration, provides access for plan members to providers
17 of medical services and the right to receive medical services from
18 those providers at a discount. The term discount medical plan does
19 not include any product regulated as an insurance product, group
20 health service product or health maintenance organization (HMO)
21 product in the State of Oklahoma or discounts provided by an
22 insurer, group health service, or health maintenance organizations
23 (HMOs) where those discounts are provided at no cost to the insured

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1 or member and are offered due to coverage with a licensed insurer,
2 group health service, or HMO;

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

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

9 6. "Health care provider network" means an entity which
10 directly contracts with physicians and hospitals and has contractual
11 rights to negotiate on behalf of those health care providers with a
12 discount medical plan organization to provide medical services to
13 members of the discount medical plan organization;

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

18 8. "Medical services" means any care, service or treatment of
19 illness or dysfunction of, or injury to, the human body including,
20 but not limited to, physician care, inpatient care, hospital
21 surgical services, emergency services, ambulance services, dental
22 care services, vision care services, mental health services,
23 substance abuse services, chiropractic services, podiatric care

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1 services, laboratory services, and medical equipment and supplies.

2 The term does not include pharmaceutical supplies or prescriptions;

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

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

9 B. 1. Before doing business in this state as a discount
10 medical plan organization, an entity shall be a corporation, limited
11 liability corporation, partnership, limited liability partnership or
12 other legal entity, organized under the laws of this state or, if a
13 foreign entity, authorized to transact business in this state, and
14 shall be registered as a discount medical plan organization with the
15 Insurance Department of the State of Oklahoma or be licensed by the
16 Insurance Department of the State of Oklahoma as a licensed
17 insurance company, licensed HMO, licensed group health service
18 organization or motor service club.

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

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1 a. file with the Insurance Department of the State of
2 Oklahoma an application on the form that the Insurance
3 Commissioner requires, and

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

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

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

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

13 a. otherwise is entitled to be registered,

14 b. files with the Department a renewal application on the
15 form that the Insurance Commissioner requires, and

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

18 6. The Insurance Commissioner may deny a registration to an
19 applicant or refuse to renew, suspend, or revoke the registration of
20 a registrant if the applicant or registrant, or an officer,
21 director, or employee of the applicant or registrant:

22 a. makes a material misstatement or misrepresentation in
23 an application for registration,

1 b. fraudulently or deceptively obtains or attempts to
2 obtain a registration for the applicant or registrant
3 or for another,

4 c. in connection with the administration of a health care
5 discount program, commits fraud or engages in illegal
6 or dishonest activities, or

7 d. has violated any provisions of this section.

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

11 8. All amounts collected as registration or renewal fees shall
12 be ~~deposited~~ paid into the ~~General Revenue Fund~~ State Treasury.

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

16 10. a. Nothing in this subsection shall apply to an affiliate
17 of a licensed insurance company, HMO, group health
18 service organization or motor service club, provided
19 that the affiliate registers with and maintains
20 registration in good standing with the Insurance
21 Department of the State of Oklahoma in accordance with
22 subparagraphs b and c of this paragraph.

23 b. ~~An~~ Unless the Insurance Commissioner has set forth a
24 fee as provided for in this subparagraph through the

1 promulgation of a rule, an affiliate shall register as
2 a discount medical plan organization on a form
3 prescribed by the Insurance Commissioner prior to the
4 sale, marketing or solicitation of a discount medical
5 plan and pay an application fee of One Hundred Dollars
6 (\$100.00).

7 c. A registration shall expire one (1) year after the
8 date of registration, and each year on that date
9 thereafter. A Unless the Insurance Commissioner has
10 set forth a fee as provided for in this subparagraph
11 through the promulgation of a rule, a registrant may
12 renew the registration if the registrant pays an
13 annual registration fee of One Hundred Dollars
14 (\$100.00) and remains in good standing with the
15 Insurance Department of the State of Oklahoma.

16 d. For purposes of this section, "affiliate" means a
17 person that, directly or indirectly through one or
18 more intermediaries, controls or is controlled by or
19 is under common control with an insurance company,
20 HMO, group health service organization or motor
21 service club licensed in this state.

22 C. 1. The Department may examine or investigate the business
23 and affairs of any discount medical plan organization. The
24 Department may require any discount medical plan organization or

1 applicant to produce any records, books, files, advertising and
2 solicitation materials, or other information and may take statements
3 under oath to determine whether the discount medical plan
4 organization or applicant is in violation of the law or is acting
5 contrary to the public interest. The expenses incurred in
6 conducting any examination or investigation shall be paid by the
7 discount medical plan organization or applicant. Examinations and
8 investigations shall be conducted as provided in Sections 309.1 and
9 309.3 through 309.7 of this title. Discount medical plan
10 organizations shall be governed by the provisions of this section
11 and shall not be subject to the provisions of the Insurance Code
12 unless specifically referenced.

13 2. Failure by the discount medical plan organization to pay the
14 expenses incurred under paragraph 1 of this subsection shall be
15 grounds for denial or revocation of the discount medical plan
16 organization's registration.

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

19 2. If the member cancels the membership within the first thirty
20 (30) days after receipt of the discount card and other membership
21 materials, the member shall receive a reimbursement of all periodic
22 charges paid. The return of all periodic charges shall be made
23 within thirty (30) days of the date of the cancellation. If all of
24 the periodic charges have not been paid within thirty (30) days,

1 interest shall be assessed and paid on the proceeds at a rate of the
2 Treasury Bill rate of the preceding calendar year, plus two (2)
3 percentage points.

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

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

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

11 a. use in its advertisements, marketing material,
12 brochures, and discount cards the terms "insurance",
13 "health plan", "coverage", "copay", "copayments",
14 "preexisting conditions", "guaranteed issue",
15 "premium", "PPO", "preferred provider organization",
16 or other terms in a manner that could reasonably
17 mislead a person to believe that the discount medical
18 plan is health insurance,

19 b. except for hospital services, have restrictions on
20 free access to plan providers including waiting
21 periods and notification periods, or

22 c. pay providers any fees for medical services.

23 2. A discount medical plan organization may not collect or
24 accept money from a member for payment to a provider for specific

1 medical services furnished or to be furnished to the member unless
2 the organization has an active license from the Insurance Department
3 of the State of Oklahoma to act as an administrator.

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

- 9 a. that the plan is not insurance,
- 10 b. that the plan provides discounts with certain health
11 care providers for medical services,
- 12 c. that the plan does not make payments directly to the
13 providers of medical services,
- 14 d. that the plan member is obligated to pay for all
15 health care services but will receive a discount from
16 those health care providers who have contracted with
17 the discount plan organization, and
- 18 e. the name and the location of the registered discount
19 medical plan organization, including the current
20 telephone number of the registered discount medical
21 plan organization or other entity responsible for
22 customer service for the plan, if different from the
23 registered discount medical plan organization.

24

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

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

8 G. 1. All providers offering medical services to members under
9 a discount medical plan shall provide ~~such~~ the services pursuant to
10 a written agreement. The agreement may be entered into directly by
11 the health care provider or by a health care provider network to
12 which the provider belongs if the provider network has contracts
13 with the health care provider that allow the provider network to
14 contract on behalf of the health care provider.

