

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

THE STATE SENATE
Monday, February 23, 2009

Committee Substitute for
Senate Bill No. 1022

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1022 - By: Brown of the Senate and Sullivan of the House.

An Act relating to insurance; amending 36 O.S. 2001, Section 309.2, which relates to examination of insurance companies; expanding scope of examinations; requiring insurers to file certain statements with the Insurance Commissioner; specifying procedures and filing fee; limiting liability for certain persons; specifying that such statements shall be treated as working papers and documents; authorizing the Insurance Commissioner to use such statements in making certain determinations; creating the Oklahoma Annual Financial Report Act; providing short title; stating purpose; specifying applicability of act; defining terms; requiring annual audit financial reports; specifying procedures and contents of report; requiring insurers to register certain information with the Insurance Commissioner; providing procedures and requirements with regard to the registered information; providing exceptions and exemptions from certain requirements; providing procedures for obtaining an exception or exemption; specifying duties of accountants with regard to audited financial reports; providing for the treatment of workpapers of accountants auditing the financial statements of insurers; specifying scope of act as it applies to foreign and alien and certain other insurers; specifying duties and membership of audit committees of insurers; prohibiting directors and officers of insurers from making certain statements or taking certain actions; requiring certain insurers to prepare and file an internal control over financing report; specifying contents of the report; providing for confidentiality; allowing Insurance Commissioner to grant exemptions from compliance with all or part of act; providing for implementation of act; amending 36 O.S. 2001, Section 361, as last amended by Section 2, Chapter 129, O.S.L. 2005 (36 O.S. Supp. 2008, Section 361), which relates to an Anti-Fraud Division in the Insurance Department; modifying access to records of the Division;

1 allowing certain insurers to be designated a domestic
2 surplus line insurer; specifying requirements and
3 restrictions; amending 36 O.S. 2001, Section 1219.4, as last
4 amended by Section 9, Chapter 125, O.S.L. 2007 (36 O.S.
5 Supp. 2008, Section 1219.4), which relates to discount
6 medical plan organizations; adding requirements regarding
7 non-renewed registrations; authorizing the Insurance
8 Commissioner to impose certain fines; amending 36 O.S. 2001,
9 Sections 1435.6, as last amended by Section 44, Chapter 264,
10 O.S.L. 2006, 1435.7, as last amended by Section 10, Chapter
11 184, O.S.L. 2008, 1435.8, as last amended by Section 45,
12 Chapter 264, O.S.L. 2006, 1435.10, as amended by Section 46,
13 Chapter 264, O.S.L. 2006, 1435.15, as last amended by
14 Section 13, Chapter 125, O.S.L. 2007, 1435.23, as last
15 amended by Section 13, Chapter 184, O.S.L. 2008, and
16 1435.29, as last amended by Section 14, Chapter 184, O.S.L.
17 2008 (36 O.S. Supp. 2008, Sections 1435.6, 1435.7, 1435.8,
18 1435.10, 1435.15, 1435.23 and 1435.29), which relate to the
19 Oklahoma Producer Licensing Act; requiring applicants for a
20 resident surplus lines broker to pass certain examination;
21 deleting certain requirements; providing fee for certain
22 changes in information; modifying penalties for failure to
23 provide acceptable notification to the Insurance
24 Commissioner of certain changes in information; modifying
25 exemptions from required examinations; adding certain
26 administrative fee; modifying certain continuing insurance
27 education requirements; increasing hours for certain
28 continuing education requirement; clarifying certain fee
29 requirements; expanding exemption from certain fee
30 requirement; deleting certain exemption from continuing
31 insurance education requirements; amending 36 O.S. 2001,
32 Section 3636, as amended by Section 25, Chapter 519, O.S.L.
33 2004 (36 O.S. Supp. 2008, Section 3636), which relates to
34 uninsured motorist coverage; deleting obsolete language;
35 amending 36 O.S. 2001, Section 4430, as amended by Section
36 31, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2008, Section
37 4430), which relates to the Long-Term Care Insurance Act;
38 modifying limitation on increasing renewal rates; amending
39 36 O.S. 2001, Section 4509, which relates to group health
40 insurance; modifying procedures for continuing coverage
41 after certain occurrences; amending Section 2, Chapter 276,
42 O.S.L. 2002 (36 O.S. Supp. 2008, Section 4522), which
43 relates to the Employer Health Insurance Purchasing Group
44 Act; modifying definitions; amending 36 O.S. 2001, Section
45 5002, as amended by Section 21, Chapter 184, O.S.L. 2008 (36
46 O.S. Supp. 2008, Section 5002), which relates to title

1 insurers; deleting exemption from certain investment
2 requirement; amending 36 O.S. 2001, Section 6055, as amended
3 by Section 2, Chapter 288, O.S.L. 2003 (36 O.S. Supp. 2008,
4 Section 6055), which relates to the Health Care Freedom of
5 Choice Act; adding cost sharing provision; amending 36 O.S.
6 2001, Sections 6103.2, 6103.3 and 6103.5, which relate to
7 unauthorized insurance business; specifying scope of bail
8 bond business; making certain remedies apply to unauthorized
9 persons engaged in the bail bond business; expanding the
10 authorization of the Insurance Commissioner to issue cease
11 and desist orders; amending 36 O.S. 2001, Sections 6203,
12 6205, as amended by Section 24, Chapter 125, O.S.L. 2007,
13 6206, as amended by Section 25, Chapter 125, O.S.L. 2007,
14 6208, as amended by Section 26, Chapter 125, O.S.L. 2007,
15 6209, 6210, as last amended by Section 24, Chapter 184,
16 O.S.L. 2008, 6212, and 6217, as last amended by Section 25,
17 Chapter 184, O.S.L. 2008 (36 O.S. Supp. 2008, Sections 6205,
18 6206, 6208, 6210 and 6217), which relate to the Insurance
19 Adjusters Licensing Act; modifying requirements for
20 nonresident insurance adjusters; providing for an apprentice
21 adjuster license; providing procedures and requirements for
22 the license; limiting term of license; adding administrative
23 fee for not providing changes to certain information to the
24 Insurance Commissioner in a specified time frame; modifying
25 certain fees; clarifying certain examination procedures;
26 providing apprentice adjuster license fee; adding
27 administrative fee for submission of certain information
28 after certain date; staggering term of adjustor licenses;
29 modifying continuing insurance education requirements;
30 amending Section 18, Chapter 334, O.S.L. 2004 (36 O.S. Supp.
31 2008, Section 6470.11), which relates to the Oklahoma
32 Captive Insurance Company Act; modifying required use of
33 accounting principals; amending 36 O.S. 2001, Section 6512,
34 which relates to the Small Employer Health Insurance Reform
35 Act; modifying definitions; amending 36 O.S. 2001, Sections
36 6602, as last amended by Section 16, Chapter 353, O.S.L.
37 2008 and 6607, as amended by Section 20, Chapter 353, O.S.L.
38 2008 (36 O.S. Supp. 2008, Sections 6602 and 6607), which
39 relate to the Service Warranty Insurance Act; modifying
40 definitions; modifying requirements for licensed
41 associations; amending Sections 11 and 12, Chapter 390,
42 O.S.L. 2003 (36 O.S. Supp. 2008, Sections 6810 and 6811),
43 which relate to the Medical Professional Liability Insurance
44 Closed Claim Reports Act; adding short title; modifying
45 definitions; adding procedures, requirements, and penalties
46 for closed claim reporting; amending 59 O.S. 2001, Sections

1 1306, as last amended by Section 1, Chapter 135, O.S.L. 2006
2 and 1316, as last amended by Section 28, Chapter 184, O.S.L.
3 2008 (59 O.S. Supp. 2008, Sections 1306 and 1316), which
4 relate to bail bondsmen; requiring the Insurance
5 Commissioner to approve certain deposits; deleting certain
6 authorization; repealing 36 O.S. 2001, Section 1425.5, which
7 relates to the Oklahoma Producer Licensing Act; repealing 36
8 O.S. 2001, Section 6204, which relates to the Insurance
9 Adjustors Licensing Act; repealing Section 11, Chapter 390,
10 O.S.L. 2003, as amended by Section 71, Chapter 264, O.S.L.
11 2006 (36 O.S. Supp. 2008, Section 6812), which relates to
12 medical professional liability insurance; providing for
13 codification; and providing an effective date.

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

15 SECTION 1. AMENDATORY 36 O.S. 2001, Section 309.2, is
16 amended to read as follows:

17 Section 309.2 A. The Insurance Commissioner or an examiner may
18 conduct an examination, including a financial and market conduct
19 examination, under Sections 309.1 through 309.7 of this title of any
20 company as often as the Commissioner deems appropriate but shall at
21 a minimum, conduct ~~an~~ a financial examination of every domestic
22 insurer licensed in this state not less frequently than once every
23 three (3) years. The Commissioner shall, at a minimum, conduct or
24 cause to be conducted ~~an~~ a financial examination of every foreign
25 insurer licensed in this state not less frequently than once every
26 five (5) years. The Commissioner may accept examinations conducted
27 by other states on foreign insurers domiciled in such states
28 pursuant to subsection C of this section. In scheduling and
29 determining the nature, scope and frequency of the examinations, the

1 Commissioner shall consider such matters as the results of financial
2 statement analyses and ratios, changes in management or ownership,
3 actuarial opinions, reports of independent certified financial
4 examiners or public accountants and other criteria as set forth in
5 the Examiners' Handbook adopted by the National Association of
6 Insurance Commissioners and in effect when the Commissioner
7 exercises discretion under this subsection. The Commissioner may
8 also make examinations upon the request of one or more persons
9 pecuniarily interested therein, who shall make affidavit of their
10 belief, with specifications of their reasons therefor, that the
11 company is in an unsound condition.

12 B. For purposes of completing an examination of any company
13 under Sections 309.1 through 309.7 of this title, the Commissioner
14 may examine or investigate any person, or the business of any
15 person, insofar as such examination or investigation is, in the sole
16 discretion of the Commissioner, necessary or material to the
17 examination of the company.

18 C. In lieu of an examination under Sections 309.1 through 309.7
19 of this title of any foreign or alien insurer licensed in this
20 state, the Commissioner may accept an examination report on such
21 company as prepared by the insurance department for the company's
22 state of domicile or port-of-entry state if:

1 1. The insurance department was at the time of the examination
2 accredited under the National Association of Insurance
3 Commissioners' Financial Regulation Standards and Accreditation
4 Program; or

5 2. The examination is performed with the participation of one
6 or more examiners who are employed by an accredited state insurance
7 department and who, after a review of the examination work papers
8 and report, state under oath that the examination was performed in a
9 manner consistent with the standards and procedures required by
10 their insurance department.

11 D. The Commissioner may authorize any employee of the Insurance
12 Department to exercise the Commissioner's authority under Sections
13 309.1 through 309.7 of this title.

14 SECTION 2. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 311.4 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Insurers authorized to do business under the provisions of
18 the Oklahoma Insurance Code shall, annually, on or before the last
19 day of June, file with the Insurance Commissioner market conduct
20 annual statements reporting market conduct data of insurers on the
21 thirty-first day of December of the previous year. The statements
22 shall report on the lines of insurance and be in such general form
23 and context as approved by the National Association of Insurance

1 Commissioners, and as supplemented for additional information
2 required by the Insurance Commissioner by rule. The statements
3 shall be prepared in accordance with NAIC instructions, including
4 any supplemental filings described in the NAIC instructions. If no
5 forms or instructions are available from the National Association of
6 Insurance Commissioners, the statements shall be in the form and
7 pursuant to instructions as provided by the Insurance Commissioner.
8 Insurers not authorized by the Insurance Commissioner to provide the
9 lines of insurance approved by the National Association or the
10 Insurance Commissioner shall not be required to file market conduct
11 annual statements. For good cause shown, the Insurance Commissioner
12 may extend the time within which market conduct annual statements
13 may be filed. The Insurance Commissioner may provide copies of
14 market conduct annual statements, amendments, and addendums to such
15 statements and market conduct data taken from such statements to the
16 National Association of Insurance Commissioners.

17 B. The Insurance Commissioner may adopt rules implementing this
18 section including rules that:

19 1. Add lines of insurance to be reported in market conduct
20 annual statements; and

21 2. Require the filing of market conduct annual statements and
22 any amendments and addendums to such statements with the National

1 Association of Insurance Commissioners, and the payment of
2 applicable filing fees required by the NAIC.

3 C. Insurers shall pay a filing fee of Two Hundred Dollars
4 (\$200.00) to the Insurance Commissioner for the filing of the market
5 conduct annual statement.

6 D. In the absence of actual malice, or gross negligence,
7 members of the National Association of Insurance Commissioners,
8 their duly authorized committees, subcommittees and task forces,
9 their delegates, National Association of Insurance Commissioners'
10 employees, and all others charged with the responsibility of
11 collecting, reviewing, analyzing, and disseminating the information
12 developed from the filing of market conduct annual statements or
13 market conduct data taken from such statements shall be acting as
14 agents of the Insurance Commissioner under the authority of this
15 section and rules adopted by the Insurance Commissioner and shall
16 not be subject to civil liability for libel, slander, or any other
17 cause of action by virtue of their collection, review and analysis
18 or disseminating of the data and information collected from the
19 filings required under this section.

20 E. Market conduct annual statements and any amendments and
21 addendums to such statements, filed with the Insurance Commissioner
22 pursuant to this section in electronic format or otherwise, shall be

1 treated as working papers and documents as set out in subsection F
2 of Section 309.4 of Title 36 of the Oklahoma Statutes.

3 F. The Insurance Commissioner may use market conduct annual
4 statements or amendments or addendum to such statements to assist in
5 determining whether a market conduct examination or investigation of
6 an insurer should be conducted. For purposes of completing a market
7 conduct examination of any company under Sections 309.1 through
8 309.7 of Title 36 of the Oklahoma Statutes, the Insurance
9 Commissioner may, in the sole discretion of the Insurance
10 Commissioner, use market conduct annual statements or amendments or
11 addendum to such statements to assist in determining compliance with
12 the laws of this state and rules adopted by the Insurance
13 Commissioner.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 311A.1 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 Sections 3 through 20 of this act shall be known as and may be
18 cited as the "Oklahoma Annual Financial Report Act".

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 311A.2 of Title 36, unless there
21 is created a duplication in numbering, reads as follows:

1 A. The purpose of the Oklahoma Annual Financial Report Act is
2 to improve the surveillance of the Insurance Commissioner over the
3 financial condition of insurers by requiring:

4 1. An annual audit of financial statements reporting the
5 financial position and the results of operations of insurers by
6 independent certified public accountants;

7 2. Communication of Internal Control Related Matters Noted in
8 an Audit; and

9 3. Management's Report of Internal Control over Financial
10 Reporting.

11 B. Every insurer as defined in Section 5 of this act shall be
12 subject to the Oklahoma Annual Financial Report Act. Insurers
13 having direct premiums written in this state of less than One
14 Million Dollars (\$1,000,000.00) in any calendar year and less than
15 one thousand (1,000) policy holders or certificate holders of direct
16 written policies nationwide at the end of the calendar year shall be
17 exempt from the Oklahoma Annual Financial Report Act for the year
18 unless the Commissioner makes a specific finding that compliance is
19 necessary for the Commissioner to carry out statutory
20 responsibilities. Insurers having assumed premiums pursuant to
21 contracts and treaties of reinsurance of One Million Dollars
22 (\$1,000,000.00) or more will not be so exempt.

1 C. Foreign or alien insurers filing the audited financial
2 reports in another state, pursuant to the requirement of that state
3 for filing of audited financial reports, which has been found by the
4 Commissioner to be substantially similar to the requirements of the
5 Oklahoma Annual Financial Report Act, are exempt from Sections 6
6 through 15 of this act if:

7 1. A copy of the audited financial report, Communication of
8 Internal Control Related Matters Noted in an Audit, and the
9 Accountant's Letter of Qualifications that are filed with the other
10 state are filed with the Commissioner in accordance with the filing
11 dates specified in Sections 6, 13 and 14 of this act, respectively.

12 Canadian insurers may submit accountants' reports as filed with the
13 Office of the Superintendent of Financial Institutions, Canada; and

14 2. A copy of any Notification of Adverse Financial Condition
15 Report filed with the other state is filed with the Commissioner
16 within the time specified in Section 12 of this act.

17 D. Foreign or alien insurers required to file Management's
18 Report of Internal Control over Financial Reporting in another state
19 are exempt from filing the Report in this state provided the other
20 state has substantially similar reporting requirements as determined
21 by the Commissioner and the Report is filed with the Commissioner of
22 the other state within the time specified.

1 E. The Oklahoma Annual Financial Report Act shall not prohibit,
2 preclude, or in any way limit the Commissioner from ordering or
3 conducting or performing examinations of insurers under the rules of
4 the Insurance Department and the practices and procedures of the
5 Insurance Department.

6 SECTION 5. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 311A.3 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

9 A. As used in the Oklahoma Annual Financial Report Act:

10 1. "Accountant" or "independent certified public accountant"
11 means an independent certified public accountant or accounting firm
12 in good standing with the American Institute of Certified Public
13 Accounts (AICPA) and in all states in which the accountant is
14 licensed to practice and for Canadian and British companies, it
15 means a Canadian-chartered or British-chartered accountant;

16 2. An "affiliate" of, or person "affiliated" with, a specific
17 person, is a person that directly, or indirectly through one or more
18 intermediaries, controls, or is controlled by, or is under common
19 control with, the person specified;

20 3. "Audit committee" means a committee or equivalent body
21 established by the board of directors of an entity for the purpose
22 of overseeing the accounting and financial reporting processes of an
23 insurer or group of insurers, and audits of financial statements of

1 the insurer or group of insurers, and audits of financial statements
2 of the insurer or group of insurers. The audit committee of any
3 entity that controls a group of insurers may be deemed to be the
4 audit committee for one or more of these controlled insurers solely
5 for the purposes of the Oklahoma Annual Financial Report Act at the
6 election of the controlling person. The exercise of this election
7 shall be pursuant to subsection E of Section 16 of this act. If an
8 audit committee is not designated by the insurer, the entire board
9 of directors of the insurer shall constitute the audit committee;

10 4. "Audited financial report" means and includes those items
11 specified in Section 7 of this act;

12 5. "Indemnification" means an agreement of indemnity or a
13 release from liability where the intent or effect is to shift or
14 limit in any manner the potential liability of the person or firm
15 for failure to adhere to applicable auditing or professional
16 standards, whether or not resulting in part from knowing of other
17 misrepresentations made by the insurer or its representatives;

18 6. "Independent board member" has the same meaning as described
19 in subsection C of Section 16 of this act;

20 7. "Insurer" means a licensed insurer as defined in Section 103
21 of Title 36 of the Oklahoma Statutes. For purposes of the Oklahoma
22 Annual Financial Report Act, insurer includes but is not limited to
23 fraternal benefit societies, health maintenance organizations,

1 multiple employer welfare arrangements, title insurers, and similar
2 organizations licensed by the Insurance Commissioner;

3 8. "Group of insurers" means those licensed insurers included
4 in the reporting requirements of Article 16A of the Oklahoma
5 Insurance Code, or a set of insurers as identified by management,
6 for the purpose of assessing the effectiveness of internal control
7 over financial reporting;

8 9. "Internal control over financial reporting" means a process
9 effected by the board of directors, management, and other personnel
10 of an entity designed to provide reasonable assurance regarding the
11 reliability of the financial statements, i.e., those items specified
12 in paragraphs 2 through 7 of subsection B of Section 7 of this act
13 and includes those policies and procedures that:

- 14 a. pertain to the maintenance of records that, in
15 reasonable detail and accurately, fairly reflect the
16 transactions and dispositions of assets,
- 17 b. provide reasonable assurance that transactions are
18 recorded as necessary to permit preparation of the
19 financial statements, i.e., those items specified in
20 paragraphs 2 through 7 of subsection B of Section 7 of
21 this act and that receipts and expenditures are being
22 made only in accordance with authorizations of
23 management and directors, and

1 c. provide reasonable assurance regarding prevention or
2 timely detection of unauthorized acquisition, use, or
3 disposition of assets that could have a material
4 effect on the financial statements, i.e., those items
5 specified in paragraphs 2 through 7 of subsection B of
6 Section 7 of this act;

7 10. "SEC" means the United States Securities and Exchange
8 Commission;

9 11. "Section 404" means Section 404 of the Sarbanes-Oxley Act
10 of 2002 and the rules and regulations of the SEC promulgated
11 thereunder;

12 12. "Section 404 Report" means the report on internal control
13 over financial reporting of management as defined by the SEC and the
14 related attestation report of the independent certified public
15 accountant;

16 13. "SOX Compliant Entity" means an entity that either is
17 required to be compliant with, or voluntarily is compliant with, all
18 of the following provisions of the Sarbanes-Oxley Act of 2002:

19 a. the preapproval requirements of Section 201 (Section
20 10A(i) of the Securities Exchange Act of 1934),

21 b. the audit committee independence requirements of
22 Section 301 (Section 10A(m)(3) of the Securities
23 Exchange Act of 1934), and

1 c. the internal control over financial reporting
2 requirements of Section 404 (Item 308 of SEC
3 Regulation S-K).

