

ENROLLED HOUSE
BILL NO. 1275

By: Miller and Martin (Scott)
of the House

and

Johnson (Mike) and Myers of
the Senate

An Act relating to the Insurance Department; creating the State Insurance Commissioner Revolving Fund; stating purpose of fund; directing certain amount of fund to General Revenue Fund of the State Treasury; amending 36 O.S. 2001, Section 311.1, which relates to late fees paid by insurers; eliminating reference; amending 36 O.S. 2001, Section 321, as last amended by Section 2, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2008, Section 321), which relates to fees collected by the Insurance Department; removing redundant language directing fee revenue; amending 36 O.S. 2001, Section 321.1, which relates to public requests for information; removing redundant language; amending 36 O.S. 2001, Section 348.1, as last amended by Section 9, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2008, Section 348.1), which relates to fees; removing redundant language directing fee revenue; amending 36 O.S. 2001, Section 362, as last amended by Section 10, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2008, Section 362), which relates to insurance fraud; deleting the Insurance Department Anti-Fraud Revolving Fund; altering fee timeline; amending 36 O.S. 2001, Section 622, which relates to service of process; removing a provision directing placement of fee; amending 36 O.S. 2001, Section 907.1, as amended by Section 20, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2008, Section 907.1), which relates to rates of insurers and advisory organizations; removing redundant language directing fee revenue; amending 36 O.S. 2001, Section 1115, which relates to surplus lines tax; removing redundant language regarding fee

revenue; amending 36 O.S. 2001, Section 1116, which relates to surplus lines; removing provision directing penalty fee placement; amending 36 O.S. 2001, Section 1250.14, which relates to the Unfair Claims Settlement Practices Act; removing a provision regarding fee placement; amending 36 O.S. 2001, Section 1435.23, as last amended by Section 29 of Enrolled Senate Bill No. 1022 of the 1st Session of the 52nd Oklahoma Legislature, which relates to fees for agents; removing redundant provisions regarding fee placement; amending 36 O.S. 2001, Section 1435.29, as last amended by Section 30 of Enrolled Senate Bill No. 1022 of the 1st Session of the 52nd Oklahoma Legislature, which relates to agents; removing redundant provision regarding fee placement; amending 36 O.S. 2001, Section 1450, as last amended by Section 16, Chapter 184, O.S.L. 2008 (36 O.S. Supp. 2008, Section 1450), which relates to the Third-party Administrator Act; removing redundant fee placement provision; amending 36 O.S. 2001, Section 1658.2, which relates to the Holding Company Act; removing certain penalty destination; amending 36 O.S. 2001, Section 1661, which relates to the Insurer-Holding Company Act; removing redundant fee placement provision; amending 36 O.S. 2001, Section 2126.1, which relates to insurers not subject to Insurer-Holding Company Act; removing redundant fee placement provision; amending 36 O.S. 2001, Section 3010, which relates to summons; removing redundant fee placement provision; amending 36 O.S. 2001, Section 3105, which relates to the Motor Service Club annual fee; removing redundant fee placement provision; amending 36 O.S. 2001, Section 6144, which relates to prepaid dental plans; removing redundant fee placement provision; amending 36 O.S. 2001, Section 6154, which relates to prepaid dental plans; removing redundant fee placement provision; amending 36 O.S. 2001, Section 6465, which relates to risk retention and purchasing groups; removing redundant fee placement provision; amending 36 O.S. 2001, Section 6604, as last amended by Section 2 of Enrolled Senate Bill No. 920 of the 1st Session of the 52nd Oklahoma Legislature, which relates to service warranties; removing redundant fee placement provision; removing criteria for service warranty

entities; amending 36 O.S. 2001, Section 6615, as last amended by Section 7 of Enrolled Senate Bill No. 920 of the 1st Session of the 52nd Oklahoma Legislature, which relates to service warranty premium assessments; amending the administrative fee requirements; removing redundant fee placement provision; amending 59 O.S. 2001, Section 1314, which relates to bail bondsman monthly renewal fees; removing redundant fee placement provision; amending 59 O.S. 2001, Section 1337, which relates to the Bail Bondsmen Revolving Fund; removing provisions relating to the creation of the Fund; repealing 36 O.S. 2001, Sections 6133, 6213 and 6566, which relate to destinations of certain fees; repealing Section 31, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2008, Section 6470.24), which relates to destinations of certain fees; providing lapse dates; requiring certain budget procedures; prohibiting certain budget procedures; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 307.3 of Title 36, unless there is created a duplication in numbering, reads as follows:

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

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

a. premium taxes,

- b. monies transferred to the Attorney General's Insurance Fraud Unit Revolving Fund pursuant to Section 362 of this title, and
- c. funds paid to and collected pursuant to the Oklahoma Real Estate Appraisers Act, Section 858-700 et seq. of Title 36 of the Oklahoma Statutes.

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

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

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

SECTION 2. AMENDATORY 36 O.S. 2001, Section 311.1, is amended to read as follows:

Section 311.1 A. Any insurer who files with the Insurance Commissioner any statement required by this Code knowing such statement to be fraudulent and materially false, upon conviction, shall be guilty of a felony, for which the punishment shall be a fine of not to exceed Fifty Thousand Dollars (\$50,000.00). Any officer, actuary, or employee of such insurer who causes such statement to be filed, knowing the fraudulent and materially false nature thereof, upon conviction, shall be guilty of a felony, for which the punishment for each occurrence shall be a fine of not to exceed Twenty-five Thousand Dollars (\$25,000.00), or commitment to the custody of the Department of Corrections for not less than one (1) year and not more than five (5) years or both said fine and commitment, and shall never again be permitted to act as an actuary,

officer, or director of any insurer licensed to do business in this state.