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

- 17 a. a description of the services and products to be
18 provided at a discount,
- 19 b. the amount or amounts of the discounts or,
20 alternatively, a fee schedule which reflects the
21 health care provider's discounted rates, and
- 22 c. a provision that the health care provider will not
23 charge members more than the discounted rates.

24

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

4 a. contain the terms described in paragraph 2 of this
5 subsection,

6 b. authorize the health care provider network to contract
7 with the discount medical plan organization on behalf
8 of the provider, and

9 c. require the network to maintain an up-to-date list of
10 its contracted health care providers and to provide
11 that list on a quarterly basis to the discount medical
12 plan organization.

13 4. The discount medical plan organization shall maintain a copy
14 of each active health care provider agreement into which it has
15 entered.

16 H. 1. There shall be a written agreement between the discount
17 medical plan organization and the member specifying the benefits
18 under the discount medical plan and complying with the disclosure
19 requirements of this section.

20 2. All forms used, including the written agreement pursuant to
21 the provisions of subsection G of this section, shall first be filed
22 with the Department. Every form filed shall be identified by a
23 unique form number placed in the lower left corner of each form. A
24 Unless the Insurance Commissioner has set forth a fee as provided

1 for in this paragraph through the promulgation of a rule, a filing
2 fee of Twenty-five Dollars (\$25.00) per form shall be payable to the
3 Insurance Department of the State of Oklahoma ~~for deposit into the~~
4 ~~General Revenue Fund.~~

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

9 2. The Insurance Department of the State of Oklahoma may not
10 allow a registration unless the discount medical plan organization
11 has a net worth of at least One Hundred Fifty Thousand Dollars
12 (\$150,000.00).

13 J. 1. The Insurance Department of the State of Oklahoma may
14 suspend the authority of a discount medical plan organization to
15 enroll new members, revoke any registration issued to a discount
16 medical plan organization, or order compliance if the Department
17 finds that any of the following conditions exist:

- 18 a. the organization is not operating in compliance with
19 the provisions of this section,
- 20 b. the organization does not have the minimum net worth
21 as required by this section,
- 22 c. the organization has advertised, merchandised or
23 attempted to merchandise its services in such a manner
24 as to misrepresent its services or capacity for

1 service or has engaged in deceptive, misleading or
2 unfair practices with respect to advertising or
3 merchandising,

4 d. the organization is not fulfilling its obligations as
5 a discount medical plan organization, or

6 e. the continued operation of the organization would be
7 hazardous to its members.

8 2. If the Insurance Department of the State of Oklahoma has
9 cause to believe that grounds for the suspension or revocation of a
10 registration exist, the Department shall notify the discount medical
11 plan organization in writing, specifically stating the grounds for
12 suspension or revocation, and shall provide opportunity for a
13 hearing on the matter in accordance with the Administrative
14 Procedures Act and the Oklahoma Insurance Code.

15 3. When the certificate of registration of a discount medical
16 plan organization is nonrenewed, surrendered or revoked, ~~such~~ the
17 organization shall proceed, immediately following the effective date
18 of the order of revocation, or in the case of nonrenewal, the date
19 of expiration of the certificate of registration, to wind up its
20 affairs transacted under the certificate of registration. The
21 organization may not engage in any further advertising,
22 solicitation, collecting of fees, or renewal of contracts.

23 4. The Insurance Department of the State of Oklahoma shall, in
24 its order suspending the authority of a discount medical plan

1 organization to enroll new members, specify the period during which
2 the suspension is to be in effect and the conditions, if any, which
3 shall be met by the discount medical plan organization prior to
4 reinstatement of its registration to enroll new members. The order
5 of suspension is subject to rescission or modification by further
6 order of the Department prior to the expiration of the suspension
7 period. Reinstatement may not be made unless requested by the
8 discount medical plan organization; however, the Department may not
9 grant reinstatement if it finds that the circumstances for which the
10 suspension occurred still exist or are likely to reoccur.

11 K. Each discount medical plan organization required to be
12 registered pursuant to this section shall provide the Insurance
13 Department of the State of Oklahoma at least thirty (30) days'
14 advance notice of any change in the discount medical plan
15 organization's name, address, principal business address, or mailing
16 address.

17 L. Each discount medical plan organization shall maintain an
18 up-to-date list of the names and addresses of the providers with
19 which it has contracted on an Internet web site page, the address of
20 which shall be prominently displayed on all its advertisements,
21 marketing materials, brochures, and discount cards. This section
22 applies to those providers with whom the discount medical plan
23 organization has contracted directly, as well as those who are
24

1 members of a provider network with which the discount medical plan
2 organization has contracted.

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

6 2. The discount medical plan organization shall have an
7 executed written agreement with a marketer prior to the marketer's
8 marketing, promoting, selling, or distributing the discount medical
9 plan.

10 N. The Insurance Commissioner may promulgate rules to
11 administer the provisions of this section.

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

14 P. 1. A discount medical plan organization required to be
15 registered pursuant to this section except an affiliate shall
16 maintain a surety bond with the Insurance Department of the State of
17 Oklahoma, having at all times a value of not less than Thirty-five
18 Thousand Dollars (\$35,000.00), for use by the Department in
19 protecting plan members.

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

24

1 Q. 1. A person who knowingly and willfully operates as or aids
2 and abets another operating as a discount medical plan organization
3 in violation of subsection B of this section commits a felony,
4 punishable as provided for in Oklahoma law, as if the discount
5 medical plan organization were an unauthorized insurer, and the
6 fees, dues, charges, or other consideration collected from the
7 members by the discount medical plan organization or marketer were
8 insurance premium.

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

12 R. 1. In addition to the penalties and other enforcement
13 provisions of this section, the Department may seek both temporary
14 and permanent injunctive relief if:

- 15 a. a discount medical plan organization is being operated
16 by any person or entity that is not registered
17 pursuant to this section, or
- 18 b. any person, entity, or discount medical plan
19 organization has engaged in any activity prohibited by
20 this section or any rule adopted pursuant to this
21 section.

22 2. The venue for any proceeding brought pursuant to the
23 provisions of this section shall be in the district court of
24 Oklahoma County.

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

5 2. A discount medical plan organization being operated by any
6 person or entity that is not registered pursuant to this section, or
7 any person, entity or discount medical plan organization that has
8 engaged or is engaging in any activity prohibited by this section or
9 any rules adopted pursuant to this section shall be subject to the
10 Unauthorized Insurer Act as if the discount medical plan
11 organization were an unauthorized insurer, and shall be subject to
12 all the remedies available to the Insurance Commissioner under the
13 Unauthorized Insurer Act.

14 T. If the Insurance Commissioner finds that a discount medical
15 plan organization has violated any provision of this section or that
16 grounds exist for the discretionary revocation or suspension of a
17 registration, the Commissioner, in lieu of ~~such~~ the revocation or
18 suspension, may impose a fine upon the discount medical plan
19 organization in an amount not to exceed One Thousand Dollars
20 (\$1,000.00) per violation.

21 SECTION 9. AMENDATORY 36 O.S. 2001, Section 1435.23, as
22 last amended by Section 12, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
23 2009, Section 1435.23), is amended to read as follows:

24

1 Section 1435.23 A. All applications shall be accompanied by
2 the applicable fees. An appointment may be deemed by the Insurance
3 Commissioner to have terminated upon failure by the insurer to pay
4 the prescribed renewal fee. The Commissioner may also by order
5 impose a civil penalty equal to double the amount of the unpaid
6 renewal fee.