4 SECTION 6. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 311A.4 of Title 36, unless there
6 is created a duplication in numbering, reads as follows:

7 A. All insurers shall have an annual audit by an independent
8 certified public accountant and shall file an audited financial
9 report with the Insurance Commissioner on or before June 1 for the
10 year ended December 31 immediately preceding. The Commissioner may
11 require an insurer to file an audited financial report earlier than
12 June 1 with ninety (90) days advance notice to the insurer.

13 B. Extensions of the June 1 filing date may be granted by the
14 Commissioner for thirty-day periods upon a showing by the insurer
15 and its independent certified public accountant of the reasons for
16 requesting an extension and determination by the Commissioner of
17 good cause for an extension. The request for extension must be
18 submitted in writing not less than ten (10) days prior to the due
19 date in sufficient detail to permit the Commissioner to make an
20 informed decision with respect to the requested extension.

21 C. If an extension is granted in accordance with the provisions
22 in subsection B of this section, a similar extension of thirty (30)

1 days is granted to the filing of Management's Report of Internal
2 Control over Financial Reporting.

3 D. Every insurer required to file an annual audited financial
4 report pursuant to the Oklahoma Annual Financial Report Act shall
5 designate a group of individuals as constituting its audit
6 committee. The audit committee of an entity that controls an
7 insurer may be deemed to be the audit committee of the insurer for
8 purposes of the Oklahoma Annual Financial Report Act at the election
9 of the controlling person.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 311A.5 of Title 36, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The annual audited financial report shall report the
14 financial position of the insurer as of the end of the most recent
15 calendar year and the results of its operations, cash flows, and
16 changes in capital and surplus for the year then ended in conformity
17 with statutory accounting practices prescribed, or otherwise
18 permitted, by the Department of Insurance of the state of domicile.

19 B. The annual audited financial report shall include the
20 following:

- 21 1. Report of independent certified public accountant;
- 22 2. Balance sheet reporting admitted assets, liabilities,
23 capital, and surplus;

1 3. Statement of operations;
2 4. Statement of cash flows;
3 5. Statement of changes in capital and surplus;
4 6. Notes to financial statements. These notes shall be those
5 required by the appropriate NAIC Annual Statement Instructions and
6 the NAIC Accounting Practices and Procedures Manual. The notes
7 shall include a reconciliation of differences, if any, between the
8 audited statutory financial statements and the annual statement
9 filed pursuant to Section 311 of Title 36 of the Oklahoma Statutes
10 with a written description of the nature of these differences; and
11 7. The financial statements included in the audited financial
12 report shall be prepared in a form and using language and groupings
13 substantially the same as the relevant sections of the annual
14 statement of the insurer filed with the Commissioner, and the
15 financial statement shall be comparative, presenting the amounts as
16 of December 31 of the current year and the amounts as of the
17 immediately preceding December 31. However, in the first year in
18 which an insurer is required to file an audited financial report,
19 the comparative data may be omitted.

20 SECTION 8. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 311A.6 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

1 A. Each insurer required by the Oklahoma Annual Financial
2 Report Act to file an annual audited financial report must within
3 sixty (60) days after becoming subject to the requirement, register
4 with the Insurance Commissioner in writing the name and address of
5 the independent certified public accountant or accounting firm
6 retained to conduct the annual audit set forth in the Oklahoma
7 Annual Financial Report Act. Insurers not retaining an independent
8 certified public accountant on the effective date of the Oklahoma
9 Annual Financial Report Act shall register the name and address of
10 their retained independent certified public accountant not less than
11 six (6) months before the date when the first audited financial
12 report is to be filed.

13 B. The insurer shall obtain a letter from the accountant, and
14 file a copy with the Commissioner stating that the accountant is
15 aware of the provisions of the insurance code and the regulations of
16 the insurance department of the state of domicile that relate to
17 accounting and financial matters and affirming that the accountant
18 will express the opinion of the accountant on the financial
19 statements in terms of their conformity to the statutory accounting
20 practices prescribed or otherwise permitted by that insurance
21 department, specifying such exceptions as the accountant may believe
22 appropriate.

1 C. If an accountant who was the accountant for the immediately
2 preceding filed audited financial report is dismissed or resigns,
3 the insurer shall within five (5) business days notify the
4 Commissioner of this event. The insurer shall also furnish the
5 Commissioner with a separate letter within ten (10) business days of
6 the above notification stating whether in the twenty-four (24)
7 months preceding such event there were any disagreements with the
8 former accountant on any matter of accounting principles or
9 practices, financial statement disclosure, or auditing scope or
10 procedure, which disagreements, if not resolved to the satisfaction
11 of the former accountant, would have caused the former accountant to
12 make reference to the subject matter of the disagreement in
13 connection with the opinion of the former accountant. The
14 disagreements required to be reported in response to this section
15 include both those resolved to the satisfaction of the former
16 accountant and those not resolved to the satisfaction of the former
17 accountant. Disagreements contemplated by this section are those
18 that occur at the decision-making level, between personnel of the
19 insurer responsible for presentation of its financial statements and
20 personnel of the accounting firm responsible for rendering its
21 report. The insurer shall also in writing request the former
22 accountant to furnish a letter addressed to the insurer stating
23 whether the accountant agrees with the statements contained in the

1 letter of the insurer and, if not, stating the reasons for which the
2 accountant does not agree. The insurer shall furnish the responsive
3 letter from the former accountant to the Commissioner together with
4 its own.

5 SECTION 9. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 311A.7 of Title 36, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The Insurance Commissioner shall not recognize a person or
9 firm as a qualified independent certified public accountant if the
10 person or firm:

11 1. Is not in good standing with the AICPA and in all states in
12 which the accountant is licensed to practice, or, for a Canadian or
13 British company, that is not a chartered accountant; or

14 2. Has either directly or indirectly entered into an agreement
15 of indemnity or release from liability, collectively referred to as
16 indemnification, with respect to the audit of the insurer.

17 B. Except as otherwise provided in the Oklahoma Annual
18 Financial Report Act, the Commissioner shall recognize an
19 independent certified public accountant as qualified as long as the
20 accountant conforms to the standards of the profession, as contained
21 in the Code of Professional Ethics of the AICPA and Rules and
22 Regulations and Code of Ethics and Rules of Professional Conduct of
23 the Oklahoma Board of Public Accountancy, or similar code.

1 C. A qualified independent certified public accountant may
2 enter into an agreement with an insurer to have disputes relating to
3 an audit resolved by mediation or arbitration. However, in the
4 event of a delinquency proceeding commenced against the insurer
5 under Article 19 of the Oklahoma Insurance Code, the mediation or
6 arbitration provisions shall operate at the option of the statutory
7 successor.

8 D. 1. The lead or coordinating audit partner having primary
9 responsibility for the audit may not act in that capacity for more
10 than five (5) consecutive years. The person shall be disqualified
11 from acting in that or a similar capacity for the same company or
12 its insurance subsidiaries or affiliates for a period of five (5)
13 consecutive years. An insurer may make application to the
14 Commissioner for relief from the above rotation requirement on the
15 basis of unusual circumstances. This application should be made at
16 least thirty (30) days before the end of the calendar year. The
17 Commissioner may consider the following factors in determining if
18 the relief should be granted:

- 19 a. number of partners, expertise of the partners, or the
20 number of insurance clients in the currently
21 registered firm,
22 b. premium volume of the insurer, or

1 c. number of jurisdictions in which the insurer transacts
2 business;

3 2. The insurer shall file, with its annual statement filing,
4 the approval for relief from paragraph 1 of this subsection with the
5 states that it is licensed in or doing business in and with the
6 NAIC. If the nondomestic state accepts electronic filing with the
7 NAIC, the insurer shall file the approval in an electronic format
8 acceptable to the NAIC.

9 E. The Commissioner shall neither recognize as a qualified
10 independent certified public accountant, nor accept an annual
11 audited financial report, prepared in whole or in part by, a natural
12 person who:

13 1. Has been convicted of fraud, bribery, a violation of the
14 Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C.
15 Sections 1961 to 1968, or any dishonest conduct or practices under
16 federal or state law;

17 2. Has been found to have violated the insurance laws of this
18 state with respect to any previous reports submitted under the
19 Oklahoma Annual Financial Report Act; or

20 3. Has demonstrated a pattern or practice of failing to detect
21 or disclose material information in previous reports filed under the
22 provisions of the Oklahoma Annual Financial Report Act.

1 F. The Commissioner may hold a hearing to determine whether an
2 independent certified public accountant is qualified and,
3 considering the evidence presented, may rule that the accountant is
4 not qualified for purposes of expressing the opinion of the
5 accountant on the financial statements in the annual audited
6 financial report made pursuant to the Oklahoma Annual Financial
7 Report Act and require the insurer to replace the accountant with
8 another whose relationship with the insurer is qualified within the
9 meaning of the Oklahoma Annual Financial Report Act.

10 G. 1. The Commissioner shall not recognize as a qualified
11 independent certified public accountant, nor accept an annual
12 audited financial report, prepared in whole or in part by an
13 accountant who provides to an insurer, contemporaneously with the
14 audit, the following non-audit services:

- 15 a. bookkeeping or other services related to the
16 accounting records or financial statements of the
17 insurer,
- 18 b. financial information systems design and
19 implementation,
- 20 c. appraisal or valuation services, fairness opinions, or
21 contribution-in-kind reports,
- 22 d. actuarially-oriented advisory services involving the
23 determination of amounts recorded in the financial

1 statements. The accountant may assist an insurer in
2 understanding the methods, assumptions, and inputs
3 used in the determination of amounts recorded in the
4 financial statement only if it is reasonable to
5 conclude that the services provided will not be
6 subject to audit procedures during an audit of the
7 financial statements of the insurer. The actuary of
8 an accountant may also issue an actuarial opinion or
9 certification on the reserves of an insurer if the
10 following conditions have been met:

- 11 (1) neither the accountant nor the actuary of the
12 accountant has performed any management functions
13 or made any management decisions,
14 (2) the insurer has competent personnel or engages a
15 third party actuary to estimate the reserves for
16 which management takes responsibility, and
17 (3) the actuary of the accountant tests the
18 reasonableness of the reserves after the
19 management of the insurer has determined the
20 amount of the reserves,
21 e. internal audit outsourcing services,
22 f. management functions or human resources,

- 1 g. broker or dealer, investment adviser, or investment
2 banking services,
3 h. legal services or expert services unrelated to the
4 audit; or
5 i. any other services that the Commissioner determines,
6 by rule, are impermissible,

7 2. In general, the principles of independence with respect to
8 services provided by the qualified independent certified public
9 accountant are largely predicated on three basic principles,
10 violations of which would impair the independence of the accountant.
11 The principles are that the accountant cannot function in the role
12 of management, cannot audit the own work of the accountant, and
13 cannot serve in an advocacy role for the insurer.

14 H. Insurers having direct written and assumed premiums of less
15 than One Hundred Million Dollars (\$100,000,000.00) in any calendar
16 year may request an exemption from paragraph 1 of subsection G of
17 this section. The insurer shall file with the Commissioner a
18 written statement discussing the reasons why the insurer should be
19 exempt from these provisions. If the Commissioner finds, upon
20 review of the statement, that compliance with the Oklahoma Annual
21 Financial Report Act would constitute a financial or organizational
22 hardship upon the insurer, an exemption may be granted.

1 I. A qualified independent certified public accountant who
2 performs the audit may engage in other non-audit services, including
3 tax services, that are not described in paragraph 1 of subsection G
4 of this section or that do not conflict with paragraph 2 of
5 subsection G of this section, only if the activity is approved in
6 advance by the audit committee, in accordance with subsection J of
7 this section.

8 J. All auditing services and non-audit services provided to an
9 insurer by the qualified independent certified public accountant of
10 the insurer shall be preapproved by the audit committee. The
11 preapproval requirement is waived with respect to non-audit services
12 if the insurer is a SOX Compliant Entity or a direct or indirect
13 wholly-owned subsidiary of a SOX Compliant entity or:

14 1. The aggregate amount of all such non-audit services provided
15 to the insurer constitutes not more than five percent (5%) of the
16 total amount of fees paid by the insurer to its qualified
17 independent certified public accountant during the fiscal year in
18 which the non-audit services are provided;

19 2. The services were not recognized by the insurer at the time
20 of the engagement to be non-audit services; and

21 3. The services are promptly brought to the attention of the
22 audit committee and approved prior to the completion of the audit by
23 the audit committee or by one or more members of the audit committee

1 who are the members of the board of directors to whom authority to
2 grant such approvals has been delegated by the audit committee.

3 K. The audit committee may delegate to one or more designated
4 members of the audit committee the authority to grant the
5 preapprovals required by subsection J of this section. The
6 decisions of any member to whom this authority is delegated shall be
7 presented to the full audit committee at each of its scheduled
8 meetings.

9 L. 1. The Commissioner shall not recognize an independent
10 certified public accountant as qualified for a particular insurer if
11 a member of the board, president, chief executive officer,
12 controller, chief financial officer, chief accounting officer, or
13 any person serving in an equivalent position for that insurer, was
14 employed by the independent certified public accountant and
15 participated in the audit of that insurer during the one-year period
16 preceding the date that the most current statutory opinion is due.
17 This subsection shall only apply to partners and senior managers
18 involved in the audit. An insurer may make application to the
19 Commissioner for relief from the above requirement on the basis of
20 unusual circumstances.

21 2. The insurer shall file, with its annual statement filing,
22 the approval for relief from paragraph 1 of this subsection with the
23 states that it is licensed in or doing business in and the NAIC. If

1 the nondomestic state accepts electronic filing with the NAIC, the
2 insurer shall file the approval in an electronic format acceptable
3 to the NAIC.

4 SECTION 10. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 311A.8 of Title 36, unless there
6 is created a duplication in numbering, reads as follows:

7 An insurer may make written application to the Insurance
8 Commissioner for approval to file audited consolidated or combined
9 financial statements in lieu of separate annual audited financial
10 statements if the insurer is part of a group of insurance companies
11 that utilizes a pooling or one hundred percent (100%) reinsurance
12 agreement that affects the solvency and integrity of the reserves of
13 the insurer and the insurer cedes all of its direct and assumed
14 business to the pool. In such cases, a columnar consolidating or
15 combining worksheet shall be filed with the report, as follows:

16 1. Amounts shown on the consolidated or combined audited
17 financial report shall be shown on the worksheet;

18 2. Amounts for each insurer subject to this section shall be
19 stated separately;

20 3. Noninsurance operations may be shown on the worksheet on a
21 combined or individual basis;

22 4. Explanations of consolidating and eliminating entries shall
23 be included; and

1 5. A reconciliation shall be included of any differences
2 between the amounts shown in the individual insurer columns of the
3 worksheet and comparable amounts shown on the annual statements of
4 the insurers.

5 SECTION 11. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 311A.9 of Title 36, unless there
7 is created a duplication in numbering, reads as follows:

8 Financial statements furnished pursuant to Section 7 of this act
9 shall be examined by the independent certified public accountant.
10 The audit of the financial statements of the insurer shall be
11 conducted in accordance with generally accepted auditing standards.
12 In accordance with AU Section 319 of the Professional Standards of
13 the AICPA, Consideration of Internal Control in a Financial
14 Statement Audit, the independent certified public accountant should
15 obtain an understanding of internal control sufficient to plan the
16 audit. To the extent required by AU 319, for those insurers
17 required to file a Management's Report of Internal Control over
18 Financial Reporting pursuant to Section 18 of this act, the
19 independent certified public accountant should consider, as that
20 term is defined in Statement on Auditing Standards (SAS) No. 102,
21 Defining Professional Requirements in Statements on Auditing
22 Standards or its replacement, the most recently available report in
23 planning and performing the audit of the statutory financial

1 statements. Consideration shall be given to the procedures
2 illustrated in the Financial Condition Examiners Handbook
3 promulgated by the National Association of Insurance Commissioners
4 as the independent certified public accountant deems necessary.

5 SECTION 12. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 311A.10 of Title 36, unless
7 there is created a duplication in numbering, reads as follows:

8 A. The insurer required to furnish the annual audited financial
9 report shall require the independent certified public accountant to
10 report, in writing, within five (5) business days to the board of
11 directors or its audit committee any determination by the
12 independent certified public accountant that the insurer has
13 materially misstated its financial condition as reported to the
14 Insurance Commissioner as of the balance sheet date currently under
15 audit or that the insurer does not meet the minimum capital and
16 surplus requirement of the Oklahoma Insurance Code as of that date.
17 An insurer that has received a report pursuant to this subsection
18 shall forward a copy of the report to the Commissioner within five
19 (5) business days of receipt of the report and shall provide the
20 independent certified public accountant making the report with
21 evidence of the report being furnished to the Commissioner. If the
22 independent certified public accountant fails to receive the
23 evidence within the required five (5) business day period, the

1 independent certified public accountant shall furnish to the
2 Commissioner a copy of its report within the next five (5) business
3 days.

4 B. No independent certified public accountant shall be liable
5 in any manner to any person for any statement made in connection
6 with subsection A of this section if the statement is made in good
7 faith in compliance with that subsection.