B. Any insurer who fails without reasonable cause and permission of the Commissioner to timely file any statement required by this Code shall be subject, after notice and opportunity for hearing, to censure, suspension or revocation of certificate. Annual statements filed after the first day of March without express written advance permission of the Commissioner shall be accompanied by a late filing fee in the amount of Two Hundred Fifty Dollars (\$250.00) or One Hundred Dollars (\$100.00) per day, whichever is greater. Repeated willful violations, after notice and opportunity for hearing, may subject the insurer to both censure, suspension, or revocation of certificate and civil penalty of not less than One Hundred Dollars (\$100.00) nor more than Ten Thousand Dollars (\$10,000.00) for each occurrence in addition to the late filing fee. ~~Any late filing fees and civil penalties collected pursuant to this subsection shall be deposited to the Insurance Commissioner Revolving Fund.~~

C. Prosecution or administrative action for any violation of the provisions of this section shall be commenced within four (4) years after the violation is discovered.

SECTION 3. AMENDATORY 36 O.S. 2001, Section 321, as last amended by Section 2, Chapter 274, O.S.L. 2004 (36 O.S. Supp. 2008, Section 321), is amended to read as follows:

Section 321. A. The Insurance Commissioner shall collect in advance the following fees and licenses:

1. For filing charter documents:

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

2. Certificate of Authority:

(a) Issuance:

Fraternal benefit societies,
alien or foreign.....\$150.00

	Hospital service and medical indemnity corporations, alien or foreign.....	\$150.00
	All other alien or foreign insurers.....	\$150.00
(b)	Renewal:	
	Fraternal benefit societies, alien or foreign.....	\$150.00
	Hospital service and medical indemnity corporations, alien or foreign.....	\$150.00
	All other alien or foreign insurers.....	\$150.00
3.	For filing appointment of Insurance Commissioner as agent for service of process.....	\$10.00
4.	Miscellaneous:	
(a)	Copies of records, per page.....	\$0.40
(b)	Amended charter documents, articles of incorporation or bylaws of domestic, alien or foreign insurers or health maintenance organizations.....	\$50.00
(c)	Certificate of Commissioner, under seal.....	\$5.00
(d)	For filing Merger and Acquisition Forms.....	\$1,000.00
(e)	For filing Variable Product Forms.....	\$200.00
(f)	For filing a Life, Accident and Health Policy and Health	

- Maintenance Organization
contract.....\$50.00
- (g) For filing an advertisement or
rider application to a Life,
Accident and Health Policy and
Health Maintenance
Organization contract.....\$25.00
- (h) Pending Company Review.....\$1,000.00
- (i) For filing a Viatical
Settlement Contract or Life
Settlement.....\$50.00
- (j) For filing an advertisement
for Viatical Settlement or
Life Settlement.....\$25.00
- (k) For filing application for
Viatical Settlement or Life
Settlement Contract.....\$25.00
- (l) Miscellaneous form filing.....\$25.00

~~B. All fees and licenses not above dedicated, nor dedicated by Section 628 of this title, collected by the Insurance Commissioner as provided by this Code, shall be paid into the State Treasury weekly. The State Treasury is authorized and directed to deduct from said amount so paid a sum equal to one tenth (1/10) of such payment and place the same to the credit of the General Revenue Fund of the state. The remainder of said amount so paid is hereby allocated and appropriated to the State Insurance Commissioner Revolving Fund and shall by the State Treasurer be placed to the credit of the State Insurance Commissioner Revolving Fund.~~

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

~~D. Filings required as part of a health maintenance organization application for a certificate of authority shall not be subject to the fees set out in this section except for the original charter documents, issuance of certificate of authority, and pending company review fees.~~

SECTION 4. AMENDATORY 36 O.S. 2001, Section 321.1, is amended to read as follows:

Section 321.1 A. There shall be collected at the time of filing of a report, a fee payable by each insurer required to file a report under Section 101 et seq. of this title, provided the insurer's total written premium per liability category exceeds the requisite filing fee, which shall be Four Hundred Dollars (\$400.00) for each periodic claims report required by Section 1250.9 of this title.

B. All public requests for information provided by this act shall be in writing. All requests for copying such data shall be in writing and may be provided to the requestor after such reasonable time to process such copying and shall be at such costs as provided in Section 321 of this title or, if computerized printouts are necessary, at such reasonable costs as established by the Commissioner, or if such items cannot be reproduced by the Commissioner, then such information may, after notification to the requestor, be sent to a private contractor, and such costs shall be payable by the requestor.

~~C. All amounts received pursuant to this section by the Insurance Commissioner shall be paid into the State Treasury to the credit of the State Insurance Commissioner's Revolving Fund for the purpose of fulfilling and accomplishing the conditions and purposes of Section 101 et seq. of this title.~~

SECTION 5. AMENDATORY 36 O.S. 2001, Section 348.1, as last amended by Section 9, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2008, Section 348.1), is amended to read as follows:

Section 348.1 A. The Insurance Commissioner shall collect the following fees and licenses for the Property and Casualty Division:

1. Rating organizations, statistical agents and advisory organizations:

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

2. Miscellaneous:

- a. Certificate of Insurance Commissioner, under seal.....\$ 20.00
- b. Upon each transaction of filing of documents required pursuant to the provisions of Sections 3610 and 6601 of this title:
 - (1) For an individual insurer.....\$ 50.00
 - (2) For an approved joint underwriting association, or rating or advisory organization:
 - (a) Basic fee.....\$ 50.00
 - (b) Additional fee for each member or subscriber insurer.....\$ 10.00, not to exceed.....\$500.00.