7 ~~The~~ Unless the Commissioner has set forth a fee as provided for
8 in this subsection through the promulgation of a rule, the Insurance
9 Commissioner shall collect in advance the following fees and
10 licenses:

11 1. For filing appointment of Insurance
12 Commissioner as agent for service of process..... \$ 20.00

13 2. Miscellaneous:
14 a. Certificate and Clearance of
15 Commissioner..... \$ 3.00

16 b. Insurance producer's study manual:
17 Life, Accident & Health..... not to exceed
18 \$ 40.00
19 Property and Casualty..... not to exceed
20 \$ 40.00

21 c. For filing organizational documents of
22 an entity applying for a license as an
23 insurance producer..... \$ 20.00

24 3. Examination for license:

1 For each examination covering laws
2 and one or more lines of insurance.... not to exceed
3 \$100.00

4 4. Licenses:

- 5 a. Insurance producer's biennial license,
6 regardless of number of companies
7 represented..... \$ 60.00
- 8 b. Insurance producer's biennial license
9 for sale or solicitation of separate
10 accounts or agreements, as provided for
11 in Section 6061 of this title..... \$ 60.00
- 12 c. Limited lines producer biennial license..... \$ 40.00
- 13 d. Temporary license as agent..... \$ 20.00
- 14 e. Managing general agent's biennial
15 license..... \$ 60.00
- 16 f. Surplus lines broker's biennial license..... \$100.00
- 17 g. Insurance vending machine, each machine,
18 biennial fee..... \$100.00
- 19 h. Insurance consultant's biennial license,
20 resident or nonresident..... \$100.00
- 21 i. Customer service representative biennial
22 license..... \$ 40.00
- 23 j. Insurance producer's provisional license \$ 20.00

1 5. Biennial fee for each appointed insurance
2 producer, managing general agent, or limited
3 lines producer by insurer, each license of
4 each insurance producer or representative \$55.00

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

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

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

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

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

20 C. The Insurance Commissioner, by order, may waive licensing
21 fees in extraordinary circumstances for a class of producers where
22 the Commissioner deems that the public interest will be best served.
23
24

1 SECTION 10. AMENDATORY 36 O.S. 2001, Section 1435.29, as
2 last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
3 2009, Section 1435.29), is amended to read as follows:

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

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

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

20 4. Each title producer and aircraft title producer shall,
21 biennially, complete not less than sixteen (16) clock hours of
22 continuing insurance education, two (2) hours of which shall be
23 ethics course work, which shall cover the line for which the
24

1 producer is licensed. ~~Such~~ The education may include a written or
2 oral examination.

3 B. 1. The Insurance Commissioner shall approve courses and
4 providers of resident provisional producer prelicensing education
5 and continuing education. The Insurance Department may use one or
6 more of the following to review and provide a nonbinding
7 recommendation to the Insurance Commissioner on approval or
8 disapproval of courses and providers of resident provisional
9 producer prelicensing education and continuing education:

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

24

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

11 The Insurance Commissioner may certify providers and courses
12 offered for license examination study. The Insurance Department
13 shall use employees of the Insurance Commissioner to review and
14 certify license examination study program providers and courses.

15 2. Each insurance company shall be allowed to provide
16 continuing education to insurance producers and customer service
17 representatives as required by this section; provided that ~~such~~ the
18 continuing education meets the general standards for education
19 otherwise established by the Insurance Commissioner.

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

24

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

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

19 5. Subject to approval by the Commissioner, the active
20 membership of the licensed producer or broker in local, regional,
21 state, or national professional insurance organizations or
22 associations may be approved for up to one (1) annual hour of
23 instruction. The hour shall be credited upon timely filing with the
24 Commissioner, or designee of the Commissioner, and appropriate

1 written evidence acceptable to the Commissioner of ~~such~~ the active
2 membership in the organization or association.

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

7 C. Annual fees and course submission fees shall be set forth as
8 a rule by the Commissioner. The fees are payable to the Insurance
9 Commissioner. Provided, public-funded educational institutions,
10 federal agencies, nonprofit organizations, not-for-profit
11 organizations, and Oklahoma state agencies shall be exempt from this
12 subsection.

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

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

24

1 F. Members of the Legislature shall be exempt from this
2 section.

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

5 SECTION 11. AMENDATORY 36 O.S. 2001, Section 1450, as
6 last amended by Section 14, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
7 2009, Section 1450), is amended to read as follows:

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

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

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

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

21 C. In the case of a partnership which has been licensed, each
22 general partner shall be named in the license and shall qualify
23 therefore as though an individual licensee. ~~The~~ Unless the
24 Commissioner has set forth a fee as provided for in this subsection

1 through the promulgation of a rule, the Commissioner shall charge a
2 full additional license fee and a separate license shall be issued
3 for each individual so named in ~~such a~~ the license. The partnership
4 shall notify the Commissioner within fifteen (15) days if any
5 individual licensed on its behalf has been terminated, or is no
6 longer associated with or employed by the partnership. Any entity
7 or partnership licensed as administrators under the Third-party
8 Administrators Act shall provide National Association of Insurance
9 Commissioner Biographical Affidavits as required for domestic
10 insurers pursuant to the insurance laws of this state.

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

18 E. The administrator's license shall continue in force no
19 longer than twelve (12) months from the original month of issuance.
20 ~~Upon~~ Unless the Commissioner has set forth a fee as provided for in
21 this subsection through the promulgation of a rule, upon filing a
22 renewal form prescribed by the Commissioner, accompanied by a fee of
23 One Hundred Dollars (\$100.00), the license may be renewed annually
24 for a one-year term. Late application for renewal of a license

1 shall require a fee of double the amount of the original license
2 fee. The administrator shall submit, together with the application
3 for renewal, a list of the names and addresses of the persons with
4 whom the administrator has contracted in accordance with Section
5 1443 of this title. The Commissioner shall hold this information
6 confidential except as provided in Section 1443 of this title.

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

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

23 H. Any person who is acting as or presenting himself or herself
24 to be an administrator without a valid license shall be subject,

1 upon conviction, to a fine of not less than One Thousand Dollars
2 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each
3 occurrence. This fine shall be in addition to any other penalties
4 which may be imposed for violations of the Oklahoma Insurance Code
5 or other laws of this state.

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

11 SECTION 12. AMENDATORY 36 O.S. 2001, Section 1661, as
12 amended by Section 16, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
13 Section 1661), is amended to read as follows:

14 Section 1661. The Unless the Insurance Commissioner has set
15 forth a fee as provided for in this section through the promulgation
16 of a rule, the initial fee for registration required by the
17 provisions of Section 1654 of this title shall be Two Hundred Fifty
18 Dollars (\$250.00) and an additional fee of One Hundred Dollars
19 (\$100.00) shall be payable on May 1 of each calendar year thereafter
20 so long as such registration continues.

21 SECTION 13. AMENDATORY 36 O.S. 2001, Section 3102, is
22 amended to read as follows:

23 Section 3102. A. No company shall sell, or offer for sale, any
24 motor club service without first having deposited with the Insurance

1 Commissioner the sum of Fifty Thousand Dollars (\$50,000.00), in cash
2 or securities approved by the Commissioner, or, in lieu thereof, a
3 corporate surety bond, approved by the Commissioner, in the form
4 described by the Commissioner, payable to the State of Oklahoma, in
5 the sum of One Hundred Thousand Dollars (\$100,000.00), and
6 conditioned upon the faithful performance in the sale or rendering
7 of motor club service and payment of any fines or penalties levied
8 against it for failure to comply with the provisions of this act.
9 Provided, however, that the aggregate liability of the surety for
10 all breaches of the conditions of the bond and for the payment of
11 all fines and penalties shall, in no event, exceed the amount of
12 ~~said~~ the bond.