8 C. If the accountant, subsequent to the date of the audited
9 financial report filed pursuant to the Oklahoma Annual Financial
10 Report Act, becomes aware of facts that might have affected the
11 report of the accountant, the accountant shall comply with the
12 action or actions prescribed in Volume 1, Section AU 561 of the
13 Professional Standards of the AICPA.

14 SECTION 13. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 311A.11 of Title 36, unless
16 there is created a duplication in numbering, reads as follows:

17 A. In addition to the annual audited financial report, each
18 insurer shall furnish the Insurance Commissioner with a written
19 communication as to any unremediated material weaknesses in its
20 internal controls over financial reporting noted during the audit.
21 Such communication shall be prepared by the accountant within sixty
22 (60) days after the filing of the annual audited financial report,
23 and shall contain a description of any unremediated material

1 weakness, as the term material weakness is defined by Statement on
2 Auditing Standard 60, Communication of Internal Control Related
3 Matters Noted in an Audit, or its replacement, as of December 31
4 immediately preceding, so as to coincide with the audited financial
5 report discussed in subsection A of Section 4 of this act in the
6 internal control over financial reporting of the insurer noted by
7 the accountant during the course of their audit of the financial
8 statements. If no unremediated material weaknesses were noted, the
9 communication should so state.

10 B. The insurer is required to provide a description of remedial
11 actions taken or proposed to correct unremediated material
12 weaknesses if the actions are not described in the communication of
13 the accountant.

14 SECTION 14. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 311A.12 of Title 36, unless
16 there is created a duplication in numbering, reads as follows:

17 The accountant shall furnish the insurer in connection with, and
18 for inclusion in, the filing of the annual audited financial report,
19 a letter stating:

20 1. That the accountant is independent with respect to the
21 insurer and conforms to the standards of the profession as contained
22 in the Code of Professional Ethics and pronouncements of the AICPA

1 and the Rules of Professional Conduct of the Oklahoma Board of
2 Public Accountancy, or similar code;

3 2. The background and experience in general, and the experience
4 in audits of insurers of the staff assigned to the engagement and
5 whether each is an independent certified public accountant. Nothing
6 within the Oklahoma Annual Financial Report Act shall be construed
7 as prohibiting the accountant from utilizing such staff as the
8 accountant deems appropriate where use is consistent with the
9 standards prescribed by generally accepted auditing standards;

10 3. That the accountant understands the annual audited financial
11 report and the opinion of the accountant thereon will be filed in
12 compliance with the Oklahoma Annual Financial Report Act and that
13 the Insurance Commissioner will be relying on this information in
14 the monitoring and regulation of the financial position of insurers;

15 4. That the accountant consents to the requirements of section
16 15 of this act and that the accountant consents and agrees to make
17 available for review by the Commissioner the workpapers, as defined
18 in Section 15 of this act;

19 5. A representation that the accountant is properly licensed by
20 an appropriate state licensing authority and is a member in good
21 standing in the AICPA; and

22 6. A representation that the accountant is in compliance with
23 the requirements of Section 9 of this act.

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 311A.13 of Title 36, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Workpapers are the records kept by the independent certified
5 public accountant of the procedures followed, the tests performed,
6 the information obtained, and the conclusions reached pertinent to
7 the audit by the accountant of the financial statements of an
8 insurer. Workpapers, accordingly, may include audit planning
9 documentation, work programs, analyses, memoranda, letters of
10 confirmation and representation, abstracts of company documents, and
11 schedules or commentaries prepared or obtained by the independent
12 certified public accountant in the course of the audit of the
13 financial statements of an insurer and which support the opinion of
14 the accountant.

15 B. Every insurer required to file an audited financial report
16 pursuant to the Oklahoma Annual Financial Report Act, shall require
17 the accountant to make available for review by Insurance Department
18 examiners, all workpapers prepared in the conduct of the audit by
19 the accountant and any communications related to the audit between
20 the accountant and the insurer, at the offices of the insurer, at
21 the offices of the Insurance Department, or at any other reasonable
22 place designated by the Insurance Commissioner. The insurer shall
23 require that the accountant retain the audit workpapers and

1 communications until the Insurance Department has filed a report on
2 examination covering the period of the audit but no longer than
3 seven (7) years from the date of the audit report.

4 C. In the conduct of the aforementioned periodic review by the
5 Insurance Department examiners, it shall be agreed that photocopies
6 of pertinent audit workpapers may be made and retained by the
7 Insurance Department. Such reviews by the Insurance Department
8 examiners shall be considered investigations and all working papers
9 and communications obtained during the course of such investigations
10 shall be afforded the same confidentiality as other examination
11 workpapers generated by the Insurance Department pursuant to
12 subsection F of Section 309.4 of Title 36 of the Oklahoma Statutes.

13 SECTION 16. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 311A.14 of Title 36, unless
15 there is created a duplication in numbering, reads as follows:

16 A. This section shall not apply to foreign or alien insurers
17 licensed in this state or an insurer that is a SOX Compliant Entity
18 or a direct or indirect wholly-owned subsidiary of a SOX Compliant
19 Entity.

20 B. The audit committee shall be directly responsible for the
21 appointment, compensation, and oversight of the work of any
22 accountant, including resolution of disagreements between management
23 and the accountant regarding financial reporting, for the purpose of

1 preparing or issuing the audited financial report or related work
2 pursuant to the Oklahoma Annual Financial Report Act. Each
3 accountant shall report directly to the audit committee.

4 C. Each member of the audit committee shall be a member of the
5 board of directors of the insurer or a member of the board of
6 directors of an entity elected pursuant to subsection F of this
7 section and paragraph 3 of Section 5 of this act.

8 D. In order to be considered independent for purposes of this
9 section, a member of the audit committee may not, other than in the
10 capacity as a member of the audit committee, the board of directors,
11 or any other board committee, accept any consulting, advisory, or
12 other compensatory fee from the entity or be an affiliated person of
13 the entity or subsidiary thereof. However, if law requires board
14 participation by otherwise non-independent members, that law shall
15 prevail and such members may participate in the audit committee and
16 be designated as independent for audit committee purposes, unless
17 they are an officer or employee of the insurer or one of its
18 affiliates.

19 E. If a member of the audit committee ceases to be independent
20 for reasons outside the reasonable control of the member, that
21 person, with notice by the responsible entity to the state, may
22 remain an audit committee member of the responsible entity until the
23 earlier of the next annual meeting of the responsible entity or one

1 year from the occurrence of the event that caused the member to be
2 no longer independent.

3 F. To exercise the election of the controlling person to
4 designate the audit committee for purposes of the Oklahoma Annual
5 Finance Report Act, the ultimate controlling person shall provide
6 written notice to the Insurance Commissioner of the affected
7 insurers. Notification shall be made timely prior to the issuance
8 of the statutory audit report and include a description of the basis
9 for the election. The election can be changed through notice to the
10 Commissioner by the insurer, which shall include a description of
11 the basis for the change. The election shall remain in effect for
12 perpetuity, until rescinded.

13 G. 1. The audit committee shall require the accountant that
14 performs for an insurer any audit required by the Oklahoma Annual
15 Financial Report Act to timely report to the audit committee in
16 accordance with the requirements of SAS 61, Communication with Audit
17 Committees, or its replacement, including:

- 18 a. all significant accounting policies and material
19 permitted practices,
- 20 b. all material alternative treatments of financial
21 information within statutory accounting principles
22 that have been discussed with management officials of
23 the insurer, ramifications of the use of the

1 alternative disclosures and treatments, and the
2 treatment preferred by the accountant, and
3 c. other material written communications between the
4 accountant and the management of the insurer, such as
5 any management or schedule of unadjusted differences;

6 2. If an insurer is a member of an insurance holding company
7 system, the reports required by paragraph 1 of this subsection may
8 be provided to the audit committee on an aggregate basis for
9 insurers in the holding company system, provided that any
10 substantial differences among insurers in the system are identified
11 to the audit committee.

12 H. The proportion of independent audit committee members shall
13 meet or exceed the following criteria set out in paragraphs 1, 2 and
14 3 of this subsection:

15 1. No Minimum Requirements. There are no minimum requirements
16 for insurers with prior calendar year direct written and assumed
17 premiums of three Hundred Million Dollars (\$300,000,000.00) or less;

18 2. Majority of Members. Fifty percent (50%) or more of members
19 of the independent audit committee for insurers with prior calendar
20 year direct written and assumed premiums of between Three Hundred
21 Million Dollars (\$300,000,000.00) and Five Hundred Million Dollars
22 (\$500,000,000.00);

1 3. Supermajority of Members. Seventy-five percent (75%) or
2 more of members of the independent audit committee for insurers with
3 prior calendar year direct written and assumed premiums of over Five
4 Hundred Million Dollars (\$500,000,000.00).

5 I. The Commissioner may require improvements to the
6 independence of the audit committee membership of any insurer if the
7 insurer is in a RBC action level event, meets one or more of the
8 standards of an insurer deemed to be in hazardous financial
9 condition, or otherwise exhibits qualities of a troubled insurer.

10 J. For purposes of this section, prior calendar year direct
11 written and assumed premiums shall be the combined total of direct
12 premiums and assumed premiums from non-affiliates for the reporting
13 entities.

14 K. An insurer with direct written and assumed premium,
15 excluding premiums reinsured with the Federal Crop Insurance
16 Corporation and Federal Flood Program, of less than Five Hundred
17 Million Dollars (\$500,000,000.00) may make application to the
18 Commissioner for a waiver from the requirements of this section
19 based upon hardship. The insurer shall file, with its annual
20 statement filing, the approval for relief from this section with the
21 states that it is licensed in or doing business in and the NAIC. If
22 the nondomestic state accepts electronic filing with the NAIC, the

1 insurer shall file the approval in an electronic format acceptable
2 to the NAIC.

3 SECTION 17. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 311A.15 of Title 36, unless
5 there is created a duplication in numbering, reads as follows:

6 A. No director or officer of an insurer shall, directly or
7 indirectly:

8 1. Make or cause to be made a materially false or misleading
9 statement to an accountant in connection with any audit, review, or
10 communication required under the Oklahoma Annual Financial Report
11 Act; or

12 2. Omit to state, or cause another person to omit to state, any
13 material fact necessary in order to make statements made, in light
14 of the circumstances under which the statements were made, not
15 misleading to an accountant in connection with any audit, review, or
16 communication required under the Oklahoma Annual Financial Report
17 Act.

18 B. No officer or director of an insurer, or any other person
19 acting under the direction thereof, shall directly or indirectly
20 take any action to coerce, manipulate, mislead, or fraudulently
21 influence any accountant engaged in the performance of an audit
22 pursuant to the Oklahoma Annual Financial Report Act if that person
23 knew or should have known that the action, if successful, could

1 result in rendering the financial statements of the insurer
2 materially misleading.

3 C. For purposes of subsection B of this section, actions that,
4 if successful, could result in rendering the financial statements of
5 the insurer materially misleading include, but are not limited to,
6 actions taken at any time with respect to the professional
7 engagement period to coerce, manipulate, mislead, or fraudulently
8 influence an accountant:

9 1. To issue or reissue a report on the financial statements of
10 an insurer that is not warranted in the circumstances due to
11 material violations of statutory accounting principles prescribed by
12 the Insurance Commissioner, generally accepted auditing standards,
13 or other professional or regulatory standards;

14 2. Not to perform audit, review or other procedures required by
15 generally accepted auditing standards or other professional
16 standards;

17 3. Not to withdraw an issued report; or

18 4. Not to communicate matters to the audit committee of an
19 insurer.

20 SECTION 18. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 311A.16 of Title 36, unless
22 there is created a duplication in numbering, reads as follows:

1 A. Every insurer required to file an audited financial report
2 pursuant to the Oklahoma Annual Financial Report Act that has annual
3 direct written and assumed premiums, excluding premiums reinsured
4 with the Federal Crop Insurance Corporation and Federal Flood
5 Program, of Five Hundred Million Dollars (\$500,000,000.00) or more
6 shall prepare a report of the insurer's or group of insurers'
7 internal control over financial reporting. The report shall be
8 filed with the Insurance Commissioner along with the Communication
9 of Internal Control Related Matters Noted in an Audit described
10 under Section 13 of this act. Management's Report of Internal
11 Control over Financial Reporting shall be as of December 31
12 immediately preceding.

13 B. Notwithstanding the premium threshold in subsection A of
14 this section, the Commissioner may require an insurer to file
15 Management's Report of Internal Control over Financial Reporting if
16 the insurer is in any RBC level event, or meets any one or more of
17 the standards of an insurer deemed to be in hazardous financial
18 condition.

19 C. An insurer or a group of insurers that is:

- 20 1. Directly subject to Section 404;
- 21 2. Part of a holding company system whose parent is directly
22 subject to Section 404;

1 3. Not directly subject to Section 404 but is a SOX compliant
2 Entity; or

3 4. A member of a holding company system whose parent is not
4 directly subject to Section 404 but is a SOX Compliant Entity;
5 may file its or its parent's Section 404 Report and an addendum in
6 satisfaction of the requirements of this section provided that those
7 internal controls of the insurer or group of insurers' audited
8 statutory financial statements included in paragraphs 2 through 7 of
9 subsection B of Section 7 of this act were included in the scope of
10 the Section 404 Report. The addendum shall be a positive statement
11 by management that there are no material processes with respect to
12 the preparation of the insurer's or group of insurers' audited
13 statutory financial statements included in paragraphs 2 through 7 of
14 subsection B of Section 7 of this act excluded from the Section 404
15 Report. If there are internal controls of the insurer or group of
16 insurers that have a material impact on the preparation of the
17 insurer's or group of insurer's audited statutory financial
18 statements and those internal controls were not included in the
19 scope of the Section 404 Report, the insurer or group of insurers
20 may either file a report pursuant to this section or the Section 404
21 Report and a report pursuant to this section for those internal
22 controls that have a material impact on the preparation of the

1 insurer's or group of insurers' audited statutory financial
2 statements not covered by the Section 404 Report.

3 D. Management's Report of Internal Control over Financial
4 Reporting shall include:

5 1. A statement that management is responsible for establishing
6 and maintaining adequate internal control over financial reporting;

7 2. A statement that management has established internal control
8 over financial reporting and an assertion, to the best of the
9 knowledge and belief of management, after diligent inquiry, as to
10 whether its internal control over financial reporting is effective
11 to provide reasonable assurance regarding the reliability of
12 financial statements in accordance with statutory accounting
13 principles;

14 3. A statement that briefly describes the approach or processes
15 by which management evaluated the effectiveness of its internal
16 control over financial reporting;

17 4. A statement that briefly describes the scope of work that is
18 included and whether any internal controls were excluded;

19 5. Disclosure of any unremediated material weaknesses in the
20 internal control over financial reporting identified by management
21 as of December 31 immediately preceding. Management is not
22 permitted to conclude that the internal control over financial
23 reporting is effective to provide reasonable assurance regarding the

1 reliability of financial statements in accordance with statutory
2 accounting principles if there is one or more unremediated material
3 weaknesses in its internal control over financial reporting;

4 6. A statement regarding the inherent limitations of internal
5 control systems; and

6 7. Signatures of the chief executive officer and the chief
7 financial officer or equivalent positions or titles.

8 E. Management shall document and make available upon financial
9 condition examination the basis upon which its assertions, required
10 in subsection D of this section, are made. Management may base its
11 assertions, in part, upon its review, monitoring, and testing of
12 internal controls undertaken in the normal course of its activities.

13 1. Management shall have discretion as to the nature of the
14 internal control framework used, and the nature and extent of
15 documentation, in order to make its assertion in a cost effective
16 manner and, as such, may include assembly of or reference to
17 existing documentation.

18 2. Management's Report on Internal Control over Financial
19 Reporting, required by subsection A of this section and any
20 documentation provided in support thereof during the course of a
21 financial condition examination, shall be kept confidential by the
22 Insurance Department.

1 SECTION 19. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 311A.17 of Title 36, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Upon written application of any insurer, the Insurance
5 Commissioner may grant an exemption from compliance with any and all
6 provisions of the Oklahoma Annual Financial Report Act if the
7 Commissioner finds, upon review of the application, that compliance
8 with the Oklahoma Annual Financial Report Act would constitute a
9 financial or organizational hardship upon the insurer. An exemption
10 may be granted at any time and from time to time for a specified
11 period or periods. Within ten (10) days from a denial of the
12 written request of an insurer for an exemption from the Oklahoma
13 Annual Financial Report Act, the insurer may request in writing a
14 hearing on its application for an exemption. The hearing shall be
15 held in accordance with the Administrative Procedures Act and the
16 laws and rules of the Insurance Department.

17 B. Domestic insurers retaining a certified public accountant
18 who qualify as independent on the effective date of the Oklahoma
19 Annual Financial Report Act shall comply with the Oklahoma Annual
20 Financial Report Act for the year ending December 31, 2010 and each
21 year thereafter unless the Commissioner permits otherwise.

22 C. Domestic insurers not retaining a certified public
23 accountant on the effective date of the Oklahoma Annual Financial

1 Report Act who qualifies as independent may meet the following
2 schedule for compliance unless the Commissioner permits otherwise:

3 1. As of December 31, 2010, file with the Commissioner an
4 audited financial report.

5 2. For the year ending December 31, 2011 and each year
6 thereafter, such insurers shall file with the Commissioner all
7 reports and communication required by the Oklahoma Annual Financial
8 Report Act.

9 D. Foreign insurers shall comply with the Oklahoma Annual
10 Financial Report Act for the year ending December 31, 2011, and each
11 year thereafter, unless the Commissioner permits otherwise.

12 E. The requirements of subsection D of Section 9 of this act
13 shall be in effect for audits of the year beginning January 1, 2010
14 and thereafter.

15 F. The requirements of Section 16 of this act are to be in
16 effect January 1, 2010. An insurer or group of insurers that is not
17 required to have independent audit committee members or only a
18 majority of independent audit committee members, as opposed to a
19 supermajority, because the total written and assumed premium is
20 below the threshold and subsequently becomes subject to one of the
21 independence requirements due to changes in premium shall have one
22 (1) year following the year the threshold is exceeded, but not
23 earlier than January 1, 2010, to comply with the independence

1 requirements. An insurer acquired as a result of a business
2 combination shall have one (1) calendar year following the date of
3 acquisition or combination to comply with the independence
4 requirements.

5 G. The requirements of Section 18 of this act are effective
6 beginning with the reporting period ending December 31, 2010, and
7 each year thereafter. An insurer or group of insurers that are not
8 required to file a report because the total written premium is below
9 the threshold and subsequently becomes subject to the reporting
10 requirements shall have two (2) years following the year the
11 threshold is exceeded, but not earlier than December 31, 2010, to
12 file a report. Likewise, an insurer acquired in a business
13 combination shall have two (2) calendar years following the date of
14 acquisition or combination to comply with the reporting
15 requirements.

16 SECTION 20. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 311A.18 of Title 36, unless
18 there is created a duplication in numbering, reads as follows:

19 A. In the case of Canadian and British insurers, the annual
20 Audited financial report shall be defined as the annual statement of
21 total business on the form filed by such companies with their
22 supervision authority duly audited by an independent chartered
23 accountant.