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

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

~~B. All fees and licenses collected by the Insurance Commissioner as provided in this section shall be paid into the State Treasury on a weekly basis to the credit of the Insurance Commissioner's Revolving Fund for the purpose of carrying out and enforcing the provisions of Article 9 of the Oklahoma Insurance Code.~~

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

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

SECTION 6. AMENDATORY 36 O.S. 2001, Section 362, as last amended by Section 10, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2008, Section 362), is amended to read as follows:

~~Section 362. A. There is hereby created in the State Treasury a revolving fund for the Insurance Commissioner to be designated the "Insurance Department Anti-Fraud Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all monies received and collected by the Insurance Department pursuant to subsection B of this section and all other monies designated to the fund by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Insurance Commissioner for the purposes of investigation of suspected insurance fraud and civil or administrative action in cases involving suspected insurance fraud. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.~~

~~B. An annual fee of Seven Hundred Fifty Dollars (\$750.00) shall be paid to the Insurance Commissioner to be expended by the Insurance Commissioner for the purposes of investigation of suspected insurance fraud and civil or administrative action in cases involving suspected insurance fraud. The following shall pay~~

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

SECTION 7. AMENDATORY 36 O.S. 2001, Section 622, is amended to read as follows:

Section 622. A. Triplicate copies of legal process against an insurer for whom the Insurance Commissioner is agent shall be served upon the Commissioner at the principal offices of the Insurance Department. When legal process against an insurer for whom the Insurance Commissioner is agent is issued, it shall be served in triplicate by any manner now provided by law or in lieu thereof by mailing triplicate copies of such legal process in the United States mails with postage prepaid to the Insurance Commissioner with return receipt requested, in which event service shall be sufficient upon showing of proof of mailing to the Commissioner with the return receipt attached. At the time of service the plaintiff shall pay to the Insurance Commissioner Twenty Dollars (\$20.00), taxable as costs in the action. Upon receiving service, the Insurance Commissioner shall promptly forward a copy thereof by mail with return receipt requested to the person last so designated by the insurer to receive the same.

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

~~C. Any monies received by the Insurance Commissioner pursuant to subsection A of this section shall be deposited with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund.~~

SECTION 8. AMENDATORY 36 O.S. 2001, Section 907.1, as amended by Section 20, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2008, Section 907.1), is amended to read as follows:

Section 907.1 A. The Insurance Commissioner shall monitor and examine the adequacy of rates of any insurer and advisory organization in this state. In so doing, the Commissioner shall:

1. Utilize existing relevant information, analytical systems and other sources; or

2. Cause or participate in the development of new relevant information, analytical systems and other sources.

B. The Commissioner may require the maintenance and submission of records, memoranda or information relating to rates from such insurers and advisory organizations. The Commissioner or any authorized representative of the Commissioner may examine any such record, memoranda or information concerning rates. The application for the acceptance of any license or permit issued pursuant to the provision of this title shall be deemed consent for the inspection and examination of such records, memoranda or information.

C. The Commissioner shall conduct such monitoring and examination required pursuant to this section within the Insurance Department, at the place of business of such insurers and advisory organizations, in cooperation with other state insurance departments, through outside contractors or in any other appropriate manner.

D. The cost of such examination and monitoring shall be assessed against insurers and advisory organizations on an equitable and practical basis established, after hearing, in a rule promulgated by the Commissioner.

E. The monitoring and examinations required pursuant to the provisions of this section, shall be conducted in a reasonably economical manner.

~~F. Any monies collected from administrative fees, fines, penalties and assessments against insurers and advisory organizations pursuant to this act shall be deposited to the credit of the Insurance Commissioner's Revolving Fund for the purpose of carrying out and enforcing the provisions of this article.~~

SECTION 9. AMENDATORY 36 O.S. 2001, Section 1115, is amended to read as follows:

Section 1115. A. On or before the end of each month following each calendar quarter, each surplus line broker shall remit to the State Treasurer through the Insurance Commissioner a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by the broker for the period covered by the report. Such tax shall be at the rate of six percent (6%) of the gross premiums less premiums returned on account of cancellation or reduction of premium, and shall exclude gross premiums and returned premiums upon business exempted from surplus line provisions pursuant to Section 1119 of this title.

B. Except as provided in subsection C of this section, for the purpose of determining the surplus line tax, the total premium charged for surplus line insurance placed in a single transaction with one underwriter or group of underwriters, whether in one or more policies, shall be allocated to this state in such proportion as the total premium on the insured properties or operations in this state, computed on the exposure in this state on the basis of any single standard rating method in use in all states or countries where such insurance applies, bears to the total premium so computed in all such states or countries. Policies sold to federally recognized Indian tribes shall be reported as provided in Section 1107 of this title; however, such policies shall be exempt from the surplus line tax to the extent that the Insurance Commissioner can identify that coverage is for risks which are wholly owned by a tribe and located within Indian Country, as defined in Section 1151 of Title 18 of the United States Code.