13 B. No Certificate of Authority shall be issued by the
14 Commissioner until the company has filed with ~~him~~ the Commissioner
15 the following:

16 1. A formal application for the certificate in ~~such~~ the form
17 and detail as the Commissioner requires, executed under oath by its
18 president or another principal officer of the company;

19 2. A certified copy of its charter or articles of incorporation
20 and its bylaws, if any;

21 3. A certificate from the Secretary of State, State of
22 Oklahoma, in the event that it is a domestic corporation, signifying
23 that the company is in compliance with the corporation laws of the
24 State of Oklahoma;

1 4. A copy of its latest financial statement, or report of
2 independent audit, as the Commissioner may require; or, in the event
3 that neither is available, its most recent audited and certified
4 operating statement and balance sheet. Any ~~such~~ certified operating
5 statement, audit or audited and certified operating statement and
6 balance sheet shall be verified by the person compiling or making
7 the same and by an executive officer of the applicant;

8 5. A certificate from its domiciliary state regulatory
9 authority, in the event that it is a foreign corporation, to be
10 executed not more than thirty (30) days before the filing of its
11 application, signifying that it is duly authorized to do motor club
12 business in that state;

13 6. An explanation of its plan of doing business and copies of
14 the following:

- 15 a. its application for membership,
- 16 b. the proposed membership certificate or identification
17 card and any proposed addendum thereto,
- 18 c. any individual insurance policy and any group master
19 policy and individual certificates thereunder to be
20 offered, and
- 21 d. any service contract to be issued; and

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

24

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

5 1. Paid an initial filing fee of Two Hundred Fifty Dollars
6 (\$250.00) ~~to the General Fund of the State of Oklahoma;~~

7 2. Paid an annual license fee of One Hundred Dollars (\$100.00)
8 ~~to the General Fund of the State of Oklahoma;~~

9 3. Had its name approved by the Commissioner under the
10 provisions of ~~Title 36 of the Oklahoma Statutes, Sections 620 and~~
11 ~~2104~~ Sections 620 and 2104 of this title, the provisions of which
12 are hereby made applicable to motor clubs;

13 4. Proved by affidavits of its officers, directors, managers
14 and individual owners of more than ten percent (10%), on a form
15 prescribed by the Commissioner, that it is not disqualified under
16 any provisions contained in this act or contained in the Insurance
17 Code; and

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

21 D. Certificates of Authority issued hereunder shall expire
22 annually on July 1, unless sooner revoked or suspended, as
23 hereinafter provided.

24

1 SECTION 14. AMENDATORY Section 3, Chapter 183, O.S.L.
2 2008, as amended by Section 3, Chapter 344, O.S.L. 2009 (36 O.S.
3 Supp. 2009, Section 4055.3), is amended to read as follows:

4 Section 4055.3 A. 1. A person shall not operate as a viatical
5 settlement provider or viatical settlement broker without first
6 obtaining a license from the Insurance Commissioner of the state of
7 residence of the viator.

8 2. a. A life insurance producer who has been duly licensed
9 as a resident insurance producer with a life line of
10 authority in this state or his or her home state for
11 at least one (1) year and is licensed as a nonresident
12 producer in this state shall be deemed to meet the
13 licensing requirements of this section and shall be
14 permitted to operate as a viatical settlement broker.

15 b. Not later than thirty (30) days from the first day of
16 operating as a viatical settlement broker, the life
17 insurance producer shall notify the Commissioner that
18 he or she is acting as a viatical settlement broker on
19 a form prescribed by the Commissioner, and shall pay
20 any applicable fee to be determined by the
21 Commissioner. Notification shall include an
22 acknowledgement by the life insurance producer that he
23 or she will operate as a viatical settlement broker in
24 accordance with the Viatical Settlements Act of 2008.

1 c. The insurer that issued the policy being viaticated
2 shall not be responsible for any act or omission of a
3 viatical settlement broker or viatical settlement
4 provider arising out of or in connection with the
5 viatical settlement transaction, unless the insurer
6 receives compensation for the placement of a viatical
7 settlement contract from the viatical settlement
8 provider or viatical settlement broker in connection
9 with the viatical settlement contract.

10 3. A person licensed as an attorney, certified public
11 accountant or financial planner accredited by a nationally
12 recognized accreditation agency, who is retained to represent the
13 viator, whose compensation is not paid directly or indirectly by the
14 viatical settlement provider, may negotiate viatical settlement
15 contracts on behalf of the viator without having to obtain a license
16 as a viatical settlement broker.

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

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

1 licenses may be renewed from year to year on the anniversary date
2 upon payment of the annual renewal fees of Five Hundred Dollars
3 (\$500.00). Failure to pay the fees by the renewal date results in
4 expiration of the license.

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

14 E. A license issued to a legal entity authorizes all partners,
15 officers, members and designated employees to act as viatical
16 settlement providers, viatical settlement brokers as applicable,
17 under the license, and all those persons shall be named in the
18 application and any supplements to the application.

19 F. Upon the filing of an application and the payment of the
20 license fee, the Commissioner shall make an investigation of each
21 applicant and issue a license if the Commissioner finds that the
22 applicant:

23 1. If a viatical settlement provider, has provided a detailed
24 plan of operation;

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

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

6 4. a. If a viatical settlement provider, has demonstrated
7 evidence of financial responsibility in a format
8 prescribed by the Commissioner, through a surety bond
9 executed and issued by an insurer authorized to issue
10 surety bonds in this state, a policy of errors and
11 omissions insurance, or a deposit of cash,
12 certificates of deposit or securities or any
13 combination thereof in an amount not to exceed Fifty
14 Thousand Dollars (\$50,000.00), or

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

24

1 c. The Commissioner may ask for evidence of financial
2 responsibility at any time the Commissioner deems
3 necessary;

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

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

11 G. The Commissioner shall not issue a license to a nonresident
12 applicant, unless a written designation of an agent for service of
13 process is filed and maintained with the Commissioner, or the
14 applicant has filed with the Commissioner the applicant's written
15 irrevocable consent that any action against the applicant may be
16 commenced against the applicant by service of process on the
17 Commissioner.

18 H. A viatical settlement provider, viatical settlement broker
19 or viatical settlement investment agent shall provide to the
20 Commissioner new or revised information about officers, ten percent
21 (10%) or more stockholders, partners, directors, members or
22 designated employees within thirty (30) days of the change.

23 I. An individual licensed as a viatical settlement broker shall
24 complete on a biennial basis eight (8) hours of training related to

1 viatical settlements and viatical settlement transactions, as
2 required by the Commissioner; provided, however, that a life
3 insurance producer who is operating as a viatical settlement broker
4 pursuant to paragraph 2 of subsection A of this section shall not be
5 subject to the requirements of this subsection. Any person failing
6 to meet the requirements of this subsection shall be subject to the
7 penalties imposed by the Commissioner.