1 B. For such insurers, the letter required in subsection B of
2 Section 8 of this act shall state that the accountant is aware of
3 the requirements relating to the annual audited financial report
4 filed with the Insurance Commissioner pursuant to Section 6 of this
5 act and shall affirm that the opinion expressed is in conformity
6 with those requirements.

7 SECTION 21. AMENDATORY 36 O.S. 2001, Section 361, as
8 last amended by Section 2, Chapter 129, O.S.L. 2005 (36 O.S. Supp.
9 2008, Section 361), is amended to read as follows:

10 Section 361. A. There is hereby created within the Insurance
11 Department, under the control and direction of the Insurance
12 Commissioner, an "Anti-Fraud Unit" within the Legal and
13 Investigation Division of the Insurance Department.

14 B. The Anti-Fraud Unit, upon inquiry, complaint, or referral
15 shall investigate the extent, if any, to which a violation has
16 occurred of any statute or administrative rule of this state
17 pertaining to insurance fraud and may initiate any necessary
18 investigation. Whenever the Unit determines that a violation of any
19 criminal law of this state may have occurred, it may refer the
20 matter to the Oklahoma State Bureau of Investigation for further
21 investigation pursuant to Section 150.5 of Title 74 of the Oklahoma
22 Statutes or the Attorney General pursuant to Section 18b of Title 74
23 of the Oklahoma Statutes. The Insurance Department shall retain the

1 authority to initiate and prosecute any civil action it deems
2 necessary or advisable.

3 C. The Anti-Fraud Unit may employ investigators who are
4 commissioned by the Insurance Commissioner to serve as peace
5 officers, as defined by and pursuant to the guidelines and
6 requirements of Section 3311 of Title 70 of the Oklahoma Statutes
7 and Sections 99 and 99a of Title 21 of the Oklahoma Statutes.

8 D. Records, documents, reports and evidence obtained or created
9 by the Anti-Fraud Division as a result of an inquiry or
10 investigation of suspected insurance fraud shall be confidential and
11 shall not be subject to the Oklahoma Open Records Act or to outside
12 review or release by any individual, ~~but shall be subject to court~~
13 ~~order~~. Information and records shall be disclosed upon request to
14 officers and agents of federal, state, county, or municipal law
15 enforcement agencies, to the Oklahoma State Bureau of Investigation,
16 to the Attorney General's office and to district attorneys, in the
17 furtherance of criminal investigations.

18 SECTION 22. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1101.1 of Title 36, unless there
20 is created a duplication in numbering, reads as follows:

21 A. An Oklahoma domestic insurer possessing policyholder surplus
22 of at least Fifteen Million Dollars (\$15,000,000) may, pursuant to a
23 resolution by its board of directors, and with the written approval

1 of the Insurance Commissioner, be designated as a domestic surplus
2 line insurer. Such insurers shall write surplus line insurance in
3 any jurisdiction within which it does business, including this
4 state.

5 B. A domestic surplus line insurer may only insure in this
6 state any risk procured pursuant to Article 11 of the Oklahoma
7 Insurance Code governing surplus line insurers and brokers and its
8 premium shall be subject to surplus line premium tax pursuant to
9 Section 1115 of this title.

10 C. A domestic surplus line insurer may not issue a policy
11 designed to satisfy the motor vehicle financial responsibility
12 requirement of this state, the Oklahoma Workers' Compensation Act,
13 or any other law mandating insurance coverage by a licensed
14 insurance company.

15 D. A domestic surplus line insurer is not subject to the
16 provisions of the Oklahoma Property & Casualty Insurance Guaranty
17 Act nor the Oklahoma Life and Health Insurance Guaranty Association
18 Act.

19 SECTION 23. AMENDATORY 36 O.S. 2001, Section 1219.4, as
20 last amended by Section 9, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
21 2008, Section 1219.4), is amended to read as follows:

22 Section 1219.4 A. As used in this section:

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

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

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

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

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

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

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

14 8. "Medical services" means any care, service or treatment of
15 illness or dysfunction of, or injury to, the human body including,
16 but not limited to, physician care, inpatient care, hospital
17 surgical services, emergency services, ambulance services, dental
18 care services, vision care services, mental health services,
19 substance abuse services, chiropractic services, podiatric care
20 services, laboratory services, and medical equipment and supplies.
21 The term does not include pharmaceutical supplies or prescriptions;

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

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

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

17 2. To register as a discount medical plan organization, an
18 applicant shall:

19 a. file with the Insurance Department of the State of
20 Oklahoma an application on the form that the Insurance
21 Commissioner requires, and

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

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

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

4 5. Before it expires, a registrant may renew the registration
5 for an additional one-year term if the registrant:

6 a. otherwise is entitled to be registered,

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

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

11 6. The Insurance Commissioner may deny a registration to an
12 applicant or refuse to renew, suspend, or revoke the registration of
13 a registrant if the applicant or registrant, or an officer,
14 director, or employee of the applicant or registrant:

15 a. makes a material misstatement or misrepresentation in
16 an application for registration,

17 b. fraudulently or deceptively obtains or attempts to
18 obtain a registration for the applicant or registrant
19 or for another,

20 c. in connection with the administration of a health care
21 discount program, commits fraud or engages in illegal
22 or dishonest activities, or

23 d. has violated any provisions of this section.

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

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

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

9 10. a. Nothing in this subsection shall apply to an affiliate
10 of a licensed insurance company, HMO, group health
11 service organization or motor service club, provided
12 that the affiliate registers with and maintains
13 registration in good standing with the Insurance
14 Department of the State of Oklahoma in accordance with
15 subparagraphs b and c of this paragraph.

16 b. An affiliate shall register as a discount medical plan
17 organization on a form prescribed by the Insurance
18 Commissioner prior to the sale, marketing or
19 solicitation of a discount medical plan and pay an
20 application fee of One Hundred Dollars (\$100.00).

21 c. A registration shall expire one (1) year after the
22 date of registration, and each year on that date
23 thereafter. A registrant may renew the registration

1 if the registrant pays an annual registration fee of
2 One Hundred Dollars (\$100.00) and remains in good
3 standing with the Insurance Department of the State of
4 Oklahoma.

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

11 C. 1. The Department may examine or investigate the business
12 and affairs of any discount medical plan organization. The
13 Department may require any discount medical plan organization or
14 applicant to produce any records, books, files, advertising and
15 solicitation materials, or other information and may take statements
16 under oath to determine whether the discount medical plan
17 organization or applicant is in violation of the law or is acting
18 contrary to the public interest. The expenses incurred in
19 conducting any examination or investigation shall be paid by the
20 discount medical plan organization or applicant. Examinations and
21 investigations shall be conducted as provided in Sections 309.1 and
22 309.3 through 309.7 of this title. Discount medical plan
23 organizations shall be governed by the provisions of this section

1 and shall not be subject to the provisions of the Insurance Code
2 unless specifically referenced.

3 2. Failure by the discount medical plan organization to pay the
4 expenses incurred under paragraph 1 of this subsection shall be
5 grounds for denial or revocation of the discount medical plan
6 organization's registration.

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

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

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

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

1 E. 1. A discount medical plan organization may not:
2 a. use in its advertisements, marketing material,
3 brochures, and discount cards the terms "insurance",
4 "health plan", "coverage", "copay", "copayments",
5 "preexisting conditions", "guaranteed issue",
6 "premium", "PPO", "preferred provider organization",
7 or other terms in a manner that could reasonably
8 mislead a person to believe that the discount medical
9 plan is health insurance,
10 b. except for hospital services, have restrictions on
11 free access to plan providers including waiting
12 periods and notification periods, or
13 c. pay providers any fees for medical services.
14 2. A discount medical plan organization may not collect or
15 accept money from a member for payment to a provider for specific
16 medical services furnished or to be furnished to the member unless
17 the organization has an active license from the Insurance Department
18 of the State of Oklahoma to act as an administrator.
19 F. 1. The following disclosures, to be printed in not less
20 than twelve-point type, shall be made in writing to any prospective
21 member and shall appear on the first page of any advertisements,
22 marketing materials or brochures relating to a discount medical
23 plan:

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

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

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

1 G. 1. All providers offering medical services to members under
2 a discount medical plan shall provide such services pursuant to a
3 written agreement. The agreement may be entered into directly by
4 the health care provider or by a health care provider network to
5 which the provider belongs if the provider network has contracts
6 with the health care provider that allow the provider network to
7 contract on behalf of the health care provider.

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

- 10 a. a description of the services and products to be
11 provided at a discount,
- 12 b. the amount or amounts of the discounts or,
13 alternatively, a fee schedule which reflects the
14 health care provider's discounted rates, and
- 15 c. a provision that the health care provider will not
16 charge members more than the discounted rates.

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

- 20 a. contain the terms described in paragraph 2 of this
21 subsection,

1 b. authorize the health care provider network to contract
2 with the discount medical plan organization on behalf
3 of the provider, and

4 c. require the network to maintain an up-to-date list of
5 its contracted health care providers and to provide
6 that list on a quarterly basis to the discount medical
7 plan organization.

8 4. The discount medical plan organization shall maintain a copy
9 of each active health care provider agreement into which it has
10 entered.

11 H. 1. There shall be a written agreement between the discount
12 medical plan organization and the member specifying the benefits
13 under the discount medical plan and complying with the disclosure
14 requirements of this section.

15 2. All forms used, including the written agreement pursuant to
16 the provisions of ~~paragraph 2 of this~~ subsection G of this section,
17 shall first be filed with the Department. Every form filed shall be
18 identified by a unique form number placed in the lower left corner
19 of each form. A filing fee of Twenty-five Dollars (\$25.00) per form
20 shall be payable to the Insurance Department of the State of
21 Oklahoma for deposit into the General Revenue Fund.

22 I. 1. Each discount medical plan organization required to be
23 registered pursuant to this section except an affiliate shall, at

1 all times, maintain a net worth of at least One Hundred Fifty
2 Thousand Dollars (\$150,000.00).

3 2. The Insurance Department of the State of Oklahoma may not
4 allow a registration unless the discount medical plan organization
5 has a net worth of at least One Hundred Fifty Thousand Dollars
6 (\$150,000.00).

7 J. 1. The Insurance Department of the State of Oklahoma may
8 suspend the authority of a discount medical plan organization to
9 enroll new members, revoke any registration issued to a discount
10 medical plan organization, or order compliance if the Department
11 finds that any of the following conditions exist:

- 12 a. the organization is not operating in compliance with
13 the provisions of this section,
- 14 b. the organization does not have the minimum net worth
15 as required by this section,
- 16 c. the organization has advertised, merchandised or
17 attempted to merchandise its services in such a manner
18 as to misrepresent its services or capacity for
19 service or has engaged in deceptive, misleading or
20 unfair practices with respect to advertising or
21 merchandising,
- 22 d. the organization is not fulfilling its obligations as
23 a discount medical plan organization, or

1 e. the continued operation of the organization would be
2 hazardous to its members.

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

10 3. When the certificate of registration of a discount medical
11 plan organization is non-renewed, surrendered or revoked, such
12 organization shall proceed, immediately following the effective date
13 of the order of revocation, or in the case of non-renewal, the date
14 of expiration of the certificate of registration, to wind up its
15 affairs transacted under the certificate of registration. The
16 organization may not engage in any further advertising,
17 solicitation, collecting of fees, or renewal of contracts.

18 4. The Insurance Department of the State of Oklahoma shall, in
19 its order suspending the authority of a discount medical plan
20 organization to enroll new members, specify the period during which
21 the suspension is to be in effect and the conditions, if any, which
22 shall be met by the discount medical plan organization prior to
23 reinstatement of its registration to enroll new members. The order

1 of suspension is subject to rescission or modification by further
2 order of the Department prior to the expiration of the suspension
3 period. Reinstatement may not be made unless requested by the
4 discount medical plan organization; however, the Department may not
5 grant reinstatement if it finds that the circumstances for which the
6 suspension occurred still exist or are likely to reoccur.

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

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

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

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

8 N. The Insurance Commissioner may promulgate rules to
9 administer the provisions of this section.

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

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

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

22 Q. 1. A person who knowingly and willfully operates as or aids
23 and abets another operating as a discount medical plan organization

1 in violation of subsection B of this section commits a felony,
2 punishable as provided for in Oklahoma law, as if the discount
3 medical plan organization were an unauthorized insurer, and the
4 fees, dues, charges, or other consideration collected from the
5 members by the discount medical plan organization or marketer were
6 insurance premium.

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

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

13 a. a discount medical plan organization is being operated
14 by any person or entity that is not registered
15 pursuant to this section, or

16 b. any person, entity, or discount medical plan
17 organization has engaged in any activity prohibited by
18 this section or any rule adopted pursuant to this
19 section.

20 2. The venue for any proceeding brought pursuant to the
21 provisions of this section shall be in the district court of
22 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 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 24. AMENDATORY 36 O.S. 2001, Section 1435.6, as
22 last amended by Section 44, Chapter 264, O.S.L. 2006 (36 O.S. Supp.
23 2008, Section 1435.6), is amended to read as follows:

1 Section 1435.6 A. A resident individual applying for an
2 insurance producer license shall pass a written examination unless
3 exempt pursuant to Section 1435.10 of this title. The examination
4 shall test the knowledge of the individual concerning the lines of
5 authority for which application is made, the duties and
6 responsibilities of an insurance producer and the insurance laws and
7 regulations of this state. Examinations required by this section
8 shall be developed and conducted under rules and regulations
9 prescribed by the Insurance Commissioner.

10 B. The Commissioner may make arrangements, including
11 contracting with an outside testing service, for administering
12 examinations and collecting the nonrefundable fee set forth in
13 Section 1435.23 of this title.

14 C. Each individual applying for an examination shall remit a
15 nonrefundable fee as prescribed by the Insurance Commissioner as set
16 forth in Section 1435.23 of this title.

17 D. After completion and filing of the application with the
18 Insurance Commissioner, except as provided in Section 1435.10 of
19 this title, the Commissioner shall subject each applicant for
20 license as an insurance agent, insurance consultant, limited
21 insurance representative, or customer service representative to an
22 examination approved by the Commissioner as to competence to act as
23 a licensee, which each applicant shall personally take and pass to

1 the satisfaction of the Commissioner. The Commissioner may accept
2 examinations administered by a testing service as satisfying the
3 examination requirements of persons seeking license as agents,
4 solicitors, counselors, or adjusters under the Oklahoma Insurance
5 Code. The Commissioner may negotiate agreements with such testing
6 services to include performance of examination development, test
7 scheduling, examination site arrangements, test administration,
8 grading, reporting, and analysis. The Commissioner may require such
9 testing services to correspond directly with the applicants with
10 regard to the administration of such examinations and that such
11 testing services collect fees for administering such examinations
12 directly from the applicants. The Commissioner may stipulate that
13 any agreements with such testing services provide for the
14 administration of examinations in specific locales and at specified
15 frequencies. The Commissioner shall retain the authority to
16 establish the scope and type of all examinations.

17 E. If the applicant is a legal entity, the examination shall be
18 taken by each individual who is to act for the entity as a licensee.

19 F. Each examination for a license shall be approved for use by
20 the Commissioner and shall reasonably test the knowledge of the
21 applicant as to the lines of insurance, policies, and transactions
22 to be handled pursuant to the license applied for, the duties and

1 responsibilities of the licensee, and the pertinent insurance laws
2 of this state.

3 G. Examination for licensing shall be at such reasonable times
4 and places as are designated by the Commissioner.

5 H. The Commissioner or testing service shall give, conduct, and
6 grade all examinations in a fair and impartial manner and without
7 discrimination among individuals examined.

8 I. The applicant shall pass the examination with a grade
9 determined by the Commissioner to indicate satisfactory knowledge
10 and understanding of the line or lines of insurance for which the
11 applicant seeks qualification. Within ten (10) days after the
12 examination, the Commissioner shall inform the applicant and the
13 appointing insurer, when applicable, as to whether or not the
14 applicant has passed. Formal evidence of licensing shall be issued
15 by the Commissioner to the licensee within a reasonable time.

16 J. An applicant who has failed to pass the first examination
17 for the license applied for may take a second examination within
18 thirty (30) days following the first examination. Examination fees
19 for subsequent examinations shall not be waived.

20 K. An applicant who has failed to pass the first two
21 examinations for the license applied for shall not be permitted to
22 take a subsequent examination until the expiration of thirty (30)
23 days after the last previous examination. An applicant shall take

1 and pass the examination within one hundred eighty (180) days of the
2 date of the initial application. If applicant fails to pass the
3 examination within the specified time period, the applicant shall
4 submit a new application accompanied by any applicable fees.
5 Examination fees for subsequent examinations shall not be waived.

6 L. An applicant for a license as a resident surplus lines
7 broker shall have passed the property and casualty insurance
8 examination on the line or lines of insurance to be written to
9 qualify for a surplus lines broker license.

10 SECTION 25. AMENDATORY 36 O.S. 2001, Section 1435.7, as
11 last amended by Section 10, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
12 2008, Section 1435.7), is amended to read as follows:

13 Section 1435.7 A. A person applying for a resident insurance
14 producer license shall make application to the Insurance
15 Commissioner on the Uniform Application or an application approved
16 by the Commissioner and declare under penalty of refusal, suspension
17 or revocation of the license that the statements made in the
18 application are true, correct and complete to the best of the
19 individual's knowledge and belief. Before approving the
20 application, the Insurance Commissioner shall find that the
21 individual:

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

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

3 3. Has held a provisional insurance producer license or has
4 been a participant in an approved training program offered by an
5 insurance company licensed in this state except for title, aircraft
6 title, or any other producer applicant exempt by rule;

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

9 5. Has successfully passed the examinations for the lines of
10 authority for which the person has applied.

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

16 1. The business entity has paid the fees set forth in Section
17 1435.23 of this title;

18 2. The business entity has designated a licensed producer
19 responsible for the business entity's compliance with the insurance
20 laws, rules and regulations of this state;

21 3. A domestic business entity is organized pursuant to the
22 provisions of the laws of this state and maintains its principal
23 place of business in this state; and

1 4. No person whose license as an insurance producer has been
2 revoked by order of the Commissioner, nor any business entity in
3 which such person has a majority ownership interest, whether direct
4 or indirect, owns any interest in the business entity licensed as an
5 insurance producer.

6 C. ~~A business entity acting as an insurance producer shall~~
7 ~~notify the Commissioner of all changes among its members, directors~~
8 ~~and officers and all other individuals designated in the license~~
9 ~~within fifteen (15) days after the change.~~

10 ~~D.~~ An applicant for any license required by the provisions of
11 the Oklahoma Producer Licensing Act shall demonstrate to the
12 Insurance Commissioner that the applicant is competent, trustworthy,
13 financially responsible, and of good personal and business
14 reputation.

15 ~~E.~~ D. The Insurance Commissioner may require any documents
16 reasonably necessary to verify the information contained in an
17 application.