C. The surplus line tax on insurance on motor transit operations conducted between this and other states shall be paid on the total premium charged on all surplus line insurance less:

1. The portion of the premium determined as provided in subsection B of this section charged for operations in other states

taxing such premium of an insured maintaining its headquarters office in this state; or

2. The premium for operations outside of this state of an insured maintaining its headquarters office outside of this state and branch office in this state.

D. ~~1-~~ Every person, association, or legal entity procuring or accepting any insurance coverage from an unauthorized insurer, upon, covering, or relating to a subject of insurance resident or having a situs in the this state, or any such insurance coverage which is to be performed in whole or part in this state, except such coverages as are lawfully obtained through a licensed surplus line broker in this state, shall report, within thirty (30) days next succeeding the issuance of evidence of coverage, the purchase of such coverages of insurance to the Insurance Commissioner, on forms prescribed by the Commissioner, and at the same time shall remit to the Insurance Commissioner a tax in the amount of six percent (6%) of the annual premium agreed to be paid, or paid, for such insurance. Such insurance coverages, providing for the payment of retrospective premiums, or coverages on which the premiums are not determinable at the time of issuance, shall be reported to the Insurance Commissioner, by the insured, within thirty (30) days next succeeding the date such coverages are issued and the tax payable on such coverages shall be remitted, by the insured, to the Insurance Commissioner within thirty (30) days next succeeding the date such premiums can be determined. The tax on renewal premiums shall be paid by the insured in accordance with this section, in like manner as provided for payment of the original premium tax, within thirty (30) days next succeeding the date such premiums can be determined.

~~2. The taxes imposed by the provisions of this section on surplus lines shall be paid into the State Treasury and deposited to the General Revenue Fund of this state.~~

SECTION 10. AMENDATORY 36 O.S. 2001, Section 1116, is amended to read as follows:

Section 1116. A. Any surplus line broker who fails to remit the surplus line tax provided for by Section 1115 of this title for more than sixty (60) days after it is due shall be liable to a civil penalty of not to exceed Twenty-five Dollars (\$25.00) for each additional day of delinquency. The Insurance Commissioner shall collect the tax by distraint and shall recover the penalty by an action in the name of the State of Oklahoma. The Commissioner may

request the Attorney General to appear in the name of the state by relation of the Commissioner. ~~All penalties shall be paid into the General Revenue Fund of this state.~~

B. If any person, association or legal entity procuring or accepting any insurance coverage from an unauthorized insurer, otherwise than through a licensed surplus line broker in this state, fails to remit the surplus line tax provided for by subsection D of Section 1115 of this title, such person, association or legal entity shall, in addition to said tax, be liable to a civil penalty in an amount equal to one percent (1%) of the premiums paid or agreed to be paid for such policy or policies of insurance for each calendar month of delinquency or a civil penalty in the amount of Twenty-five Dollars (\$25.00) whichever shall be the greater. The Insurance Commissioner shall collect the tax by distraint and shall recover the civil penalty in an action in the name of the State of Oklahoma. The Commissioner may request the Attorney General to appear in the name of the state by relation of the Commissioner. ~~All civil penalties shall be paid into the General Revenue Fund of the state.~~

SECTION 11. AMENDATORY 36 O.S. 2001, Section 1250.14, is amended to read as follows:

Section 1250.14 For any violation of the Unfair Claims Settlement Practices Act, the Insurance Commissioner may, after notice and hearing, subject an insurer, other than the State Insurance Fund, to a civil penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) for each occurrence. Such civil penalty may be enforced in the same manner in which civil judgments may be enforced. ~~Such penalties shall be placed in the Insurance Commissioner's Revolving Fund.~~

SECTION 12. AMENDATORY 36 O.S. 2001, Section 1435.23, as last amended by Section 29 of Enrolled Senate Bill No. 1022 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

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

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

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

2. Miscellaneous:
 - a. Certificate and Clearance of Commissioner..... \$ 3.00

 - b. Insurance producer's study manual:

Life, Accident & Health..... not to exceed \$ 40.00

Property and Casualty..... not to exceed \$ 40.00

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

3. Examination for license:

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

4. Licenses:
 - a. Insurance producer's biennial license, regardless of number of companies represented..... \$ 60.00

 - b. Insurance producer's biennial license for sale or solicitation of separate accounts or agreements, as provided for in Section 6061 of this title..... \$ 60.00

 - c. Limited lines producer biennial license..... \$ 40.00

 - d. Temporary license as agent..... \$ 20.00

- e. Managing general agent's biennial license..... \$ 60.00
 - f. Surplus lines broker's biennial license..... \$100.00
 - g. Insurance vending machine, each machine, biennial fee..... \$100.00
 - h. Insurance consultant's biennial license, resident or nonresident..... \$100.00
 - i. Customer service representative biennial license..... \$ 40.00
 - j. Insurance producer's provisional license \$ 20.00
5. Biennial fee for each appointed insurance producer, managing general agent, or limited lines producer by insurer, each license of each insurance producer or representative..... ~~\$40.00~~
\$55.00

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

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

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

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

~~B. 1. The fees and monies received by the Insurance Commissioner pursuant to the provisions of paragraphs 1, 2, 7, 8 and 9 of subsection A of this section shall be deposited with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund for the purpose of fulfilling and accomplishing the conditions and purposes of the Oklahoma Producer Licensing Act, including the use of postal mail facilities for the Department.~~

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

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

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

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

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

SECTION 13. AMENDATORY 36 O.S. 2001, Section 1435.29, as last amended by Section 30 of Enrolled Senate Bill No. 1022 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 1435.29 A. 1. Each insurance producer, with the exception of title producers and aircraft title producers or any other producer exempt by rule, shall, biennially, complete not less than twenty-one (21) clock hours of continuing insurance education which shall cover subjects in the lines for which the insurance

producer is licensed. Such education may include a written or oral examination.