8 SECTION 15. AMENDATORY 36 O.S. 2001, Section 6124, as
9 last amended by Section 3, Chapter 294, O.S.L. 2009 (36 O.S. Supp.
10 2009, Section 6124), is amended to read as follows:

11 Section 6124. A. ~~Each~~ Unless the Insurance Commissioner has
12 set forth a fee as provided for in this subsection through the
13 promulgation of a rule, each organization desiring to accept money
14 or anything of value for prepaid funeral benefits or an agreement to
15 provide funeral benefits in the future at a fixed or predetermined
16 cost, shall file an application for a permit with the Insurance
17 Commissioner, and shall at the time of filing an application pay one
18 initial filing fee of Fifty Dollars (\$50.00). The Insurance
19 Commissioner shall issue a permit upon:

20 1. The receipt of the application and payment of the filing
21 fee;

22 2. Determination that the organization is in good standing as a
23 funeral establishment with the Oklahoma Funeral Board; and
24

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

18 B. The Insurance Commissioner may cancel a permit or refuse to
19 issue a permit or refuse to issue a renewal of a permit for failure
20 to comply with any provision of ~~this act~~ Sections 6121 through
21 6136.18 of this title, or any valid rule, which the Insurance
22 Commissioner has promulgated, after reasonable notice to the
23 organization and after hearing if the organization requests a
24 hearing. When the Insurance Commissioner cancels a permit or

1 refuses to issue a renewal of a permit for a violation as provided
2 by this subsection, the Insurance Commissioner shall notify the
3 Oklahoma Funeral Board of the action and the nature of any
4 violations.

5 C. No organization shall be entitled to a new permit for a
6 period of one (1) year after cancellation, or refusal by the
7 Insurance Commissioner to renew the permit of the organization but
8 shall thereafter be entitled to a new permit upon satisfactory proof
9 of compliance with this law, after the expiration of the one-year
10 period.

11 D. Any person or organization aggrieved by the actions of the
12 Insurance Commissioner may appeal therefrom as provided by Article
13 II of the Administrative Procedures Act.

14 SECTION 16. AMENDATORY 36 O.S. 2001, Section 6128, is
15 amended to read as follows:

16 Section 6128. Each organization shall file an annual report
17 with the Insurance Commissioner on or before March 15 of each year
18 in such form as the Insurance Commissioner may require, showing the
19 names and addresses of all persons with whom contracts for prepaid
20 funeral benefits have been made prior to December 31 of the
21 preceding year which had not been fully discharged on December 31
22 and, also showing the date of the contract, the name of the bank or
23 depository holding the trust fund and the amount of the trust fund
24 under each contract on the preceding December 31. Any organization

1 which has discontinued the sale of prepaid funeral benefits, but
2 which still has outstanding contracts, shall not be required to
3 obtain a renewal of its permit, but it shall continue to make annual
4 reports to the Insurance Commissioner until all such contracts have
5 been fully discharged. A Unless the Insurance Commissioner has set
6 forth a fee as provided for in this subsection through the
7 promulgation of a rule, a filing fee of Fifty Dollars (\$50.00) shall
8 accompany each report. If any officer of any organization fails or
9 refuses to file an annual report, or to cause it to be filed within
10 thirty (30) days after ~~he~~ the officer has been notified by the
11 Insurance Commissioner that the report is due and has not been
12 received, he shall be guilty of a misdemeanor and shall be punished
13 as prescribed in Section 6130 of this title.

14 SECTION 17. AMENDATORY 36 O.S. 2001, Section 6144, as
15 amended by Section 20, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
16 Section 6144), is amended to read as follows:

17 Section 6144. A. An application for a certificate of authority
18 to operate as a prepaid dental plan organization shall be filed with
19 the Insurance Commissioner in a form prescribed by the Commissioner.
20 The application shall be verified by an officer or authorized
21 representative of the applicant, and shall set forth or be
22 accompanied by:

23 1. A copy of any basic organizational document of the applicant
24 such as the articles of incorporation, articles of association,

1 partnership agreement, trust agreement, or other applicable
2 documents, with all amendments to such documents;

3 2. A copy of any bylaws, rules or regulations, or similar
4 documents regulating the conduct of the internal affairs of the
5 applicant;

6 3. A list of the names, addresses, and official positions of
7 the persons who are responsible for the conduct of the business
8 affairs of the applicant, including all members of the board of
9 directors, board of trustees, executive committee or other governing
10 board or committee, and the principal officers in the case of a
11 corporation, and the partners or members in the case of a
12 partnership or association;

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

16 5. A statement generally describing the prepaid dental plan
17 organization, all prepaid dental plans offered by ~~said~~ the
18 organizations, and facilities, and personnel;

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

21 7. Financial statements showing assets, liabilities, and
22 sources of financial support of the applicant. If the financial
23 affairs of the applicant are audited by independent certified public
24 accountants, a copy of the most recent regular certified financial

1 statement for the applicant shall satisfy this requirement unless
2 the Commissioner determines that additional or more recent financial
3 information is required;

4 8. A description of the proposed method of marketing the
5 prepaid dental plan, a financial prospectus which includes a
6 three-year projection of the initial operating results anticipated,
7 and a statement as to the sources of working capital available for
8 the operation of the prepaid dental plan as well as any other
9 sources of funding;

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

16 10. ~~A~~ Unless the Commissioner has set forth a fee as provided
17 for in this subsection through the promulgation of a rule, a fee of
18 One Hundred Dollars (\$100.00) for issuance of a certificate of
19 authority; and

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

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

1 SECTION 18. AMENDATORY 36 O.S. 2001, Section 6145, is
2 amended to read as follows:

3 Section 6145. A. Issuance of a certificate of authority for a
4 prepaid dental plan organization shall be granted by the Insurance
5 Commissioner if the Commissioner is satisfied that the following
6 conditions are met:

7 1. The persons responsible for conducting the business affairs
8 of the prepaid dental plan organization are competent and
9 trustworthy and are professionally capable of providing or arranging
10 for the provision of services offered; and

11 2. The prepaid dental plan organization constitutes an
12 appropriate mechanism to achieve an effective prepaid dental plan;
13 and

14 3. Each officer, responsible for conducting the business
15 affairs of the prepaid dental plan organization, has filed with the
16 Commissioner a fidelity bond in the amount of Fifty Thousand Dollars
17 (\$50,000.00), ~~said~~ the bond to be subject to the approval of the
18 Commissioner; and

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

23

24

- 1 a. the financial soundness of the arrangements made
2 pursuant to the provisions of the prepaid dental plan
3 for services and the schedule of charges used; and
4 b. any agreement with an insurer, a hospital, a medical
5 service corporation, or any other organization for
6 ensuring the payment of prepaid dental services; and
7 c. provisions in the plan for automatic coverage of
8 dental service if the prepaid dental plan is
9 discontinued; and
10 d. the sufficiency of the agreement for prepaid dental
11 services with providers of dental services.

12 B. A certificate of authority shall expire at midnight on June
13 30, following the date of issuance or last renewal date. ~~If~~ Unless
14 the Commissioner has set forth a fee as provided for in this
15 subsection through the promulgation of a rule, if the prepaid dental
16 plan organization remains in compliance with the provisions of the
17 Prepaid Dental Plan Act and pays a renewal fee of One Hundred
18 Dollars (\$100.00), the certificate of authority of ~~said~~ the plan may
19 be renewed. The renewal fee shall be deposited in the State
20 Insurance Commissioner Revolving Fund.