18 SECTION 26. AMENDATORY 36 O.S. 2001, Section 1435.8, as
19 last amended by Section 45, Chapter 264, O.S.L. 2006 (36 O.S. Supp.
20 2008, Section 1435.8), is amended to read as follows:

21 Section 1435.8 A. Unless denied licensure pursuant to Section
22 1435.13 of this title, persons who have met the requirements of
23 Sections 1435.6 and 1435.7 of this title shall be issued an

1 insurance producer license. An insurance producer may receive
2 qualification for a license in one or more of the following lines of
3 authority:

4 1. Life - insurance coverage on human lives including benefits
5 of endowment and annuities, and may include benefits in the event of
6 death or dismemberment by accident and benefits for disability
7 income;

8 2. Accident and health or sickness - insurance coverage for
9 sickness, bodily injury or accidental death and may include benefits
10 for disability income;

11 3. Property - insurance coverage for the direct or
12 consequential loss or damage to property of every kind;

13 4. Casualty - insurance coverage against legal liability,
14 including that for death, injury or disability or damage to real or
15 personal property;

16 5. Variable life and variable annuity products - insurance
17 coverage provided under variable life insurance contracts and
18 variable annuities;

19 6. Personal lines - property and casualty insurance coverage
20 sold to individuals and families for primarily noncommercial
21 purposes;

22 7. Commercial lines - property and casualty insurance coverage
23 sold to businesses for primarily commercial purposes;

1 8. Credit - limited line credit insurance;

2 9. Title insurance - insurance coverage that insures or
3 guarantees the title to real or personal property or any interest
4 therein or encumbrance thereon;

5 10. Aircraft title insurance - insurance coverage that protects
6 an aircraft owner or lender against loss of the aircraft or priority
7 security position in the event of a successful adverse claim on the
8 title to an aircraft; and

9 11. Any other line of insurance permitted under state laws or
10 regulations.

11 B. An insurance producer license shall remain in effect unless
12 revoked or suspended as long as the fee set forth in Section 1435.23
13 of this title is paid and education requirements for resident
14 individual producers are met by the due date.

15 C. An individual insurance producer who allows the license to
16 lapse may, within twenty-four (24) months from the due date of the
17 renewal fee, reinstate the same license without the necessity of
18 passing a written examination unless the license was revoked,
19 suspended, or continuation thereof was refused by the Commissioner.
20 However, a penalty in the amount of double the unpaid renewal fee
21 shall be required for any renewal fee received after the due date.
22 Continuing education requirements must be kept current.

1 D. A licensed insurance producer who is unable to comply with
2 license renewal procedures due to military service or some other
3 extenuating circumstance, such as a long-term medical disability,
4 may request a waiver of those procedures. The producer may also
5 request a waiver of any examination requirement or any other fine or
6 sanction imposed for failure to comply with renewal procedures.

7 E. The license shall contain the licensee's name, address,
8 personal identification number, and the date of issuance, the lines
9 of authority, the expiration date and any other information the
10 Insurance Commissioner deems necessary.

11 F. Licensees shall inform the Insurance Commissioner by any
12 means acceptable to the Insurance Commissioner of a change of legal
13 name or address within thirty (30) days of the change. ~~Failure to~~
14 ~~timely inform the Insurance Commissioner of a~~ A change in legal name
15 or address ~~shall result in a penalty~~ submitted more than thirty (30)
16 days after the change must include an administrative fee of Fifty
17 Dollars (\$50.00). Failure to provide acceptable notification of a
18 change of legal name or address to the Insurance Commissioner within
19 forty-five (45) days of the date the administrative fee is assessed
20 will result in penalties pursuant to Section 1435.13 of this title.

21 G. In order to assist in the performance of the Insurance
22 Commissioner's duties, the Insurance Commissioner may contract with
23 nongovernmental entities, including the National Association of

1 Insurance Commissioners (NAIC) or any affiliates or subsidiaries
2 that the NAIC oversees, to perform any ministerial functions,
3 including the collection of fees, related to producer licensing that
4 the Insurance Commissioner and the nongovernmental entity may deem
5 appropriate.

6 H. The Commissioner may participate, in whole or in part, with
7 the National Association of Insurance Commissioners, or any
8 affiliates or subsidiaries the National Association of Insurance
9 Commissioners oversees, in a centralized producer license registry
10 where insurance producer licenses and appointments may be centrally
11 or simultaneously effected for all states that require an insurance
12 producer license and participate in such centralized producer
13 license registry. If the Commissioner finds that participation in
14 such a centralized producer license registry is in the public
15 interest, the Commissioner may adopt by rule any uniform standards
16 or procedures as are necessary to participate in the registry. This
17 includes the central collection of all fees for licenses or
18 appointments that are processed through the registry.

19

20 SECTION 27. AMENDATORY 36 O.S. 2001, Section 1435.10, as
21 amended by Section 46, Chapter 264, O.S.L. 2006 (36 O.S. Supp. 2008,
22 Section 1435.10), is amended to read as follows:

1 Section 1435.10. A. The following are exempt from the
2 requirement for an examination, if the Insurance Commissioner
3 determines, in accordance with rules adopted by the Commissioner,
4 that the applicant is cognizant of and capable of fulfilling the
5 responsibilities of the license:

- 6 1. Any limited lines producer; and
- 7 2. ~~A surplus lines insurance broker; and~~
- 8 ~~3.~~ A title insurance producer licensed prior to November 1,
9 2006, who is an applicant for an aircraft title producer license.

10 B. A person licensed as an insurance producer in another state
11 who moves to this state shall make application to become a resident
12 licensee within ninety (90) days of establishing legal residence in
13 Oklahoma. No examination or continuing education shall be required
14 of that person to obtain resident licensing for any line of
15 authority held by the licensee in the prior state on the date legal
16 residency was established in this state, except where the Insurance
17 Commissioner determines otherwise by regulation.

18 SECTION 28. AMENDATORY 36 O.S. 2001, Section 1435.15, as
19 last amended by Section 13, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
20 2008, Section 1435.15), is amended to read as follows:

21 Section 1435.15 A. An insurance producer shall not act as an
22 agent of an insurer unless the insurance producer becomes an
23 appointed agent of that insurer. An insurance producer who is not

1 acting as an agent of an insurer is not required to become
2 appointed.

3 B. To appoint a producer as its agent, the appointing insurer,
4 or an authorized representative of the insurer, shall file, in a
5 format approved by the Insurance Commissioner, a notice of
6 appointment within fifteen (15) days from the date the agency
7 contract is executed or the first insurance application is
8 submitted. For purposes of this section, an "authorized
9 representative of the insurer" means a person or entity licensed by
10 the Insurance Commissioner pursuant to the laws of this state who is
11 authorized in writing by the appointing insurer to file appointments
12 for the appointing insurer. ~~A copy of said written authorization~~
13 ~~shall accompany each notice of appointment filed by an authorized~~
14 ~~representative of the insurer.~~ An insurer or authorized
15 representative of an insurer may also elect to appoint a producer to
16 all or some insurers within the insurer's holding company system or
17 group by the filing of a single appointment request.

18 C. Upon receipt of the notice of appointment, the Insurance
19 Commissioner shall verify within a reasonable time not to exceed
20 thirty (30) days that the insurance producer is eligible for
21 appointment. If the insurance producer is determined to be
22 ineligible for appointment, the Insurance Commissioner shall notify

1 the insurer and the authorized representative of the insurer within
2 five (5) days of its determination.

3 D. An insurer or authorized representative of an insurer shall
4 pay a biennial appointment fee, in the amount and method of payment
5 set forth in Section 1435.23 of this title, for each insurance
6 producer appointed by the insurer for each insurer for which the
7 insurance producer is appointed.

8 E. It shall be unlawful for any insurer to discriminate among
9 or between the insurance producers it has appointed. Any person or
10 company convicted of violating the provisions of this section shall
11 be guilty of a misdemeanor and shall be punished by the imposition
12 of a fine of not more than Five Hundred Dollars (\$500.00) or
13 imprisonment in the county jail for not less than six (6) months nor
14 more than one (1) year, or be punished by both said fine and
15 imprisonment.

16 SECTION 29. AMENDATORY 36 O.S. 2001, Section 1435.23, as
17 last amended by Section 13, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
18 2008, Section 1435.23), is amended to read as follows:

19 Section 1435.23 A. All applications shall be accompanied by
20 the applicable fees. An appointment may be deemed by the
21 Commissioner to have terminated upon failure by the insurer to pay
22 the prescribed renewal fee. The Commissioner may also by order

1 impose a civil penalty equal to double the amount of the unpaid
2 renewal fee.

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

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

7 2. Miscellaneous:

8 a. Certificate and Clearance of
9 Commissioner..... \$ 3.00

10 b. Insurance producer's study manual:
11 Life, Accident & Health..... not to exceed
12 \$ 40.00

13 Property and Casualty..... not to exceed
14 \$ 40.00

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

18 3. Examination for license:
19 For each examination covering laws
20 and one or more lines of insurance.... not to exceed
21 \$100.00

22 4. Licenses:

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

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

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

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

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

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

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

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

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

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

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

4 SECTION 30. AMENDATORY 36 O.S. 2001, Section 1435.29, as
5 last amended by Section 14, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
6 2008, Section 1435.29), is amended to read as follows:

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

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

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

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

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

- 14 a. employees of the Insurance Commissioner,
- 15 b. a continuing education advisory committee, or
- 16 c. an independent service whose normal business
17 activities include the review and approval of
18 continuing education courses and providers. The
19 Commissioner may negotiate agreements with such
20 independent service to review documents and other
21 materials submitted for approval of courses and
22 providers and provide the Commissioner with its
23 nonbinding recommendation. The Commissioner may

1 require such independent service to collect the fee
2 charged by the independent service for reviewing
3 materials provided for review directly from the course
4 providers.

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

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

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

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

5 Each course in the curriculum for the program shall total a
6 minimum of ~~twenty (20)~~ twenty-four (24) hours. Each approved
7 professional designation program included in this section shall be
8 reviewed for quality and compliance every three (3) years in
9 accordance with standardized criteria promulgated by rule.
10 Continuation of approved status is contingent upon the findings of
11 the review. The list of professional designation programs approved
12 under this paragraph shall be made available to producers and
13 providers annually.

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

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

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

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

1 Licensing Act. Provided, public-funded educational institutions,
2 federal agencies, non-profit organizations, not-for-profit
3 organizations, and Oklahoma state agencies shall be exempt from this
4 subsection.

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

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

17 ~~F. Insurance producers and limited lines producers who are~~
18 ~~sixty five (65) years of age or older and who have at least thirty~~
19 ~~(30) years of experience as insurance producers or limited lines~~
20 ~~producers, and who do not write new business, shall be exempt from~~
21 ~~the provisions of this section.~~

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

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

3 SECTION 31. AMENDATORY 36 O.S. 2001, Section 3636, as
4 amended by Section 25, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2008,
5 Section 3636), is amended to read as follows:

6 Section 3636. A. No policy insuring against loss resulting
7 from liability imposed by law for bodily injury or death suffered by
8 any person arising out of the ownership, maintenance or use of a
9 motor vehicle shall be issued, delivered, renewed, or extended in
10 this state with respect to a motor vehicle registered or principally
11 garaged in this state unless the policy includes the coverage
12 described in subsection B of this section.

13 B. The policy referred to in subsection A of this section shall
14 provide coverage therein or supplemental thereto for the protection
15 of persons insured thereunder who are legally entitled to recover
16 damages from owners or operators of uninsured motor vehicles and
17 hit-and-run motor vehicles because of bodily injury, sickness or
18 disease, including death resulting therefrom. Coverage shall be not
19 less than the amounts or limits prescribed for bodily injury or
20 death for a policy meeting the requirements of Section 7-204 of
21 Title 47 of the Oklahoma Statutes, as the same may be hereafter
22 amended; provided, however, that increased limits of liability shall
23 be offered and purchased if desired, not to exceed the limits

1 provided in the policy of bodily injury liability of the insured.
2 The uninsured motorist coverage shall be upon a form approved by the
3 Insurance Commissioner as otherwise provided in the Insurance Code
4 and may provide that the parties to the contract shall, upon demand
5 of either, submit their differences to arbitration; provided, that
6 if agreement by arbitration is not reached within three (3) months
7 from date of demand, the insured may sue the tort-feasor.

8 C. For the purposes of this coverage the term "uninsured motor
9 vehicle" shall include an insured motor vehicle where the liability
10 insurer thereof is unable to make payment with respect to the legal
11 liability of its insured within the limits specified therein because
12 of insolvency. For the purposes of this coverage the term
13 "uninsured motor vehicle" shall also include an insured motor
14 vehicle, the liability limits of which are less than the amount of
15 the claim of the person or persons making such claim, regardless of
16 the amount of coverage of either of the parties in relation to each
17 other.

18 D. An insurer's insolvency protection shall be applicable only
19 to accidents occurring during a policy period in which its insured's
20 uninsured motorist coverage is in effect where the liability insurer
21 of the tort-feasor becomes insolvent within one (1) year after such
22 an accident. Nothing herein contained shall be construed to prevent

1 any insurer from according insolvency protection under terms and
2 conditions more favorable to its insured than is provided hereunder.

3 E. For purposes of this section, there is no coverage for any
4 insured while occupying a motor vehicle owned by, or furnished or
5 available for the regular use of the named insured, a resident
6 spouse of the named insured, or a resident relative of the named
7 insured, if such motor vehicle is not insured by a motor vehicle
8 insurance policy.

9 F. In the event of payment to any person under the coverage
10 required by this section and subject to the terms and conditions of
11 such coverage, the insurer making such payment shall, to the extent
12 thereof, be entitled to the proceeds of any settlement or judgment
13 resulting from the exercise of any rights of recovery of such person
14 against any person or organization legally responsible for the
15 bodily injury for which such payment is made, including the proceeds
16 recoverable from the assets of the insolvent insurer. Provided,
17 however, with respect to payments made by reason of the coverage
18 described in subsection C of this section, the insurer making such
19 payment shall not be entitled to any right of recovery against such
20 tort-feasor in excess of the proceeds recovered from the assets of
21 the insolvent insurer of said tort-feasor. Provided further, that
22 any payment made by the insured tort-feasor shall not reduce or be a
23 credit against the total liability limits as provided in the

1 insured's own uninsured motorist coverage. Provided further, that
2 if a tentative agreement to settle for liability limits has been
3 reached with an insured tort-feasor, written notice shall be given
4 by certified mail to the uninsured motorist coverage insurer by its
5 insured. Such written notice shall include:

6 1. Written documentation of pecuniary losses incurred,
7 including copies of all medical bills; and

8 2. Written authorization or a court order to obtain reports
9 from all employers and medical providers. Within sixty (60) days of
10 receipt of this written notice, the uninsured motorist coverage
11 insurer may substitute its payment to the insured for the tentative
12 settlement amount. The uninsured motorist coverage insurer shall
13 then be entitled to the insured's right of recovery to the extent of
14 such payment and any settlement under the uninsured motorist
15 coverage. If the uninsured motorist coverage insurer fails to pay
16 the insured the amount of the tentative tort settlement within sixty
17 (60) days, the uninsured motorist coverage insurer has no right to
18 the proceeds of any settlement or judgment, as provided herein, for
19 any amount paid under the uninsured motorist coverage.

20 G. A named insured or applicant shall have the right to reject
21 uninsured motorist coverage in writing, and except that unless a
22 named insured or applicant requests such coverage in writing, such
23 coverage need not be provided in or supplemental to any renewal,

1 reinstatement, substitute, amended or replacement policy where a
2 named insured or applicant had rejected the coverage in connection
3 with a policy previously issued to him by the same insurer.

4 H. Notwithstanding the provisions of this section, the
5 following are the only instances in which a new form affecting
6 uninsured motorist coverage shall be required:

7 1. When an insurer is notified of a change in or an additional
8 named insured;

9 2. When there is an additional vehicle that is not a
10 replacement vehicle; provided, a new form shall not be required for
11 the addition, substitution or deletion of a vehicle from a
12 commercial automobile liability policy; or

13 3. When the amount of bodily injury liability coverage is
14 amended. Provided, any change in premium alone shall not require
15 the issuance of a new form.

16 After selection of limits, rejection, or exercise of the option
17 not to purchase uninsured motorist coverage by a named insured or
18 applicant for insurance, the insurer shall not be required to notify
19 any insured in any renewal, reinstatement, substitute, amended or
20 replacement policy as to the availability of such uninsured motorist
21 coverage or such optional limits. Such selection, rejection, or
22 exercise of the option not to purchase uninsured motorist coverage
23 by a named insured or an applicant shall be valid for all insureds

1 under the policy and shall continue until a named insured requests
2 in writing that the uninsured motorist coverage be added to an
3 existing or future policy of insurance.

4 I. ~~Effective for forms required before April 1, 2005, the offer~~
5 ~~of the coverage required by subsection B of this section shall be in~~
6 ~~the following form which shall be filed with and approved by the~~
7 ~~Insurance Commissioner. The form shall be provided to the proposed~~
8 ~~insured in writing separately from the application and shall read~~
9 ~~substantially as follows:~~

10 ~~OKLAHOMA UNINSURED MOTORIST COVERAGE LAW~~

11 ~~Oklahoma law gives you the right to buy Uninsured Motorist~~
12 ~~coverage in the same amount as your bodily injury liability~~
13 ~~coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT~~
14 ~~FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE~~
15 ~~WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD~~
16 ~~SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR~~
17 ~~LIABILITY INSURANCE COVERAGE LIMIT.~~

18 ~~Uninsured Motorist coverage, unless otherwise provided in your~~
19 ~~policy, pays for bodily injury damages to you, members of your~~
20 ~~family who live with you, and other people riding in your car who~~
21 ~~are injured by: (1) an uninsured motorist, (2) a hit and run~~
22 ~~motorist, or (3) an insured motorist who does not have enough~~
23 ~~liability insurance to pay for bodily injury damages to any insured~~

1 ~~person. Uninsured Motorist coverage, unless otherwise provided in~~
2 ~~your policy, protects you and family members who live with you while~~
3 ~~riding in any vehicle or while a pedestrian. THE COST OF THIS~~
4 ~~COVERAGE IS SMALL COMPARED WITH THE BENEFITS!~~

5 ~~You may make one of four choices about Uninsured Motorist~~
6 ~~Coverage:~~

7 ~~1. You may buy Uninsured Motorist coverage equal to your bodily~~
8 ~~injury liability coverage for \$_____ for _____ months.~~

9 ~~2. You may buy Uninsured Motorist coverage in the amount of~~
10 ~~\$10,000.00 for each person injured, not to exceed \$20,000.00 for two~~
11 ~~or more persons injured in one occurrence (the smallest coverage~~
12 ~~which Oklahoma law allows) for \$_____ for _____ months.~~

13 ~~3. You may buy Uninsured Motorist coverage in an amount less~~
14 ~~than your bodily injury liability coverage but more than the minimum~~
15 ~~levels.~~

16 ~~4. You may reject Uninsured Motorist coverage.~~

17 ~~Please indicate below what Uninsured Motorist coverage you want:~~

18 ~~_____ I want the same amount of Uninsured Motorist coverage as my~~
19 ~~bodily injury liability coverage.~~

20 ~~_____ I want minimum Uninsured Motorist coverage (\$10,000.00 per~~
21 ~~person/\$20,000.00 per occurrence).~~

22 ~~_____ I want Uninsured Motorist coverage in the following amount:~~
23 ~~\$_____ per person/\$_____ per occurrence.~~

1 Uninsured Motorist coverage, unless otherwise provided in your
2 policy, pays for bodily injury damages to you, members of your
3 family who live with you, and other people riding in your car who
4 are injured by: (1) an uninsured motorist, (2) a hit-and-run
5 motorist, or (3) an insured motorist who does not have enough
6 liability insurance to pay for bodily injury damages to any insured
7 person. Uninsured Motorist coverage, unless otherwise provided in
8 your policy, protects you and family members who live with you while
9 riding in any vehicle or while a pedestrian. THE COST OF THIS
10 COVERAGE IS SMALL COMPARED WITH THE BENEFITS!