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

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

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

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

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

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

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

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

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

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

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

paragraph shall be reviewed every three (3) years to determine whether they continue to qualify for continuing education credit.

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

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

C. Annual fees and course submission fees shall be set forth as a rule by the Commissioner. The fees are payable to the Insurance Commissioner ~~which shall be deposited in the State Insurance Commissioner Revolving Fund, created in subsection C of Section 1435.23 of this title, for the purposes of fulfilling and accomplishing the conditions and purposes of the Oklahoma Producer Licensing Act and the Insurance Adjusters Licensing Act.~~ Provided, public-funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall be exempt from this subsection.

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

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

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

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

SECTION 14. AMENDATORY 36 O.S. 2001, Section 1450, as last amended by Section 16, Chapter 184, O.S.L. 2008 (36 O.S. Supp. 2008, Section 1450), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 15. AMENDATORY 36 O.S. 2001, Section 1658.2, is amended to read as follows:

Section 1658.2 A. Any insurer failing, without just cause, to file any registration statement, summary, or other information as required in Article 16A of the Insurance Code shall be required, after notice and opportunity for hearing, to pay a penalty of Two Hundred Dollars (\$200.00) for each day's delay, to be recovered by the Insurance Commissioner and the penalty so recovered shall be paid into the General Revenue Fund of this state. The maximum penalty under this section shall be Twenty Thousand Dollars (\$20,000.00). The Commissioner may reduce the penalty if the insurer demonstrates to the Commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

B. Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to Section 1654 or subsection (e) of Section 1655 of this title, or which violate Article 16A of the Insurance Code, shall pay, in their individual capacity, a civil forfeiture of not more than Five Thousand Dollars (\$5,000.00) per violation, after notice and opportunity for hearing before the Commissioner. In determining the amount of the civil forfeiture, the Commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

C. Whenever it appears to the Commissioner that any insurer subject to Article 16A of the Insurance Code or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract which is subject to Section 1655 of this title and which would not have been approved had such approval been requested, the Commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and opportunity for hearing, the Commissioner may also order the insurer to void any such contracts and restore the status quo if such action is in the best interest of the policyholders, creditors or the public.

D. Whenever it appears to the Commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of Article 16A of the Insurance Code, the Commissioner may submit such information to the district attorney for Oklahoma County for appropriate action. Any insurer which willfully violates Article 16A of the Insurance Code may be fined not more than Fifty Thousand Dollars (\$50,000.00). Any individual convicted of willfully violating a provision of Article 16A of the Insurance Code may be fined in the individual capacity of such person not more than Twenty-five Thousand Dollars (\$25,000.00) or be imprisoned for not more than three (3) years or be subject to both such fine and imprisonment.

E. Any officer, director or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the Commissioner in the performance of his or her duties under Article 16A of the Insurance

Code, upon conviction thereof, shall be imprisoned for not more than three (3) years or fined Twenty-five Thousand Dollars (\$25,000.00) or be subject to both such fine and imprisonment. Any fines imposed shall be paid by the officer, director or employee in the individual capacity of such person.

SECTION 16. AMENDATORY 36 O.S. 2001, Section 1661, is amended to read as follows:

Section 1661. The initial fee for registration required by the provisions of Section 1654 of this title shall be Two Hundred Fifty Dollars (\$250.00) and an additional fee of One Hundred Dollars (\$100.00) shall be payable on May 1 of each calendar year thereafter so long as such registration continues. ~~All monies collected by the Commissioner from the fees herein provided for shall be deposited, upon receipt, with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund, under and subject exclusively to the control of the Commissioner for the purpose of fulfilling and accomplishing the conditions and purposes of this act.~~

SECTION 17. AMENDATORY 36 O.S. 2001, Section 2126.1, is amended to read as follows:

Section 2126.1 A. Every person who is directly or indirectly the beneficial owner of more than ten percent (10%) of any class of equity security of a domestic stock insurer or who is a director or officer of such insurer shall file in the office of the Insurance Commissioner on or before the thirty-first day of October, nineteen hundred sixty-five or within ten (10) days after he becomes such beneficial owner, director or officer a statement, in such form and detail and subject to such rules and regulations as the Commissioner may prescribe, of the amount of all equity securities of such insurer of which he is the beneficial owner, and within ten (10) days after the close of each calendar month, thereafter, if there has been a change in such ownership during such month, shall file in the office of the Commissioner a statement, in such form and detail and subject to such rules and regulations as the Commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

B. For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such insurer, any profit

realized by him from any purchase and sale, or any sale and purchase, of any equity security of such insurer within any period of less than six (6) months, unless such equity security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the insurer, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the equity security purchased or of not repurchasing the stock sold for a period exceeding six (6) months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the insurer or by the owner of any equity security of the insurer in the name and in behalf of the insurer if the insurer shall fail or refuse to bring such suit within sixty (60) days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two (2) years after the date such profit was realized. This paragraph shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Commissioner may by rules and regulations exempt as not comprehended within the purpose of this paragraph.