21 SECTION 19. AMENDATORY 36 O.S. 2001, Section 6209, as
22 amended by Section 45, Chapter 179, O.S.L. 2009 (36 O.S. Supp. 2009,
23 Section 6209), is amended to read as follows:
24

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

9 B. An applicant for a license as an adjuster may qualify in
10 any one of the following classes of insurance or combinations
11 thereof, and the license when issued may be limited to cover
12 adjusting in any one of the following classes of insurance or
13 combinations thereof. The application for a license shall specify
14 which of the following classes of business the application and
15 license are to cover:

16 1. ~~motor~~ Motor vehicle physical damage, meaning damages to all
17 land motor vehicles and trailers whether or not covered by first
18 party physical damage coverages or property damage liability
19 coverages; ~~or~~

20 2. ~~fire~~ Fire and allied lines, including marine, inland marine,
21 and aircraft; ~~or~~

22 3. ~~casualty~~ Casualty, meaning all lines of liability insurance
23 coverages for bodily injuries, personal injury, and property
24 damages; ~~or~~

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

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

3 6. ~~crop/hail~~ Crop/hail.

4 C. ~~The~~ Unless the Commissioner has set forth a fee as provided
5 for in this subsection through the promulgation of a rule, the
6 Commissioner shall prepare and make available to applicants a manual
7 of instructions stating in general terms the subjects which may be
8 covered in any examination for a license as an adjuster. The
9 Commissioner may charge a reasonable amount not to exceed Forty
10 Dollars (\$40.00) for the study manual.

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

14 Section 6212. A. ~~The Insurance~~ Unless the Insurance
15 Commissioner has set forth a fee as provided for in this subsection
16 through the promulgation of a rule, the Commissioner or an
17 administrator approved by the ~~Insurance~~ Commissioner shall collect a
18 fee of Twenty Dollars (\$20.00) for an examination for an adjuster's
19 license in any of the following single classes of business. The fee
20 for any examination which includes two or more classes of business
21 shall not exceed Forty Dollars (\$40.00). The classes of business
22 are:

- 23 1. Motor vehicle physical damage;
24 2. Fire and allied lines (property);

- 1 3. Casualty;
- 2 4. Workers' compensation;
- 3 5. Crime and fidelity bonds; and
- 4 6. Crop/hail.

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

9 1. For a license in any single class of business, every two (2)
10 years, Thirty Dollars (\$30.00);

11 2. For a license in any combination of two or more classes of
12 business, every two years, Fifty Dollars (\$50.00);

13 3. Public adjuster, every two years, Thirty Dollars (\$30.00);

14 4. Emergency adjuster, as provided for in Section 6218 of this
15 title, each year, Fifteen Dollars (\$15.00); and

16 5. Apprentice adjuster, as provided for in Section 6204.1 of
17 this title, Twenty Dollars (\$20.00).

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

20 D. The fee for the original license or renewal license shall be
21 collected in advance of issuance. Late application for renewal
22 shall require a fee of double the amount of the original license
23 fee.

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

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

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

16 Section 6465. ~~There~~ Unless the Insurance Commissioner has set
17 forth a fee as provided for in this section through the promulgation
18 of a rule, there shall be collected, at the time of filing of
19 information for a risk retention group, a fee payable annually, of
20 Four Hundred Dollars (\$400.00). In addition, risk retention groups
21 chartered for domicile in this state shall pay the same fees
22 applicable to insurers in this state.

23 ~~Purchasing~~ Unless the Commissioner has set forth a fee as
24 provided for in this section through the promulgation of a rule,

1 purchasing groups shall pay annually at the time of registration, a
2 fee of Four Hundred Dollars (\$400.00).

3 SECTION 22. AMENDATORY Section 10, Chapter 334, O.S.L.
4 2004, as amended by Section 2, Chapter 265, O.S.L. 2006 (36 O.S.
5 Supp. 2009, Section 6470.3), is amended to read as follows:

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

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

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

17 3. An industrial insured captive insurance company may not
18 insure any risks other than those of the industrial insureds that
19 comprise the industrial insured group and their affiliated
20 companies;

21 4. A special purpose captive insurance company may only insure
22 the risks of its parent. Notwithstanding any other provisions of
23 the Oklahoma Captive Insurance Company Act, a special purpose
24

1 captive insurance company may provide insurance or reinsurance, or
2 both, for risks as approved by the Insurance Commissioner;

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

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

8 B. To conduct insurance business in this state a captive
9 insurance company shall:

10 1. Obtain from the Insurance Commissioner a license authorizing
11 it to conduct insurance business in this state;

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

15 3. Maintain its principal place of business in this state, or
16 in the case of a branch captive insurance company, maintain the
17 principal place of business for its branch operations in this state;
18 and

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

1 a. formed as a corporation, whenever the registered agent
2 cannot with reasonable diligence be found at the
3 registered office of the captive insurance company,
4 the Insurance Commissioner must be an agent of the
5 captive insurance company upon whom any process,
6 notice, or demand may be served, or

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

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

15 a. formed as a corporation, shall file with the Insurance
16 Commissioner a certified copy of its charter and
17 bylaws, a statement under oath of its president and
18 secretary showing its financial condition, and any
19 other statements or documents required by the
20 Insurance Commissioner, or

21 b. formed as a reciprocal shall:

22 (1) file with the Insurance Commissioner a certified
23 copy of the power of attorney of its attorney-in-
24 fact, a certified copy of its subscribers'

1 agreement, a statement under oath of its
2 attorney-in-fact showing its financial condition
3 and any other statements or documents required by
4 the Insurance Commissioner, and

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

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

23 a. the amount and liquidity of its assets relative to the
24 risks to be assumed,

- 1 b. the adequacy of the expertise, experience, and
2 character of the person or persons who will manage it,
3 c. the overall soundness of its plan of operation,
4 d. the adequacy of the loss prevention programs of its
5 parent, member organizations, or industrial insureds
6 as applicable, and
7 e. ~~such~~ other factors considered relevant by the
8 Insurance Commissioner in ascertaining whether the
9 proposed captive insurance company will be able to
10 meet its policy obligations.

11 3. In addition to the information required by paragraphs 1 and
12 2 of this subsection, an applicant sponsored captive insurance
13 company shall file with the Insurance Commissioner:

- 14 a. a business plan demonstrating how the applicant will
15 account for the loss and expense experience of each
16 protected cell at a level of detail found to be
17 sufficient by the Insurance Commissioner, and how it
18 will report the experience to the Insurance
19 Commissioner,
20 b. a statement acknowledging that all financial records
21 of the sponsored captive insurance company, including
22 records pertaining to any protected cells, ~~must~~ shall
23 be made available for inspection or examination by the
24 Insurance Commissioner,

- 1 c. all contracts or sample contracts between the
2 sponsored captive insurance company and any
3 participants, and
4 d. evidence that expenses will be allocated to each
5 protected cell in an equitable manner.