11 You may make one of four choices about Uninsured Motorist
12 Coverage:

13 1. You may buy Uninsured Motorist coverage equal to your bodily
14 injury liability coverage for \$_____ for _____ months.

15 2. You may buy Uninsured Motorist coverage in the amount of
16 \$25,000.00 for each person injured, not to exceed \$50,000.00 for two
17 or more persons injured in one occurrence (the smallest coverage
18 which Oklahoma allows) for \$_____ for _____ months.

19 3. You may buy Uninsured Motorist coverage in an amount less
20 than your bodily injury liability coverage, but more than the
21 minimum levels.

22 4. You may reject Uninsured Motorist coverage.

1 corresponding premium for existing policyholders who have selected
2 Uninsured Motorist coverage limits less than \$25,000.00 per
3 person/\$50,000.00 per occurrence. At the first renewal on or after
4 April 1, 2005, the insurer shall provide existing policyholders who
5 have selected Uninsured Motorist coverage limits less than
6 \$25,000.00 per person/\$50,000.00 per occurrence a notice of the
7 change of their Uninsured Motorist coverage limits and that notice
8 shall state how such policyholders may reject Uninsured Motorist
9 coverage limits or select Uninsured Motorist coverage with limits
10 higher than \$25,000.00 per person/\$50,000.00 per occurrence. No
11 notice shall be required to existing policyholders who have rejected
12 Uninsured Motorist coverage or have selected Uninsured Motorist
13 coverage limits equal to or greater than \$25,000.00 per
14 person/\$50,000.00 per occurrence. For purposes of this subsection
15 an existing policyholder is a policyholder who purchased a policy
16 from the insurer before April 1, 2005, and such policy renews on or
17 after April 1, 2005.

18 SECTION 32. AMENDATORY 36 O.S. 2001, Section 4430, as
19 amended by Section 31, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2008,
20 Section 4430), is amended to read as follows:

21 Section 4430. A. 1. ~~An insurer may not charge a renewal~~
22 ~~premium rate for a long term care insurance policy which exceeds by~~

1 ~~more than fifteen percent (15%) any premium charged for the policy~~
2 ~~during the preceding twelve (12) months.~~

3 2. Upon approval of the Insurance Commissioner, an insurer may
4 charge a an increased renewal premium ~~exceeding the fifteen percent~~
5 ~~(15%) increase provided for in paragraph 1 of this subsection~~ upon
6 showing that a ~~larger~~ the increase is necessary because of
7 utilization of policy benefits in excess of the expected rate.

8 B. 1. This section does not apply to life insurance policies
9 or riders containing accelerated long-term care benefits.

10 2. For certificates issued or delivered on or after November 1,
11 1995, under a group long-term care insurance policy as defined in
12 Section 4424 of this title, which policy was in force on November 1,
13 1995, the provisions of this section shall not apply.

14 3. This section does not apply to policies or certificates approved
15 for issue or delivery on or after November 1, 2001.

16 SECTION 33. AMENDATORY 36 O.S. 2001, Section 4509, is
17 amended to read as follows:

18 Section 4509. A. When an insured employee or a dependent whose
19 group insurance coverage is terminated and the coverage is subject
20 to the provisions of the Consolidated Omnibus Budget Reconciliation
21 Act of 1985 (COBRA), Pub. L. 99-272, April 7, 1986, 100 Stat. 82,
22 subsection B does not apply.

1 B. In the case of an employee whose insurance is terminated
2 under a group policy providing hospital, medical or surgical, or
3 Christian Science care and treatment expense benefits⁷; or contract
4 of hospital or medical service or indemnity; or prepaid health plan
5 or health maintenance organization subscriber contract, such
6 employee and ~~his~~ the dependents of the employee shall remain insured
7 under the policy or contract for a period of at least ~~thirty (30)~~
8 sixty-three (63) days after such termination, unless during such
9 period the employee and his dependents shall otherwise become
10 entitled to similar insurance from some other source. Premium may
11 be charged for this period. The premiums charged shall be the
12 premiums which would have been charged for the coverage provided
13 under the group policy or contract had termination not occurred.

14 ~~B.— If an employee has been covered for at least six (6) months~~
15 ~~under any group accident and health insurance policy delivered in~~
16 ~~this state, providing hospital, medical or surgical, or Christian~~
17 ~~Science care and treatment expense benefits, or under a contract of~~
18 ~~hospital or medical service or indemnity, and the individual~~
19 ~~employee has had his employment terminated or the group itself is~~
20 ~~terminated, then the termination shall not affect coverage of the~~
21 ~~insured or his dependents for any continuous loss which commenced~~
22 ~~while the insurance was in force. The extension of benefits beyond~~
23 ~~the period the insurance was in force may be predicated upon the~~

1 ~~continuous total disability of the person insured or his or her~~
2 ~~dependents or the expenses incurred in connection with a plan of~~
3 ~~surgical treatment, which shall include maternity care and delivery~~
4 ~~expenses, which commenced prior to the termination. The coverage~~
5 ~~for the extension of benefits shall be for the maximum benefits~~
6 ~~under the terminated policy or for a time period of not less than~~
7 ~~three (3) months in the case of basic coverage or six (6) months in~~
8 ~~the case of major medical coverage. Premium monies may be charged~~
9 ~~for the period of the extension of benefits. The premiums charged~~
10 ~~shall be the premiums which would have been charged for the coverage~~
11 ~~provided under the group policy or contract had termination not~~
12 ~~occurred.~~

13 SECTION 34. AMENDATORY Section 2, Chapter 276, O.S.L.
14 2002 (36 O.S. Supp. 2008, Section 4522), is amended to read as
15 follows:

16 Section 4522. As used in the Employer Health Insurance
17 Purchasing Group Act:

- 18 1. "Commissioner" means the Oklahoma Insurance Commissioner;
- 19 2. "Eligible employee" means an employee or individual who ~~is a~~
20 works the number of hours per week designated by the employer as
21 full-time employee of an eligible employer employment and is
22 qualified to enroll in a health benefit plan offered through a HIPG;

1 3. "Eligible employer" means an employer employing no more than
2 one hundred eligible employees;

3 4. "Employer", "employee", and "dependent", unless otherwise
4 defined in this section, shall have the meaning applied to the terms
5 with respect to the coverage under the laws of the state relating to
6 the coverage and the issuer;

7 5. "Full time" ~~means employees working at least twenty-four~~
8 ~~-(24) hours per week for an eligible~~ shall be defined by the
9 employer, but in no event shall it be less than twenty-four (24)
10 hours per week;

11 6. "Health benefits plan" means a group plan, group policy, or
12 group contract for health care services, issued or delivered by a
13 HIPG health carrier, excluding plans, policies, or contracts
14 providing health care benefits or health care services pursuant to
15 the Workers' Compensation Laws and mandatory liability laws;

16 7. "Health insurer" means any entity which provides health
17 insurance in this state. For the purposes of the Employer Health
18 Insurance Purchasing Group Act, "health insurer" includes a licensed
19 insurance company, not-for-profit hospital service or medical
20 indemnity corporation, or a health maintenance organization;

21 8. "HIPG" means a Health Insurance Purchasing Group meeting the
22 requirements of this act;

1 9. "HIPG health carrier" means a health insurer as defined in
2 this act;

3 10. "Large group" means a combination of two or more eligible
4 employers belonging to a HIPG;

5 11. "Limited benefit contract" means, for the purposes of this
6 act, a policy or certificate that does not contain state-mandated
7 health benefits;

8 12. "Member" means an individual enrolled for health benefits
9 coverage in a HIPG;

10 13. "Purchaser" means an eligible employer that has contracted
11 with a HIPG for the purchase of health benefits coverage;

12 14. a. "State-mandated health benefits" means coverages for
13 health care services or benefits, required by state
14 law or state regulations, requiring the reimbursement
15 or utilization related to a specific illness, injury,
16 or condition of the covered person, or inclusion of a
17 specific category of licensed health care practitioner
18 to be provided to the covered person in a health
19 benefits plan for a health-related condition of a
20 covered person. Provided, that for the purposes of
21 the options provided by this act, state-mandated
22 health benefits which may be excluded in whole or in

1 part shall not include any health care services or
2 benefits which were mandated by federal law, and
3 b. "State-mandated health benefits" does not mean
4 standard provisions or rights required to be present
5 in a health benefit plan pursuant to state law or
6 state regulations unrelated to a specific illness,
7 injury or condition of the insured, including, but not
8 limited to, those related to continuation of benefits
9 found in Article 45 of the Oklahoma Insurance Code;
10 and

11 15. "Total eligible employees" means two hundred or more
12 eligible employees.

13 SECTION 35. AMENDATORY 36 O.S. 2001, Section 5002, as
14 amended by Section 21, Chapter 184, O.S.L. 2008 (36 O.S. Supp. 2008,
15 Section 5002), is amended to read as follows:

16 Section 5002. A. A domestic title insurer shall invest its
17 capital accumulations, up to the sum of One Hundred Thousand Dollars
18 (\$100,000.00), in capital investments as defined in Section 1606 of
19 Article 16 (Investments), but subject to the exception in subsection
20 B of this section, below.

21 B. A domestic title insurer may invest its capital and
22 accumulations in excess of One Hundred Thousand Dollars
23 (\$100,000.00) in such investments as are made eligible for funds of

1 domestic insurers by Article 16; except, that any such insurer may
2 invest an amount not exceeding fifty percent (50%) of its combined
3 capital and surplus in the preparation and purchase of material or
4 plants or both necessary to enable it to engage in the business of
5 title insurance, and such materials and plants shall be deemed to be
6 capital funds investments and shall be valued as the actual cost
7 thereof.

8 C. ~~Section 1606 of Article 16 shall not apply to domestic~~
9 Domestic title insurers, ~~nor shall such insurers~~ not be subject to
10 the limitations as to amount invested in real estate for home office
11 and branch office purposes contained in paragraph 1 of Section 1624
12 of Article 16.

13 SECTION 36. AMENDATORY 36 O.S. 2001, Section 6055, as
14 amended by Section 2, Chapter 288, O.S.L. 2003 (36 O.S. Supp. 2008,
15 Section 6055), is amended to read as follows:

16 Section 6055. A. Under any accident and health insurance
17 policy, hereafter renewed or issued for delivery from out of
18 Oklahoma or in Oklahoma by any insurer and covering an Oklahoma
19 risk, the services and procedures may be performed by any
20 practitioner selected by the insured, or the parent or guardian of
21 the insured if the insured is a minor, if the services and
22 procedures fall within the licensed scope of practice of the
23 practitioner providing the same.

1 B. An accident and health insurance policy may:

2 1. Exclude or limit coverage for a particular illness, disease,
3 injury or condition; but, except for such exclusions or limits,
4 shall not exclude or limit particular services or procedures that
5 can be provided for the diagnosis and treatment of a covered
6 illness, disease, injury or condition, if such exclusion or
7 limitation has the effect of discriminating against a particular
8 class of practitioner. However, such services and procedures, in
9 order to be a covered medical expense, must:

10 a. be medically necessary,

11 b. be of proven efficacy, and

12 c. fall within the licensed scope of practice of the
13 practitioner providing same; and

14 2. Provide for the application of deductibles and copayment
15 provisions, when equally applied to all covered charges for services
16 and procedures that can be provided by any practitioner for the
17 diagnosis and treatment of a covered illness, disease, injury or
18 condition. ~~This provision~~

19 C. 1. Paragraph 2 of subsection B of this section shall not be
20 construed to prohibit differences in cost sharing provisions such as
21 deductibles and copayment provisions between practitioners,
22 hospitals and ambulatory surgical centers who are participating
23 preferred provider organization providers and practitioners,

1 hospitals and ambulatory surgical centers who are not participating
2 in the preferred provider organization, subject to the following
3 limitations:

4 a. the amount of any annual deductible per covered person
5 or per family for treatment in a hospital or
6 ambulatory surgical center that is not a preferred
7 provider shall not exceed three times the amount of a
8 corresponding annual deductible for treatment in a
9 hospital or ambulatory surgical center that is a
10 preferred provider,

11 b. if the policy has no deductible for treatment in a
12 preferred provider hospital or ambulatory surgical
13 center, the deductible for treatment in a hospital or
14 ambulatory surgical center that is not a preferred
15 provider shall not exceed One Thousand Dollars
16 (\$1,000.00) per covered-person visit,

17 c. the amount of any annual deductible per covered person
18 or per family treatment, other than inpatient
19 treatment, by a practitioner that is not a preferred
20 practitioner shall not exceed three times the amount
21 of a corresponding annual deductible for treatment,
22 other than inpatient treatment, by a preferred
23 practitioner,

1 d. if the policy has no deductible for treatment by a
2 preferred practitioner, the annual deductible for
3 treatment received from a practitioner that is not a
4 preferred practitioner shall not exceed Five Hundred
5 Dollars (\$500.00) per covered person,
6 e. the percentage amount of any coinsurance to be paid by
7 an insured to a practitioner, hospital or ambulatory
8 surgical center that is not a preferred provider shall
9 not exceed by more than thirty (30) percentage points
10 the percentage amount of any coinsurance payment to be
11 paid to a preferred provider, and

12 ~~f.~~ a

13 2. The Commissioner has discretion to approve a cost sharing
14 arrangement which does not satisfy the limitations imposed by this
15 subsection if the Commissioner finds that such cost sharing
16 arrangement will provide a reduction in premium costs.

17 D. 1. A practitioner, hospital or ambulatory surgical center
18 that is not a preferred provider shall disclose to the insured, in
19 writing, that the insured may be responsible for:

20 ~~(1)~~

21 a. higher coinsurance and deductibles, and

22 ~~(2)~~

1 b. practitioner, hospital or ambulatory surgical center
2 charges which exceed the allowable charges of a preferred
3 provider, ~~and.~~

4 ~~g.~~ when

5 2. When a referral is made to a nonparticipating hospital or
6 ambulatory surgical center, the referring practitioner must disclose
7 in writing to the insured, any ownership interest in the
8 nonparticipating hospital or ambulatory surgical center.

9 ~~C.~~ E. Upon submission of a claim by a practitioner, hospital,
10 home care agency, or ambulatory surgical center to an insurer on a
11 uniform health care claim form adopted by the Insurance Commissioner
12 pursuant to Section 6581 of this title, the insurer shall provide a
13 timely explanation of benefits to the practitioner, hospital, home
14 care agency, or ambulatory surgical center regardless of the network
15 participation status of such person or entity.

16 ~~D.~~ F. Benefits available under an accident and health insurance
17 policy, at the option of the insured, shall be assignable to a
18 practitioner, hospital, home care agency or ambulatory surgical
19 center who has provided services and procedures which are covered
20 under the policy. A practitioner, hospital, home care agency or
21 ambulatory surgical center shall be compensated directly by an
22 insurer for services and procedures which have been provided when
23 the following conditions are met:

1 1. Benefits available under a policy have been assigned in
2 writing by an insured to the practitioner, hospital, home care
3 agency or ambulatory surgical center;

4 2. A copy of the assignment has been provided by the
5 practitioner, hospital, home care agency or ambulatory surgical
6 center to the insurer;

7 3. A claim has been submitted by the practitioner, hospital,
8 home care agency or ambulatory surgical center to the insurer on a
9 uniform health insurance claim form adopted by the Insurance
10 Commissioner pursuant to Section 6581 of this title; and

11 4. A copy of the claim has been provided by the practitioner,
12 hospital, home care agency or ambulatory surgical center to the
13 insured.

14 ~~E.~~ G. The provisions of subsection D of this section shall not
15 apply to:

16 1. Any preferred provider organization (PPO) as defined by
17 generally accepted industry standards, that contracts with
18 practitioners that agree to accept the reimbursement available under
19 the PPO agreement as payment in full and agree not to balance bill
20 the insured; or

21 2. Any statewide provider network which:

22 a. provides that a practitioner, hospital, home care
23 agency or ambulatory surgical center who joins the

- 1 provider network shall be compensated directly by the
2 insurer,
- 3 b. does not have any terms or conditions which have the
4 effect of discriminating against a particular class of
5 practitioner,
- 6 c. allows any practitioner, hospital, home care agency or
7 ambulatory surgical center, except a practitioner who
8 has a prior felony conviction, to become a network
9 provider if said hospital or practitioner is willing
10 to comply with the terms and conditions of a standard
11 network provider contract, and
- 12 d. contracts with practitioners that agree to accept the
13 reimbursement available under the network agreement as
14 payment in full and agree not to balance bill the
15 insured.

16 ~~F.~~ H. A nonparticipating practitioner, hospital or ambulatory
17 surgical center may request from an insurer and the insurer shall
18 supply a good-faith estimate of the allowable fee for a procedure to
19 be performed upon an insured based upon information regarding the
20 anticipated medical needs of the insured provided to the insurer by
21 the nonparticipating practitioner.

22 ~~G.~~ I. A practitioner shall be equally compensated for covered
23 services and procedures provided to an insured on the basis of

1 charges prevailing in the same geographical area or in similar sized
2 communities for similar services and procedures provided to
3 similarly ill or injured persons regardless of the branch of the
4 healing arts to which the practitioner may belong, if:

5 1. The practitioner does not authorize or permit false and
6 fraudulent advertising regarding the services and procedures
7 provided by the practitioner; and

8 2. The practitioner does not aid or abet the insured to violate
9 the terms of the policy.

10 ~~H.~~ J. Nothing in the Health Care Freedom of Choice Act shall
11 prohibit an insurer from establishing a preferred provider
12 organization and a standard participating provider contract
13 therefor, specifying the terms and conditions, including, but not
14 limited to, provider qualifications, and alternative levels or
15 methods of payment that must be met by a practitioner selected by
16 the insurer as a participating preferred provider organization
17 provider.

18 ~~F.~~ K. A preferred provider organization, in executing a
19 contract, shall not, by the terms and conditions of the contract or
20 internal protocol, discriminate within its network of practitioners
21 with respect to participation and reimbursement as it relates to any
22 practitioner who is acting within the scope of the practitioner's
23 license under the law solely on the basis of such license.

1 ~~J.~~ L. Decisions by an insurer or a preferred provider
2 organization (PPO) to authorize or deny coverage for an emergency
3 service shall be based on the patient presenting symptoms arising
4 from any injury, illness, or condition manifesting itself by acute
5 symptoms of sufficient severity, including severe pain, such that a
6 reasonable and prudent layperson could expect the absence of medical
7 attention to result in serious:

- 8 1. Jeopardy to the health of the patient;
- 9 2. Impairment of bodily function; or
- 10 3. Dysfunction of any bodily organ or part.