C. It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such insurer if the person selling the stock or his principal (i) does not own the security sold, or (ii) if owning the security, does not deliver it against such sale within twenty (20) days thereafter, or does not within five (5) days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this paragraph if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

D. The provisions of paragraph B of this section shall not apply to any purchase and sale, or sale and purchase, and the provisions of paragraph C of this section shall not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The Commissioner may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to

securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

E. The provisions of paragraphs A, B and C of this section shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the Commissioner may adopt in order to carry out the purpose of this act.

F. The term "equity security" when used in this act means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security. The term "officer" when used in this act means a director, president, vice-president, treasurer, actuary, secretary, controller, and any other person who performs for the company functions corresponding to those performed by the foregoing officers. The term "Commissioner" when used in this act means the Insurance Commissioner. The term "insurer" when used in this act means any domestic stock insurer. The term "person" when used in this act includes any firm, partnership, association or corporation.

G. The Commissioner shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by paragraphs A through F of this section, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of paragraphs A, B and C of this section, imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the Commissioner, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

H. For the purpose of carrying into effect the provisions of this act, there is hereby imposed a filing fee of Two Dollars (\$2.00) on each monthly statement filed pursuant to this act. Such fee shall be due and payable when such statement is filed and shall be paid to the Insurance Commissioner. ~~All monies collected by the Commissioner from the fees herein provided for shall be deposited~~

~~with the State Treasurer, who shall place the same to the credit of the State Insurance Commissioner Revolving Fund, under and subject exclusively to the control of the Commissioner for the purpose of fulfilling and accomplishing the conditions and purposes of this act. The Commissioner shall employ and fix the salaries of such employees as are necessary to carry out the purpose of this act and the administration thereof. All necessary salaries and expenses incurred by the Commissioner in the performance of the duties placed upon him under this act shall be a proper charge against, and shall be paid from such fund upon proper vouchers approved by the Commissioner. At the close of each fiscal year hereafter the Commissioner shall file with the State Auditor and Inspector a true and correct report of all fees collected by him during the previous fiscal year. All of said fees are hereby dedicated, appropriated and pledged to the accomplishment and fulfillment of the purposes of this act.~~

SECTION 18. AMENDATORY 36 O.S. 2001, Section 3010, is amended to read as follows:

Section 3010. Action on any policy or contract of insurance issued by an attorney for the underwriters may be brought against the attorney. In such action, summons and process shall be served on either the Insurance Commissioner or on the attorney-in-fact, and when so served shall have the same effect as if served on the attorney and on each underwriter personally. A judgment in any such action against the attorney shall be binding upon and be judgment against each and all of the underwriters as their several liabilities may appear in the contract of insurance on which the action is brought.

And such summons or other process shall be served in triplicate, and the Insurance Commissioner shall forthwith, by registered mail, send one copy thereof to the attorney for the underwriters at the principal office designated in the application for license or latest amendment thereof. The party commencing any action against the underwriters at a Lloyd's and securing service of process in this manner shall at the time of such service pay to such Insurance Commissioner, ~~which shall go to the general fund,~~ a fee of Three Dollars (\$3.00), which ~~he~~ the party shall be entitled to collect as taxable costs in the action if he shall prevail.

SECTION 19. AMENDATORY 36 O.S. 2001, Section 3105, is amended to read as follows:

Section 3105. A. Each motor service club operating in this state pursuant to certificate of authority issued hereunder shall file with the Commissioner, within ten (10) days of the date of employment, a notice of appointment of any agent, resident or nonresident, appointed by the automobile club to sell memberships in the motor service club to the public. This notification shall be upon such form as the Commissioner may prescribe and shall contain the name, address, age, sex, and Social Security number of such club agent, and shall also contain proof satisfactory to the Commissioner that such applicant is not less than eighteen (18) years of age, is of good reputation, and has received training from the club or is otherwise qualified in the field of motor service club service contracts and knowledgeable of the laws of this state pertaining thereto. Upon termination of any agent's employment by the motor service club, such motor service club shall notify the Commissioner, in writing, within five (5) days of such termination.

B. ~~The A~~ registration fee for agents, resident or nonresident, shall be Twenty Dollars (\$20.00) annually, ~~such fees and any fines in this section to be dedicated to the State Insurance Commissioner Revolving Fund,~~ and such registration shall expire on July 1 of each year unless sooner revoked or suspended as provided for in this section.

C. Upon notice and hearing, the Commissioner may suspend for not over twelve (12) months, censure, revoke, or refuse to renew any agent's license if he finds as to the licensee that any one or more of the following causes exist:

1. Any violation of or noncompliance with any provision of this act;

2. Obtaining or attempting to obtain any such license through misrepresentation or fraud;

3. Oral or written misrepresentation of the terms, conditions, benefits, or privileges of any motor service club service contract issued or to be issued by the motor service club he represents or any other motor service club;

4. Misappropriation or conversion to his own use or illegal holding of monies, belonging to members or others, received in the conduct of business under his license;

5. Pleading nolo contendere or guilty to a felony or conviction by final judgment of a felony;

6. Demonstration of incompetence sufficient in the opinion of the Commissioner to make the agent a source of injury and loss to the public;

7. Fraudulent or dishonest practices;

8. Willful solicitation of membership from an individual who is or has been a member of another motor service club by giving said person credit for his years of membership with the other motor service club;

9. Waiving the enrollment fee or otherwise reducing the usual fees and charges for a new member when soliciting membership from an individual who is or has been a member of another motor service club.