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

- 10 a. information may be discoverable by a party in a civil
11 action or contested case to which the captive
12 insurance company that submitted the information is a
13 party, upon a showing by the party seeking to discover
14 the information that:

- 15 (1) the information sought is relevant to and
16 necessary for the furtherance of the action or
17 case,
18 (2) the information sought is unavailable from other
19 nonconfidential sources, and
20 (3) a subpoena issued by a judicial or administrative
21 officer of competent jurisdiction has been
22 submitted to the Insurance Commissioner; however,
23 the provisions of this paragraph do not apply to
24 an industrial insured captive insurance company

1 insuring the risks of an industrial insured
2 group, and

- 3 b. the Insurance Commissioner may disclose the
4 information to a public officer having jurisdiction
5 over the regulation of insurance in another state if:
6 (1) the public official agrees in writing to maintain
7 the confidentiality of the information, and
8 (2) the laws of the state in which the public
9 official serves require the information to be
10 confidential.

11 D. A Unless the Insurance Commissioner has set forth a fee as
12 provided for in this subsection through the promulgation of a rule,
13 a captive insurance company shall pay to the Department a
14 nonrefundable fee of Two Hundred Dollars (\$200.00) for examining,
15 investigating, and processing its application for license, and the
16 Insurance Commissioner may retain legal, financial, and examination
17 services from outside the Department, the reasonable cost of which
18 may be charged against the applicant. Title 36 of the Oklahoma
19 Statutes applies to examinations, investigations, and processing
20 conducted under the authority of this section. ~~It~~ Unless the
21 Insurance Commissioner has set forth a fee as provided for in this
22 subsection through the promulgation of a rule, in addition, a
23 captive insurance company shall pay a license fee for the year of
24 registration and a renewal fee of Three Hundred Dollars (\$300.00).

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

7 SECTION 23. AMENDATORY 36 O.S. 2001, Section 6559, is
8 amended to read as follows:

9 Section 6559. A. Insurance companies and not-for-profit
10 hospital services and medical indemnity plans licensed by the
11 Insurance Commissioner that perform in-house utilization review
12 shall submit to the Commissioner the following information regarding
13 utilization review:

14 1. A utilization review plan that includes:

15 a. an adequate summary description of review standards,
16 protocol and procedures to be used in evaluating
17 proposed or delivered hospital and medical care,

18 b. assurances that the standards and criteria to be
19 applied in review determinations are established with
20 input from health care providers representing major
21 areas of specialty and certified by the boards of the
22 various American medical specialties, and

23 c. the provisions by which patients or health care
24 providers may seek reconsideration or appeal of

1 adverse decisions concerning requests for medical
2 evaluation, treatment or procedures;

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

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

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

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

1 6. A copy of the materials designed to inform applicable
2 patients and health care providers of the requirements of the
3 utilization review plan;

4 7. The procedures for receiving and handling complaints by
5 patients, hospitals and health care providers concerning utilization
6 review; and

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

16 B. ~~Insurance~~ Unless the Commissioner has set forth a fee as
17 provided for in this subsection through the promulgation of a rule,
18 insurance companies that provide for in-house utilization review
19 shall pay an annual fee to the ~~Insurance~~ Commissioner of Five
20 Hundred Dollars (\$500.00).

21 SECTION 24. AMENDATORY 36 O.S. 2001, Section 6604, as
22 last amended by Section 23, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
23 2009, Section 6604), is amended to read as follows:
24

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

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

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

15 D. A service warranty association may appoint an administrator
16 or other designee to be responsible for any or all of the
17 administration of service contracts and compliance with the Service
18 Warranty Insurance Act.

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

22 SECTION 25. AMENDATORY 36 O.S. 2001, Section 6609, as
23 amended by Section 27, Chapter 184, O.S.L. 2008 (36 O.S. Supp. 2009,
24 Section 6609), is amended to read as follows:

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

10 SECTION 26. AMENDATORY 36 O.S. 2001, Section 6615, as
11 last amended by Section 24, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
12 2009, Section 6615), is amended to read as follows:

13 Section 6615. A. In addition to the license fees provided in
14 the Service Warranty Insurance Act for service warranty associations
15 each such association and insurer shall, annually on or before the
16 last day of February, file with the Insurance Commissioner its
17 annual statement in the form prescribed by the Commissioner showing
18 all premiums or assessments received by it in connection with the
19 issuance of service warranties in this state during the preceding
20 calendar year and other relevant financial information as deemed
21 necessary by the Commissioner, using accounting principles which
22 ~~will~~ shall enable the Commissioner to ascertain whether the
23 financial requirements set forth in Section 6607 of this title have
24 been satisfied.

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

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

10 D. ~~Premiums~~ Unless the Commissioner has set forth a fee as
11 provided for in this subsection through the promulgation of a rule,
12 premiums and assessments received by associations and insurers for
13 service warranties shall not be subject to the premium tax provided
14 for in Section 624 of this title, but shall be subject to an
15 administrative fee of equal to two percent (2%) of the gross premium
16 received on the sale of all service contracts issued in this state
17 during the preceding calendar quarter. ~~Said~~ The fees shall be paid
18 quarterly to the Insurance Commissioner. ~~However~~ Unless the
19 Commissioner has set forth a fee as provided for in this subsection
20 through the promulgation of a rule, licensed associations, licensed
21 insurers and entities with applications for licensure as a service
22 warranty association pending with the Insurance Department that have
23 contractual liability insurance in place as of March 31, 2009, from
24 an insurer which satisfies the requirements of subsection C of

1 Section 6607 of this title and which covers one hundred percent
2 (100%) of the claims exposure of the association or insurer on all
3 contracts written may elect to pay an annual administrative fee of
4 Three Thousand Dollars (\$3,000.00) in lieu of the two-percent
5 administrative fee.

6 SECTION 27. AMENDATORY Section 5, Chapter 64, O.S.L.
7 2002 (40 O.S. Supp. 2009, Section 600.5), is amended to read as
8 follows:

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

15 B. Renewal. ~~Upon~~ Unless the Commissioner has set forth a fee
16 as provided for in this subsection through the promulgation of a
17 rule, upon each annual renewal of a registration statement filed
18 under the Oklahoma Professional Employer Organization Recognition
19 and Registration Act, a PEO shall pay a renewal fee of Two Hundred
20 Fifty Dollars (\$250.00).

21 C. Exemption. ~~Each~~ Unless the Commissioner has set forth a fee
22 as provided for in this subsection through the promulgation of a
23 rule, each PEO exempt from registration under the terms of this
24 subsection shall pay an exemption fee in the amount of Two Hundred

1 Fifty Dollars (\$250.00) upon initial application for exemption and
2 upon each annual renewal of such exemption.

3 SECTION 28. AMENDATORY 59 O.S. 2001, Section 1305, as
4 amended by Section 5, Chapter 204, O.S.L. 2003 (59 O.S. Supp. 2009,
5 Section 1305), is amended to read as follows:

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

8 1. Is a person who has reached the age of twenty-one (21)
9 years;

10 2. Is of good character and reputation;

11 3. Has not been previously convicted of, or pled guilty or nolo
12 contendere to, any felony, or to a misdemeanor involving moral
13 turpitude or dishonesty;

14 4. Is a citizen of the United States;

15 5. Has been a bona fide resident of the state for at least one
16 (1) year;

17 6. Will actively engage in the bail bond business;

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

20 8. Has a high school diploma or its equivalent; provided,
21 however, the provisions of this paragraph shall apply only to
22 initial applications for license submitted on or after November 1,
23 1997, and shall not apply to renewal applications for license.