11 ~~K.~~ M. An insurer or preferred provider organization (PPO) shall
12 not deny an otherwise covered emergency service based solely upon
13 lack of notification to the insurer or PPO.

14 ~~H.~~ N. An insurer or a preferred provider organization (PPO)
15 shall compensate a provider for patient screening, evaluation, and
16 examination services that are reasonably calculated to assist the
17 provider in determining whether the condition of the patient
18 requires emergency service. If the provider determines that the
19 patient does not require emergency service, coverage for services
20 rendered subsequent to that determination shall be governed by the
21 policy or PPO contract.

1 ~~M.~~ O. Nothing in this act shall be construed as prohibiting an
2 insurer, preferred provider organization or other network from
3 determining the adequacy of the size of its network.

4 SECTION 37. AMENDATORY 36 O.S. 2001, Section 6103.2, is
5 amended to read as follows:

6 Section 6103.2 A. Unless otherwise indicated, the term
7 "insurer" as used in Sections 6103.1 through 6103.11 of this title
8 includes all legal entities, associations, and individuals engaged
9 as principals in the business of insurance and also includes
10 interinsurance exchanges, mutual benefit societies and insurance
11 exchanges and syndicates.

12 B. The venue of any act listed in this section shall be
13 Oklahoma County.

14 C. Any one of the following acts in this state effected by mail
15 or otherwise is defined to be doing an insurance business in this
16 state:

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

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

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

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

- 4 a. the execution of contracts of insurance with citizens
5 of this or any other state,
- 6 b. maintaining files or records of contracts of
7 insurance,
- 8 c. the processing of claims, and
- 9 d. the receiving or collection of any premiums,
10 commissions, membership fees, assessments, dues or
11 other consideration for any insurance or any part
12 thereof;

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

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

- 19 a. the solicitation, negotiation, procurement or
20 effectuation of insurance or renewals thereof,
- 21 b. the dissemination of information as to coverage or
22 rates, or forwarding of applications, or delivery of
23 policies or contracts,

- 1 c. inspection of risks,
- 2 d. fixing of rates or investigation or adjustment of
- 3 claims or losses,
- 4 e. the transaction of matters subsequent to effectuation
- 5 of the contract and arising out of it, or
- 6 f. in any other manner representing or assisting a person
- 7 or insurer in the transaction of insurance with
- 8 respect to subjects of insurance resident, located or
- 9 to be performed in this state;

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

14 7. Contracting to provide indemnification or expense
15 reimbursement in this state to persons domiciled in this state or
16 for risks located in this state, whether as an insurer, agent,
17 administrator, trust, funding mechanism, or by any other method, for
18 any type of medical expenses including, but not limited to,
19 surgical, chiropractic, physical therapy, speech pathology,
20 audiology, professional mental health, dental, hospital, or
21 optometric expenses, whether this coverage is by direct payment,
22 reimbursement, or otherwise. This provision shall not apply to:

- 1 a. any program otherwise authorized by law that is
2 established by any political subdivision of this state
3 or under the provisions of Sections 1001 through 1008
4 of Title 74 of the Oklahoma Statutes, or
5 b. a multiple employer welfare arrangement as defined in
6 Section 3 of the Employee Retirement Income Security
7 Act of 1974, 29 U.S.C., Section 1002(40)(A), as
8 amended, that holds a valid license issued by the
9 Insurance Commissioner or is exempt from state
10 regulation pursuant to subsection B of Section 634 of
11 this title;

12 8. The doing of any kind of insurance business specifically
13 recognized as constituting the doing of an insurance business within
14 the meaning of the statutes relating to insurance;

15 9. The doing or proposing to do any insurance business in
16 substance equivalent to any of the foregoing in a manner designed to
17 evade the provisions of the statutes; or

18 10. Any other transactions of business in this state by an
19 insurer.

20 D. The definition of a bail bond shall be the same as the
21 definition of a bond in Section 1301 of Title 59 of the Oklahoma
22 Statutes. The business of bail bonds shall be all aspects of acting
23 as a bail bondsman, including but not limited to, depositing or

1 pledging cash or real property as security for an appearance bond in
2 a criminal judicial proceeding, or executing or countersigning bail
3 bonds for an insurer or professional bondsman in connection with an
4 appearance bond in criminal judicial proceedings, and charging and
5 receiving money for these services. The business of bail bonds
6 shall also include solicitation for a bail bond, as defined in
7 Section 1301 of Title 59 of the Oklahoma Statutes.

8 E. The provisions of this section do not apply to:

9 1. The lawful transaction of surplus lines insurance;

10 2. Life, accident and health insurance or annuities provided to
11 educational or scientific institutions organized and operated
12 without profit to any private shareholder or individual for the
13 benefit of such institutions or individuals engaged in the service
14 of such institutions;

15 3. The lawful transaction of reinsurance by insurers; ~~or~~

16 4. Transactions in this state involving a policy lawfully
17 solicited, written and delivered outside of this state covering only
18 subjects of insurance not resident, located or expressly to be
19 performed in this state at the time of issuance, and which
20 transactions are subsequent to the issuance of such policy; or

21 5. Any individual who is not required to have a bail bondsman
22 license, as provided in Section 1303 of Title 59 of the Oklahoma
23 Statutes.

1 SECTION 38. AMENDATORY 36 O.S. 2001, Section 6103.3, is
2 amended to read as follows:

3 Section 6103.3 A. For the purposes of Sections 6103.1 through
4 6103.11 of this title, "person" shall include an individual, a
5 partnership, a corporation, a limited liability company, an
6 association, a joint stock company, a trust, an unincorporated
7 organization, any similar group, entity or any combination of the
8 foregoing acting in concert.

9 B. No person or insurer shall directly or indirectly do any of
10 the acts of an insurance business set forth in Sections 6103.1
11 through 6103.11 of this title, except as provided by and in
12 accordance with the specific authorization of statute. In respect
13 to the insurance of subjects resident, located or to be performed
14 within this state, this section shall not prohibit the collection of
15 premium or other acts performed outside of this state by persons or
16 insurers authorized to do business in this state provided such
17 transactions and insurance contracts otherwise comply with statute.

18 C. Any person which the Insurance Commissioner has reason to
19 believe is doing any of the acts specified in Section 6103.2 of this
20 title, upon written request by the Commissioner, shall immediately
21 provide to the Commissioner such information as requested in
22 relation to such acts.

1 D. A person or entity who violates any provision of Sections
2 6103.1 through 6103.11 of this title is subject to a civil penalty
3 of not more than Ten Thousand Dollars (\$10,000.00) for each act of
4 violation and for each day of violation to be recovered as provided
5 in this section.

6 E. Whenever the Commissioner has reason to believe or it
7 appears that any person or insurer has violated or is threatening to
8 violate any provision of Sections 6103.1 through 6103.11 of this
9 title or any rule promulgated pursuant thereto, or that any person
10 or insurer acting in violation of Sections 6103.1 through 6103.11 of
11 this title has engaged in or is threatening to engage in any unfair
12 method of competition or any unfair or deceptive act or practice as
13 defined by Section 1201 et seq. of this title or any rule
14 promulgated pursuant thereto, the Commissioner may:

15 1. Issue an ex parte cease and desist order under the
16 procedures provided by Sections 6103.5 and 6103.6 of this title;

17 2. Institute in the district court of Oklahoma County a civil
18 suit for injunctive relief to restrain the person from continuing
19 the violation or threat of violation;

20 3. Institute in the district court of Oklahoma County a civil
21 suit to recover a civil penalty as provided for in this section; or

22 4. Exercise any combination of the acts provided for in this
23 subsection.

1 F. On application for injunctive relief and a finding that a
2 person is violating or threatening to violate any provision of
3 Sections 6103.1 through 6103.11 of this title, the district court
4 shall grant the injunctive relief and the injunction shall be issued
5 without bond.

6 G. The remedies provided in Sections 6103.1 through 6103.11 of
7 this title for administrative action against unauthorized insurers
8 shall also apply to unauthorized individuals or persons engaged in
9 the business of bail bonds.

10 H. This section shall not be construed to limit the Insurance
11 Commissioner to the remedies specified herein. It is the intent of
12 the Legislature that persons engaging in the business of insurance
13 without statutory authorization constitute an imminent peril to the
14 public welfare and should immediately be stopped and enjoined from
15 doing so, provided, the Insurance Commissioner and the State of
16 Oklahoma should be able to choose at any time any available remedy
17 or action to bring about such a result without regard to prior
18 proceedings under this section.

19 SECTION 39. AMENDATORY 36 O.S. 2001, Section 6103.5, is
20 amended to read as follows:

21 Section 6103.5 The Insurance Commissioner may issue a cease and
22 desist order, ex parte, if:

23 1. The Commissioner believes:

- 1 a. an unauthorized person is engaging in the business of
2 insurance in violation of Section 6103.2 of this title
3 or in violation of a rule promulgated pursuant to
4 Sections 6103.1 through 6103.11 of this title, or
5 b. an unauthorized person engaged in the business of
6 insurance acting in violation of Section 6103.3 of
7 this title is committing an unfair method of
8 competition or an unfair or deceptive act or practice
9 in violation of Section 1201 et seq. of this title or
10 in violation of any rule promulgated pursuant
11 thereto, or
12 c. an unauthorized person or individual is engaging in
13 the business of bail bonds in violation of section
14 6103.2 of this title or in violation of a rule
15 promulgated pursuant to Sections 6103.1 through
16 6103.11 of this title; or

17 2. It appears to the Commissioner that the alleged conduct is
18 fraudulent or hazardous or creates an immediate danger to the public
19 safety or is causing or can be reasonably expected to cause
20 significant, imminent and irreparable public injury.

21 SECTION 40. AMENDATORY 36 O.S. 2001, Section 6203, is
22 amended to read as follows:

1 Section 6203. For the purpose of the Insurance Adjusters
2 Licensing Act, no one shall be deemed to be an adjuster or be
3 required to obtain a license as an adjuster who is:

4 1. a licensed agent or general agent of an insurer who
5 processes undisputed or uncontested losses for said insurers solely
6 pursuant to the provisions of policies issued by the agent, or his
7 agency, if the agent or general agent receives no extra compensation
8 for such services; or

9 2. engaged in investigating, adjusting, negotiating, or
10 processing claims arising pursuant to the provisions of life
11 insurance, annuity, or accident and health insurance contracts; or

12 3. a nonresident who occasionally is in this state to adjust a
13 single loss or losses arising pursuant to the provisions of a policy
14 of marine insurance; or

15 4. a salaried employee of a licensed insurer whose primary
16 duties are not adjusting, investigating, or supervising insurance
17 claims; or

18 5. a licensed attorney in the State of Oklahoma who adjusts
19 insurance losses from time to time, incidental to the practice of
20 law, and who does not advertise or represent that he is an adjuster;
21 or

22 6. a person employed solely for the purpose of furnishing
23 technical assistance to a licensed adjuster, including but not

1 limited to photographers, appraisers, estimators, private
2 detectives, engineers, handwriting experts, and attorneys-at-law; or
3 7. a person who performs clerical duties for a licensed insurer or
4 organization that handles claims and who does not negotiate disputed
5 or contested claims for the insurer or organization that handles
6 claims; or

7 8. a nonresident insurance adjuster ~~whose resident state has a~~
8 ~~reciprocal agreement with the State of Oklahoma~~ who is actively
9 licensed in another state and who is in this state no more than once
10 a year for the purpose of adjusting a single loss or losses arising
11 out of an occurrence common to all such losses, or who is acting as
12 a temporary substitute for a licensed adjuster.

13 SECTION 41. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6204.1 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The apprentice adjuster license is an optional license to
17 facilitate the experience, education, and training necessary to
18 ensure reasonable competency of the responsibilities and duties of
19 an adjuster.

20 B. An individual applying for a resident apprentice adjuster
21 license shall make application to the Insurance Commissioner on the
22 appropriate NAIC Uniform Individual Application or an application
23 approved by the Commissioner in a format prescribed by the

1 Commissioner and declare under penalty of suspension, revocation, or
2 refusal of the license that the statements made in the application
3 are true, correct, and complete to the best of the knowledge and
4 belief of the individual. Before approving the application, the
5 Insurance Commissioner shall find that the individual:

- 6 1. Is at least eighteen (18) years of age;
- 7 2. Is a resident of this state and has designated this state as
8 the home state of the individual;
- 9 3. Has a business or mailing address in this state for
10 acceptance of service of process;
- 11 4. Has not committed any act that is a ground for probation,
12 suspension, revocation, or denial of licensure as set forth in
13 Section 6220 of Title 36 of the Oklahoma Statutes;
- 14 5. Is trustworthy, reliable, and of good reputation, evidence
15 of which may be determined by the Insurance Commissioner; and
- 16 6. Has paid the fees set forth in Section 6212 of Title 36 of
17 the Oklahoma Statutes.

18 C. The apprentice adjuster license shall be subject to the
19 following terms and conditions:

- 20 1. Accompanying the apprentice application shall be an
21 attestation, from a licensed adjuster with the same line or lines of
22 authority for which the apprentice has applied, certifying that the
23 apprentice will be subject to training, direction, and control by

1 the licensed adjuster and further certifying that the licensed
2 adjuster assumes responsibility for the actions of the apprentice in
3 the apprentice's capacity as an adjuster;

4 2. The apprentice adjuster is authorized to adjust claims only
5 in this state;

6 3. The apprentice licensee is restricted to participation in
7 the investigation, settlement, and negotiation of claims subject to
8 the review and final determination of the claim by the supervising
9 licensed adjuster;

10 4. Compensation of an apprentice adjuster shall be on a
11 salaried or hourly basis only;

12 5. The apprentice adjuster shall not be required to take and
13 successfully complete the adjuster examination pursuant to Section
14 6208 of Title 36 of the Oklahoma Statutes, to adjust claims as an
15 apprentice adjuster. However, at any time during the apprenticeship
16 the apprentice adjuster may choose to take the examination. If the
17 individual takes and successfully completes the adjuster exam, the
18 apprentice adjuster license shall automatically terminate and an
19 adjuster license shall be issued to that individual;

20 6. The apprentice adjuster license is for a period not to
21 exceed six (6) months and is nonrenewable; and

1 7. The licensee shall be subject to probation, suspension,
2 revocation, or refusal pursuant to Section 6220 of Title 36 of the
3 Oklahoma Statutes.

4 D. The licensed adjuster responsible for the apprentice
5 adjuster, as stated paragraph 1 of subsection C of this section,
6 shall supervise no more than five (5) active apprentice licensees at
7 any given time.

8 SECTION 42. AMENDATORY 36 O.S. 2001, Section 6205, as
9 amended by Section 24, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2008,
10 Section 6205), is amended to read as follows:

11 Section 6205. A. Application for a license as an adjuster
12 shall be made to the Insurance Commissioner upon forms prescribed
13 and furnished by the Commissioner. As a part of and in connection
14 with the application, the applicant shall furnish such information
15 concerning the applicant's identity, personal history, business
16 experience, business record and such other pertinent information
17 which the Commissioner shall reasonably require.

18 B. Unless denied licensure pursuant to Section 6220 of this
19 title, a nonresident applicant shall receive a nonresident adjuster
20 license if:

21 1. The applicant has passed an examination in the applicant's
22 home state;

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

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

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

7 C. If a nonresident applicant's home state does not license or
8 require an examination for an adjuster license, ~~the applicant shall~~
9 ~~pass an examination in this state prior to receiving a nonresident~~
10 ~~adjuster license~~ the adjuster may declare another state which has an
11 examination requirement and in which the adjuster is licensed to be
12 the home state. Should the applicant not hold an active adjuster
13 license in his or her home state or declared home state, the
14 applicant shall pass the adjuster examination of this state prior to
15 receiving a nonresident adjuster license.

16 SECTION 43. AMENDATORY 36 O.S. 2001, Section 6206, as
17 amended by Section 25, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2008,
18 Section 6206), is amended to read as follows:

19 Section 6206. A. The Insurance Commissioner shall license as
20 an adjuster only an individual who has fully complied with the
21 provisions of the Insurance Adjusters Licensing Act, including the
22 furnishing of evidence satisfactory to the Commissioner that the
23 applicant:

- 1 1. Is at least eighteen (18) years of age;
- 2 2. Is a bona fide resident of this state or is a resident of a
3 state or country which permits adjusters who are residents of this
4 state to act as adjusters in such other state or country;
- 5 3. If a nonresident of the United States, has complied with all
6 federal laws pertaining to employment and the transaction of
7 business in the United States;
- 8 4. Is a trustworthy person;
- 9 5. Has had experience or special education or training of
10 sufficient duration and extent with reference to the handling of
11 loss claims pursuant to insurance contracts to make the applicant
12 competent to fulfill the responsibilities of an adjuster;
- 13 6. Has successfully passed an examination as required by the
14 Commissioner or has been exempted from examination, in accordance
15 with the provisions of Section 6208 of this title; and
- 16 7. If the application is for a public adjuster's license, the
17 applicant has filed the bond required by Section 6214 of this title.
- 18 B. Residence addresses and telephone listings, birth dates, and
19 social security numbers for insurance adjusters and public adjusters
20 on file with the Insurance Department are exempt from disclosure as
21 public records. A separate business or mailing address as provided
22 by the adjuster shall be considered a public record and upon request
23 shall be disclosed. If an adjuster's residence and business address

1 or residence and business telephone number are the same, such
2 address or telephone number shall be considered a public record.

3 C. The mailing address shall appear on all licenses of the
4 licensee, and the licensee shall promptly notify the Insurance
5 Commissioner within thirty (30) days of any change in ~~the~~ legal name
6 or mailing, business or residence address of the licensee. A change
7 in legal name or address thirty (30) days after the change must
8 include an administrative fee of Fifty Dollars (\$50.00). Failure to
9 provide acceptable notification of a change of legal name or address
10 to the Insurance Commissioner within forty-five (45) days of the
11 date the administrative fee is assessed will result in penalties
12 pursuant to Section 6220 of this title.

13 SECTION 44. AMENDATORY 36 O.S. 2001, Section 6208, as
14 amended by Section 26, Chapter 125, O.S.L. 2007 (36 O.S. Supp. 2008,
15 Section 6208), is amended to read as follows:

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

21 B. The requirement of an examination shall not apply to the
22 following:

- 1 1. An applicant who is licensed as an adjuster in this state
2 during the ninety-day period preceding November 1, 1983; or
- 3 2. A nonresident applicant who has passed an examination in the
4 home state of the applicant and who is currently licensed and in
5 good standing in the applicant's home state; or
- 6 3. Any applicant for a license covering the same class or
7 classes of insurance for which the applicant was licensed in this
8 state pursuant to a similar license during the twenty-four-month
9 period immediately preceding the date of application, unless said
10 previous license was revoked or suspended, or continuation of the
11 license was refused by the Commissioner; or
- 12 4. An applicant for a resident license who has passed an
13 examination in the former home state and who is licensed and in good
14 standing in the former home state at the time the application is
15 submitted. The applicant shall make application to become a
16 resident adjuster within ninety (90) days after establishing legal
17 residence in Oklahoma.