D. In addition to the penalties provided for in this section, a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence may be levied.

SECTION 20. AMENDATORY 36 O.S. 2001, Section 6144, is amended to read as follows:

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

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

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

3. A list of the names, addresses, and official positions of the persons who are responsible for the conduct of the business affairs of the applicant, including all members of the board of

directors, board of trustees, executive committee or other governing board or committee, and the principal officers in the case of a corporation, and the partners or members in the case of a partnership or association; ~~and~~

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

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

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

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

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

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

10. A fee of One Hundred Dollars (\$100.00) for issuance of a certificate of authority. ~~This fee shall be deposited in the Insurance Commissioner Revolving Fund; and~~

11. Such other information as the Commissioner may require.

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

SECTION 21. AMENDATORY 36 O.S. 2001, Section 6154, is amended to read as follows:

Section 6154. A. The Commissioner may suspend or revoke any certificate of authority issued to a prepaid dental plan organization pursuant to the provisions of the Prepaid Dental Plan Act if the Commissioner finds that any of the following conditions exist:

1. The prepaid dental plan organization is operating contrary to the basic organizational documents of the organization or is operating in a manner contrary to that described in, and reasonably inferred from, any other information submitted pursuant to Section ~~4~~ 6144 of this ~~act~~ title; ~~or~~

2. The prepaid dental plan organization issued membership coverage which does not comply with the requirements of Section ~~6~~ 6148 of this ~~act~~ title; ~~or~~

3. The prepaid dental plan does not provide or arrange for basic dental services appropriate to a prepaid dental plan; ~~or~~

4. The prepaid dental plan organization can no longer be expected to meet obligations to members or prospective members of the prepaid dental plan; ~~or~~

5. The prepaid dental plan organization, or any authorized person acting on behalf of the organization, has advertised or merchandised services offered by said organization in an untrue, misleading, deceptive, or unfair manner; ~~or~~

6. The prepaid dental plan organization fails to deal equitably with any dentists, dental physicians, technicians, or other persons or facilities whose services are covered within a contract or policy for prepaid dental insurance; or

7. The prepaid dental plan organization has failed to substantially comply with the provisions of the Prepaid Dental Plan Act or any rules and regulations promulgated thereunder.

B. When the certificate of authority of a prepaid dental plan organization is suspended, the organization shall not accept, during the period of such suspension, any additional members except newly acquired dependents of existing members and shall not engage in any advertising or solicitation.

C. When the certificate of authority of a prepaid dental plan organization is revoked, the organization shall proceed to terminate operation of the organization immediately and shall conduct no further business except as may be essential to the orderly conclusion of the business affairs of the organization. The Commissioner, by written order, may permit such further operation of the organization as the Commissioner finds to be in the best interest of members of the organization.

D. If a certificate of authority is suspended or revoked pursuant to the provisions of this section, the Commissioner may invoke a fine not exceeding One Thousand Dollars (\$1,000.00) for each violation. The payment of the fine may be enforced in the same manner as civil judgments may be enforced. ~~All fines collected pursuant to provisions of this section shall be deposited in the State Insurance Commissioner Revolving Fund.~~

E. A prepaid dental plan organization which has had its certificate of authority denied, suspended, or revoked, or has suffered an adverse decision by the Commissioner, shall be entitled to a hearing pursuant to the provisions of the Administrative Procedures Act, Sections 301 through 326 of Title 75 of the Oklahoma Statutes.

SECTION 22. AMENDATORY 36 O.S. 2001, Section 6465, is amended to read as follows:

Section 6465. ~~A-~~ There shall be collected, at the time of filing of information for a risk retention group, a fee payable annually, of Four Hundred Dollars (\$400.00). In addition, risk retention groups chartered for domicile in this state shall pay the same fees applicable to insurers in this state.

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

~~B. All amounts received pursuant to this section by the Commissioner of this state shall be paid into the State Treasury to the credit of the State Insurance Commissioner's Revolving Fund for~~

~~the purpose of fulfilling and accomplishing the conditions and purposes of the Oklahoma Risk Retention Act.~~

SECTION 23. AMENDATORY 36 O.S. 2001, Section 6604, as last amended by Section 2 of Enrolled Senate Bill No. 920 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

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

B. A service warranty association shall pay to the Insurance Department a license fee of Four Hundred Dollars (\$400.00) for such license for each year, or part thereof, the license is in force. ~~All license fees received pursuant to this subsection shall be paid into the State Treasury to the credit of the Insurance Commissioner Revolving Fund and shall be used for the implementation of the Service Warranty Insurance Act.~~

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

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

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

SECTION 24. AMENDATORY 36 O.S. 2001, Section 6615, as last amended by Section 7 of Enrolled Senate Bill No. 920 of the 1st Session of the 52nd Oklahoma Legislature, is amended to read as follows:

Section 6615. A. In addition to the license fees provided in the Service Warranty Insurance Act for service warranty associations each such association and insurer shall, annually on or before the last day of February, file with the Insurance Commissioner its

annual statement in the form prescribed by the Commissioner showing all premiums or assessments received by it in connection with the issuance of service warranties in this state during the preceding calendar year and other relevant financial information as deemed necessary by the Commissioner, using accounting principles which will enable the Commissioner to ascertain whether the financial requirements set forth in Section 6607 of this title have been satisfied.