24

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

15 C. ~~An~~ Unless the Commissioner has set forth a fee as provided
16 for in this subsection through the promulgation of a rule, an
17 applicant shall furnish to the Commissioner a license fee of Two
18 Hundred Fifty Dollars (\$250.00) with the application, a complete set
19 of the applicant's fingerprints and two recent credential-size full
20 face photographs of the applicant. The applicant's fingerprints
21 shall be certified by an authorized law enforcement officer. ~~The~~
22 Unless the Commissioner has set forth a fee as provided for in this
23 subsection through the promulgation of a rule, the applicant shall
24 provide with the application an investigative fee of One Hundred

1 Dollars (\$100.00) with which the Commissioner will conduct an
2 investigation of the applicant. All fees shall be nonrefundable.

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

7 SECTION 29. AMENDATORY 59 O.S. 2001, Section 1308, is
8 amended to read as follows:

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

16 B. Each applicant shall become eligible for examination ninety
17 (90) days after the date the application is received by the
18 Commissioner, if the applicant has completed sixteen (16) hours of
19 education as required by Section 1308.1 of this title and the
20 Commissioner is otherwise satisfied as to the applicant's fitness to
21 take the examination. Examinations shall be held at times and
22 places as designated by the Commissioner, and the applicant shall be
23 given notice of the time and place not less than fifteen (15) days
24 prior to taking the examination.

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

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

15 SECTION 30. AMENDATORY 59 O.S. 2001, Section 1308.1, is
16 amended to read as follows:

17 Section 1308.1 A. In order to be eligible to take the
18 examination required to be licensed as a bail bondsman, each person
19 shall complete not less than sixteen (16) clock hours of education
20 in subjects pertinent to the duties and responsibilities of a bail
21 bondsman, including all laws and regulations related thereto.
22 Further, each licensee shall complete annually not less than eight
23 (8) clock hours of continuing education in ~~said~~ the subjects prior
24

1 to renewal of the license. ~~Such~~ The continuing education shall not
2 include a written or oral examination.

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

11 B. The Oklahoma Bondsman Association shall provide education
12 for bail bondsman licensure as required by this section; provided
13 that the Insurance Commissioner shall approve the courses offered
14 and provided further ~~such~~ the education meets the general standards
15 for education otherwise established by the Insurance Commissioner.

16 C. ~~The~~ Unless the Insurance Commissioner has set forth a fee as
17 provided for in this subsection through the promulgation of a rule,
18 the Oklahoma Bondsman Association shall submit an annual fee of One
19 Hundred Dollars (\$100.00), payable to the Insurance Commissioner
20 which shall be deposited in the Bail Bondsmen Revolving Fund for the
21 purposes of fulfilling and accomplishing the conditions and purposes
22 of this section.

23 D. Any person who falsely represents to the Insurance
24 Commissioner that compliance with this section has been met shall be

1 subject, after notice and hearing, to the penalties and fines set
2 out in Section 1310 of this title.

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

5 SECTION 31. AMENDATORY 59 O.S. 2001, Section 1309, is
6 amended to read as follows:

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

19 B. In case of renewal of a professional bondsman license, the
20 application shall also provide a financial statement prepared by an
21 accounting firm or individual holding a permit to practice public
22 accounting in this state in accordance with generally accepted
23 principles of accounting procedures showing assets, liabilities, and
24 net worth, ~~said~~ the statement to be as of a date not earlier than

1 ninety (90) days prior to submission of the license renewal
2 application. The statements shall be attested to by an unqualified
3 opinion of the accounting firm or individual holding a permit to
4 practice public accounting in this state that prepared the statement
5 or statements. The statement shall be submitted by September 15 of
6 each year.

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

14 D. If the license is not renewed or the renewal fee is not paid
15 by September 30 of each year, such license shall expire
16 automatically pursuant to Section 1304 of this title. If after
17 November 30 of each year the license has not been renewed or the
18 renewal fee paid, then ~~such~~ the licensee shall be required to apply
19 for a license as a new applicant.

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

21 SECTION 32. AMENDATORY 59 O.S. 2001, Section 1314, as
22 amended by Section 25, Chapter 432, O.S.L. 2009 (59 O.S. Supp. 2009,
23 Section 1314), is amended to read as follows:

24

1 Section 1314. A. When a bail bondsman or managing general
2 agent accepts collateral, he or she shall give a written receipt for
3 same, and this receipt shall give in detail a full description of
4 the collateral received. A description of the collateral shall be
5 listed on the undertaking by affidavit. All property taken as
6 collateral, whether personal, intangible or real, shall be receipted
7 for and deemed, for all purposes, to be in the name of, and for the
8 use and benefit of, the surety company or licensed professional
9 bondsman, as the case may be. Every receipt, encumbrance, mortgage
10 or other evidence of ~~such~~ custody, possession or claim shall
11 facially indicate that it has been taken or made on behalf of the
12 surety company or professional bondsman through its authorized
13 agent, the individual licensed bondsman or managing general agent
14 who has transacted the undertaking with the bond principal. Any
15 mortgage or other encumbrance against real property taken under the
16 provisions of this section which does not indicate beneficial
17 ownership of the claim to be in favor of the surety company or
18 professional bondsman shall be deemed to constitute a cloud on the
19 title to real estate and shall subject the person filing, or causing
20 same to be filed, in the real estate records of the county, to a
21 penalty of treble damages or One Thousand Dollars (\$1,000.00),
22 whichever is greater, in an action brought by the person,
23 organization or corporation injured thereby. For collateral taken,
24 or liens or encumbrances taken or made pursuant to the provisions of

1 this section, the individual bondsman or managing general agent
2 taking possession of the property or making the lien, claim or
3 encumbrance shall do so on behalf of his or her surety company or
4 professional bondsman, as the case may be, and ~~such~~ the individual
5 licensed bondsman shall be deemed to act in the capacity of
6 fiduciary in relation to both:

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

9 2. The surety company or professional bondsman whose agent is
10 the licensed bondsman ~~is~~.

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

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

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

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

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

15 C. Every licensee shall keep at his or her place of business
16 the usual and customary records pertaining to transactions
17 authorized by his or her license. All ~~such~~ of these records shall
18 be available and open to the inspection of the Commissioner at any
19 time during business hours during the three (3) years immediately
20 following the date of the transaction. The Commissioner may require
21 a financial examination or market conduct survey during any
22 investigation of a licensee.

23 D. ~~Each~~ Unless the Commissioner has set forth a fee as provided
24 for in this subsection through the promulgation of a rule, each bail

1 bondsman shall submit each month with his or her monthly report, a
2 reviewal fee equal to two-tenths of one percent (2/10 of 1%) of the
3 new liability written for that month. ~~Such~~ The fee shall be payable
4 to the Insurance Commissioner who shall deposit same with the State
5 Treasurer.

6 SECTION 33. AMENDATORY 59 O.S. 2001, Section 1317, as
7 last amended by Section 30, Chapter 184, O.S.L. 2008 (59 O.S. Supp.
8 2009, Section 1317), is amended to read as follows:

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

1 and a filing fee of Ten Dollars (\$10.00) payable to the
2 Commissioner.

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

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

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

23 SECTION 34. This act shall become effective July 1, 2010.
24

1 Passed the Senate the 2nd day of March, 2010.

2

3

Presiding Officer of the Senate

4

5 Passed the House of Representatives the ____ day of _____,

6 2010.

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Presiding Officer of the House
of Representatives

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