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

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

D. Premiums and assessments received by associations and insurers for service warranties shall not be subject to the premium tax provided for in Section 624 of this title, but shall be subject to an administrative fee of equal to two percent (2%) of the gross premium received on the sale of all service contracts issued in this state during the preceding calendar quarter. Said fees shall be paid quarterly to the Insurance Commissioner. However, licensed associations, licensed insurers and entities with applications for licensure as a service warranty association pending with the Department that have contractual liability insurance in place as of March 31, 2009, from an insurer which satisfies the requirements of subsection C of Section 6607 of this title and which covers one hundred percent (100%) of the claims exposure of the association or insurer on all contracts written may elect to pay an annual administrative fee of Three Thousand Dollars (\$3,000.00) in lieu of the two-percent administrative fee. ~~All such fees, up to a maximum of Three Hundred Twenty five Thousand Dollars (\$325,000.00) per year, received by the Insurance Commissioner shall be deposited into the State Treasury to the credit of the Insurance Commissioner Revolving Fund for the payment of costs incurred by the Insurance Department in the administration of the Service Warranty Insurance Act. Amounts received in excess of the annual limitation shall be deposited to the credit of the General Revenue Fund.~~

SECTION 25. AMENDATORY 59 O.S. 2001, Section 1314, is amended to read as follows:

Section 1314. A. When a bail bondsman or managing general agent accepts collateral, he or she shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received. A description of the collateral shall be listed on the undertaking by affidavit. All property taken as collateral, whether personal, intangible or real, shall be receipted for and deemed, for all purposes, to be in the name of, and for the use and benefit of, the surety company or licensed professional bondsman, as the case may be. Every receipt, encumbrance, mortgage or other evidence of such custody, possession or claim shall facially indicate that it has been taken or made on behalf of the surety company or professional bondsman through its authorized agent, the individual licensed bondsman or managing general agent who has transacted the undertaking with the bond principal. Any mortgage or other encumbrance against real property taken under the provisions of this section which does not indicate beneficial ownership of the claim to be in favor of the surety company or professional bondsman shall be deemed to constitute a cloud on the title to real estate and shall subject the person filing, or causing same to be filed, in the real estate records of the county, to a penalty of treble damages or One Thousand Dollars (\$1,000.00), whichever is greater, in an action brought by the person, organization or corporation injured thereby. For collateral taken, or liens or encumbrances taken or made pursuant to the provisions of this section, the individual bondsman or managing general agent taking possession of the property or making the lien, claim or encumbrance shall do so on behalf of his or her surety company or professional bondsman, as the case may be, and such individual licensed bondsman shall be deemed to act in the capacity of fiduciary in relation to both:

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

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

As fiduciary and bailee for hire, the individual bondsman shall be liable in criminal or civil actions at law for failure to properly receipt or account for, maintain or safeguard, release or deliver possession upon lawful demand, in addition to any other penalties set forth in this subsection. No person who takes possession of

property as collateral pursuant to this section shall use or otherwise dissipate such asset, or do otherwise with such property than to safeguard and maintain its condition pending its return to its lawful owner, or deliver to the surety company or professional bondsman, upon lawful demand pursuant to the terms of the bailment.

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

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

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

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

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

D. Each bail bondsman shall submit each month with his or her monthly report, a renewal fee equal to two-tenths of one percent (2/10 of 1%) of the new liability written for that month. Such fee shall be payable to the Insurance Commissioner who shall deposit same with the State Treasurer, ~~who shall place the monies to the credit of the Bail Bondsmen Revolving Fund. The monies so deposited shall be used for the further regulation of bail bonds pursuant to the provisions of this act.~~

SECTION 26. AMENDATORY 59 O.S. 2001, Section 1337, is amended to read as follows:

~~Section 1337. A. All fees, receipts and monies collected by the Commissioner under and pursuant to this act shall be deposited with the State Treasurer, who shall place the same to the credit of the Bail Bondsmen Revolving Fund created in this section. The amount so deposited is hereby dedicated and appropriated to the Commissioner for the payment of the expense of examinations, licensing, investigations, the providing of forms, the operating expenses of the Department, and other related expenses necessitated by this act. All payments out of said fund shall be made by the State Treasurer on warrants issued against claims approved by the Insurance Commissioner and submitted to the Director of State Finance for audit and payment. These funds are in addition to other appropriations made to the Office of Insurance Commissioner.~~

~~B. There is hereby created in the State Treasury a revolving fund for the State Insurance Commissioner to be designated the "Bail Bondsmen Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations.~~

~~C. Any funds payable to the court clerk or other officer pursuant to this act, by any licensed bondsman, managing general agent, surety company or professional bondsman shall be issued a receipt in the name of the surety company or professional bondsman, as the case may be, and when such funds are refunded or otherwise disbursed, they shall be made payable to such surety company or professional bondsman, as the case may be.~~

SECTION 27. REPEALER 36 O.S. 2001, Sections 6133, 6213, and 6566, are hereby repealed.

SECTION 28. REPEALER Section 31, Chapter 334, O.S.L. 2004 (36 O.S. Supp. 2008, Section 6470.24), is hereby repealed.

SECTION 29. This act shall become effective July 1, 2009.

SECTION 30. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 21st day of May, 2009.

Presiding Officer of the House of
Representatives

Passed the Senate the 26th day of May, 2009.

Presiding Officer of the Senate