18 SECTION 45. AMENDATORY 36 O.S. 2001, Section 6209, is
19 amended to read as follows:

20 Section 6209. A. Each examination for a license as an adjuster
21 shall be prescribed by the Commissioner and shall be of sufficient
22 scope to reasonably test the knowledge of the applicant as to the
23 kinds of insurance contracts which may be dealt with in accordance

1 with the license applied for, the duties and responsibilities of
2 insurers pursuant to said contracts and pursuant to the laws of this
3 state applicable to the adjusting claims of losses in accordance
4 with the license applied for.

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

12 1. motor vehicle physical damage, meaning damages to all land
13 motor vehicles and trailers whether or not covered by first party
14 physical damage coverages or property damage liability coverages; or

15 2. fire and allied lines, including marine, inland marine, and
16 aircraft; or

17 3. casualty, meaning all lines of liability insurance coverages
18 for bodily injuries, personal injury, and property damages; or

19 4. workers' compensation; or

20 5. crime and fidelity bonds; or

21 6. crop/hail.

22 C. The Commissioner shall prepare and make available to
23 applicants a manual of instructions stating in general terms the

1 subjects which may be covered in any examination for a license as an
2 adjuster. The Commissioner may charge a reasonable amount not to
3 exceed ~~Twenty-five Dollars (\$25.00)~~ Forty Dollars (\$40.00) for the
4 study manual.

5 SECTION 46. AMENDATORY 36 O.S. 2001, Section 6210, as
6 last amended by Section 24, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
7 2008, Section 6210), is amended to read as follows:

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

12 B. ~~The examination shall be given at such times and places~~
13 ~~within this state as the Commissioner deems necessary to reasonably~~
14 ~~serve the convenience of both the Commissioner and the applicants~~
15 Examination for licensing shall be at such reasonable times and
16 places as are designated by the Insurance Commissioner.

17 C. An applicant who has failed to pass the first examination
18 for the license for which applied may take a second examination
19 within thirty (30) days following the first examination. An
20 applicant who has failed to pass the first two examinations for the
21 license for which applied shall not be permitted to take a
22 subsequent examination until the expiration of thirty (30) days
23 after the last previous examination. An applicant shall take and

1 pass the examination within one hundred eighty (180) days of the
2 date of the initial application. If the applicant fails to pass an
3 examination within the specified time period, the applicant shall
4 submit a new application accompanied by any applicable fees.
5 Examination fees for subsequent examinations shall not be waived.

6 SECTION 47. AMENDATORY 36 O.S. 2001, Section 6212, is
7 amended to read as follows:

8 Section 6212 A. The Insurance Commissioner or an administrator
9 approved by the Insurance Commissioner shall collect a fee of Twenty
10 Dollars (\$20.00) for an examination for an adjuster's license in any
11 of the following single classes of business. The fee for any
12 ~~combination of two or more examinations~~ examination which includes
13 two (2) or more classes of business shall not exceed Forty Dollars
14 (\$40.00). The classes of business are:

- 15 1. Motor vehicle physical damage;
- 16 2. Fire and allied lines (property);
- 17 3. Casualty;
- 18 4. Workers' compensation;
- 19 5. Crime and fidelity bonds; and
- 20 6. Crop/hail.

21 B. The Commissioner shall collect the following fees for an
22 adjuster's license:

- 1 1. For a license in any single class of business, every two (2)
2 years, Thirty Dollars (\$30.00);
- 3 2. For a license in any combination of two or more classes of
4 business, every two years, Fifty Dollars (\$50.00);
- 5 3. Public adjuster, every two years, Thirty Dollars (\$30.00);
6 and
- 7 4. Emergency adjuster, as provided for in Section 6218 of this
8 title, each year, Fifteen Dollars (\$15.00); and
- 9 5. Apprentice adjuster, as provided for in Section 6204.1 of
10 this title, Twenty Dollars (\$20.00).

11 C. The fees prescribed in this section ~~for examinations~~ shall
12 accompany the application for an original license or a renewal of a
13 license.

14 D. The fee for the original license or renewal license shall be
15 collected in advance of issuance. Late application for renewal
16 shall require a fee of double the amount of the original license
17 fee.

18 E. The Commissioner may issue a duplicate license for any lost,
19 stolen, or destroyed license issued pursuant to the provisions of
20 the Insurance Adjusters Licensing Act if an affidavit is submitted
21 by the licensee to the Commissioner concerning the facts of such
22 loss, theft, or destruction. Said affidavit shall be in a form

1 prescribed by the Commissioner. The fee for a duplicate license
2 shall be ~~Five Dollars (\$5.00)~~ one-half (1/2) the fee of the license.

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

6 SECTION 48. AMENDATORY 36 O.S. 2001, Section 6217, as
7 last amended by Section 25, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
8 2008, Section 6217), is amended to read as follows:

9 Section 6217. A. ~~A license as an adjuster shall expire two (2)~~
10 ~~years from the month of original issuance of the license or~~
11 ~~subsequent renewal of the license~~ All licenses issued pursuant to
12 the provisions of the Insurance Adjusters Licensing Act shall
13 continue in force not longer than twenty-four (24) months. The
14 renewal dates for the licenses may be staggered throughout the year
15 by notifying licensees in writing of the expiration and renewal date
16 being assigned to the licensees by the Insurance Commissioner and by
17 making appropriate adjustments in the biennial licensing fee.

18 B. Any licensee applying for renewal of a license as an
19 adjuster shall have completed not less than ~~twelve (12)~~ twenty-four
20 (24) clock hours of continuing insurance education, of which three
21 (3) hours must be in ethics, within the previous twenty-four (24)
22 months prior to renewal of the license. Such continuing education
23 shall cover subjects in the classes of insurance for which the

1 adjuster is licensed. ~~Such continuing education shall not include a~~
2 ~~written or oral examination.~~ The Insurance Commissioner shall
3 approve courses and providers of continuing education for insurance
4 adjusters as required by this section.

5 The Insurance Department may use one or more of the following to
6 review and provide a nonbinding recommendation to the Insurance
7 Commissioner on approval or disapproval of courses and providers of
8 continuing education:

- 9 1. Employees of the Insurance Commissioner;
- 10 2. A continuing education advisory committee. The continuing
11 education advisory committee is separate and distinct from the
12 Advisory Board established by Section 6221 of this title;
- 13 3. An independent service whose normal business activities
14 include the review and approval of continuing education courses and
15 providers. The Commissioner may negotiate agreements with such
16 independent service to review documents and other materials
17 submitted for approval of courses and providers and present the
18 Commissioner with its nonbinding recommendation. The Commissioner
19 may require such independent service to collect the fee charged by
20 the independent service for reviewing materials provided for review
21 directly from the course providers.

22 C. An adjuster who, during the time period prior to renewal,
23 participates in an approved professional designation program shall

1 be deemed to have met the biennial requirement for continuing
2 education. Each course in the curriculum for the program shall
3 total a minimum of twenty (20) hours. Each approved professional
4 designation program included in this section shall be reviewed for
5 quality and compliance every three (3) years in accordance with
6 standardized criteria promulgated by rule. Continuation of approved
7 status is contingent upon the findings of the review. The list of
8 professional designation programs approved under this subsection
9 shall be made available to producers and providers annually.

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

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

1 F. Each provider of continuing education shall, after approval
2 by the Commissioner, submit an annual fee. A fee may be assessed
3 for each course submission at the time it is first submitted for
4 review and upon submission for renewal at expiration. Annual fees
5 and course submission fees shall be set forth as a rule by the
6 Commissioner. The fees are payable to the Insurance Commissioner
7 and shall be deposited in the State Insurance Commissioner Revolving
8 Fund, created in subsection C of Section 1435.23 of this title, for
9 the purposes of fulfilling and accomplishing the conditions and
10 purposes of the Oklahoma Producer Licensing Act and the Insurance
11 Adjusters Licensing Act. Public-funded educational institutions,
12 federal agencies, non-profit organizations, not-for-profit
13 organizations and Oklahoma state agencies shall be exempt from this
14 subsection.

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

22 H. If the request, proof of compliance with the continuing
23 education requirement and fee for renewal of a license as an

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

10 SECTION 49. AMENDATORY Section 18, Chapter 334, O.S.L.
11 2004 (36 O.S. Supp. 2008, Section 6470.11), is amended to read as
12 follows:

13 Section 6470.11 A. A captive insurance company may not be
14 required to make an annual report except as provided in the Oklahoma
15 Captive Insurance Company Act.

16 B. Before March 1 of each year, a captive insurance company or
17 a captive reinsurance company shall submit to the Insurance
18 Commissioner a report of its financial condition, verified by oath
19 of two of its executive officers. Except as provided in Sections ~~13~~
20 6470.6 and ~~15~~ 6470.8 of this ~~act~~ title, a captive insurance company
21 or a captive reinsurance company shall report using ~~generally~~
22 ~~accepted~~ statutory accounting principles, unless the Insurance
23 Commissioner approves the use of ~~statutory~~ generally accepted

1 accounting principles, with useful or necessary modifications or
2 adaptations required or approved or accepted by the Insurance
3 Commissioner for the type of insurance and kinds of insurers to be
4 reported upon, and as supplemented by additional information
5 required by the Insurance Commissioner. Except as otherwise
6 provided, an association captive insurance company and an industrial
7 insured group shall file their report in the form required by the
8 Insurance Commissioner, and each industrial insured group shall
9 comply with the requirements set forth in the Oklahoma Insurance
10 Code. The Insurance Commissioner by regulation shall prescribe the
11 forms in which pure captive insurance companies and industrial
12 insured captive insurance companies shall report.

13 C. A pure captive insurance company may make written
14 application for filing the required report on a fiscal year-end that
15 is consistent with the fiscal year of the parent company. If an
16 alternative reporting date is granted:

17 1. The annual report is due sixty (60) days after the fiscal
18 year-end; and

19 2. In order to provide sufficient detail to support the premium
20 tax return, the pure captive insurance company shall file before
21 March 1 of each year for each calendar year-end, pages 1 through 7
22 of the "Captive Annual Statement: Pure or Industrial Insured",
23 verified by oath of two of its executive officers.

1 D. Sixty (60) days after the fiscal year-end, a branch captive
2 insurance company shall file with the Insurance Commissioner a copy
3 of all reports and statements required to be filed under the laws of
4 the jurisdiction in which the alien captive insurance company is
5 formed, verified by oath of two of its executive officers. If the
6 Insurance Commissioner is satisfied that the annual report filed by
7 the alien captive insurance company in its domiciliary jurisdiction
8 provides adequate information concerning the financial condition of
9 the alien captive insurance company, the Insurance Commissioner may
10 waive the requirement for completion of the captive annual statement
11 for business written in the alien jurisdiction. Such waiver must be
12 in writing and subject to public inspection.

13 SECTION 50. AMENDATORY 36 O.S. 2001, Section 6512, is
14 amended to read as follows:

15 Section 6512. As used in the Small Employer Health Insurance
16 Reform Act:

17 1. "Actuarial certification" means a written statement by a
18 member of the American Academy of Actuaries or other individual
19 acceptable to the Insurance Commissioner that a small employer
20 carrier is in compliance with the provisions of Section 6515 of this
21 title, based upon the person's examination, including a review of
22 the appropriate records and of the actuarial assumptions and methods

1 used by the small employer carrier in establishing premium rates for
2 applicable health benefit plans;

3 2. "Affiliate" or "affiliated" means any entity or person who
4 directly or indirectly through one or more intermediaries, controls
5 or is controlled by, or is under common control with, a specified
6 entity or person;

7 3. "Base premium rate" means, for each class of business as to
8 a rating period, the lowest premium rate charged or which could have
9 been charged under a rating system for that class of business, by
10 the small employer carrier to small employers with similar case
11 characteristics for health benefit plans with the same or similar
12 coverage;

13 4. "Basic health benefit plan" means a lower cost health
14 benefit plan adopted by the state for small employer groups;

15 5. "Board" means the board of directors of the program
16 established pursuant to Section 6522 of this title;

17 6. "Carrier" means any entity which provides health insurance
18 in this state. For the purposes of the Small Employer Health
19 Insurance Reform Act, carrier includes a licensed insurance company,
20 not-for-profit hospital service or medical indemnity corporation, a
21 fraternal benefit society, a health maintenance organization, a
22 multiple employer welfare arrangement or any other entity providing

1 a plan of health insurance or health benefits subject to state
2 insurance regulation;

3 7. "Case characteristics" means demographic or other objective
4 characteristics of a small employer that are considered by the small
5 employer carrier in the determination of premium rates for the small
6 employer, provided that claim experience, health status and duration
7 of coverage shall not be case characteristics for the purposes of
8 the Small Employer Health Insurance Reform Act. A small employer
9 carrier shall not use case characteristics, other than age, gender,
10 industry, geographic area and family composition, without prior
11 approval of the Insurance Commissioner. Group size shall not be
12 used as a case characteristic;

13 8. "Class of business" means all or a separate grouping of
14 small employers established pursuant to Section 6514 of this title.
15 Group size shall not be used as a class of business;

16 9. "Commissioner" means the Insurance Commissioner;

17 10. "Control" (including the terms "controlling", "controlled
18 by" and "under common control with") means the possession, direct or
19 indirect, of the power to direct or cause the direction of the
20 management and policies of a person, whether through the ownership
21 of voting securities, by contract or otherwise, unless the power is
22 the result of an official position with or corporate office held by
23 the person. Control shall be presumed to exist if any person,

1 directly or indirectly, owns, controls, holds with the power to
2 vote, or holds proxies representing ten percent (10%) or more of the
3 voting securities of any other person. This presumption may be
4 rebutted by a showing that control does not exist in fact in the
5 manner provided in Section 1654 of this title. The Commissioner may
6 determine, after furnishing all persons in interest notice and
7 opportunity to be heard and making specific findings of fact to
8 support such determination, that control exists in fact,
9 notwithstanding the absence of a presumption to that effect;

10 11. "Department" means the Insurance Department;

11 12. "Dependent" means a spouse, an unmarried child under the
12 age of eighteen (18), an unmarried child who is a full-time student
13 under the age of twenty-three (23) and who is financially dependent
14 upon the parent, and an unmarried child of any age who is medically
15 certified as disabled and dependent upon the parent;

16 13. "Eligible employee" means an employee who works on a full-
17 time basis ~~and has~~ or, at the option of the employer, an employee
18 who works on a part time basis with a normal work week of twenty-
19 four (24) or more hours. The term includes a sole proprietor, a
20 partner of a partnership, and associates of a limited liability
21 company, if the sole proprietor, partner or associate is included as
22 an employee under a health benefit plan of a small employer, but

1 does not include an employee who works on a ~~part-time~~, temporary or
2 substitute basis;

3 14. "Established geographic service area" means a geographic
4 area, as approved by the Commissioner and based on the carrier's
5 certificate of authority to transact insurance in this state, within
6 which the carrier is authorized to provide coverage;

7 15. a. "Health benefit plan" means any hospital or medical
8 policy or certificate; contract of insurance provided
9 by a not-for-profit hospital service or medical
10 indemnity plan; or prepaid health plan or health
11 maintenance organization subscriber contract.

12 b. Health benefit plan does not include accident-only,
13 credit, dental, vision, Medicare supplement, long-term
14 care, or disability income insurance, coverage issued
15 as a supplement to liability insurance, worker's
16 compensation or similar insurance, any plan certified
17 by the Oklahoma Basic Health Benefits Board, or
18 automobile medical payment insurance.

19 c. "Health benefit plan" shall not include policies or
20 certificates of specified disease, hospital confinement
21 indemnity or limited benefit health insurance, provided
22 that the carrier offering such policies or certificates
23 complies with the following:

- 1 (1) the carrier files on or before March 1 of each
2 year a certification with the Commissioner that
3 contains the statement and information described
4 in division (2) of this subparagraph,
- 5 (2) the certification required in division (1) of
6 this subparagraph shall contain the following:
- 7 (a) a statement from the carrier certifying that
8 policies or certificates described in this
9 subparagraph are being offered and marketed
10 as supplemental health insurance and not as
11 a substitute for hospital or medical expense
12 insurance or major medical expense
13 insurance, and
- 14 (b) a summary description of each policy or
15 certificate described in this subparagraph,
16 including the average annual premium rates
17 (or range of premium rates in cases where
18 premiums vary by age, gender or other
19 factors) charged for such policies and
20 certificates in this state, and
- 21 (3) in the case of a policy or certificate that is
22 described in this subparagraph and that is
23 offered for the first time in this state on or

1 after the effective date of this act, the carrier
2 files with the Commissioner the information and
3 statement required in division (2) of this
4 subparagraph at least thirty (30) days prior to
5 the date such a policy or certificate is issued
6 or delivered in this state;

7 16. "Index rate" means, for each class of business as to a
8 rating period for small employers with similar case characteristics,
9 the arithmetic average of the applicable base premium rate and the
10 corresponding highest premium rate;

11 17. "Late enrollee" means an eligible employee or dependent who
12 requests enrollment in a health benefit plan of a small employer
13 following the initial enrollment period during which the individual
14 is entitled to enroll under the terms of the health benefit plan,
15 provided that the initial enrollment period is a period of at least
16 thirty-one (31) days. However, an eligible employee or dependent
17 shall not be considered a late enrollee if:

18 a. the individual meets each of the following:

19 (1) the individual was covered under qualifying
20 previous coverage at the time of the initial
21 enrollment,

22 (2) the individual lost coverage under qualifying
23 previous coverage as a result of termination of

1 employment or eligibility, the involuntary
2 termination of the qualifying previous coverage,
3 death of a spouse or divorce, and

4 (3) the individual requests enrollment within thirty
5 (30) days after termination of the qualifying
6 previous coverage,

7 b. the individual is employed by an employer which offers
8 multiple health benefit plans and the individual
9 elects a different plan during an open enrollment
10 period, or

11 c. a court has ordered coverage be provided for a spouse
12 or minor or dependent child under a covered employee's
13 health benefit plan and request for enrollment is made
14 within thirty (30) days after issuance of the court
15 order;

16 18. "New business premium rate" means, for each class of
17 business as to a rating period, the lowest premium rate charged or
18 offered, or which could have been charged or offered, by the small
19 employer carrier to small employers with similar case
20 characteristics for newly issued health benefit plans with the same
21 or similar coverage;

22 19. "Plan of operation" means the plan of operation of the
23 program established pursuant to Section 6522 of this title;

1 20. "Premium" means all monies paid by a small employer and
2 eligible employees as a condition of receiving coverage from a small
3 employer carrier, including any fees or other contributions
4 associated with the health benefit plan;

5 21. "Program" means the Oklahoma Small Employer Health
6 Reinsurance Program created pursuant to Section 6522 of this title;

7 22. "Qualifying previous coverage" and "qualifying existing
8 coverage" mean benefits or coverage provided under:

- 9 a. Medicare or Medicaid,
- 10 b. an employer-based health insurance or health benefit
11 arrangement that provides benefits similar to or
12 exceeding benefits provided under the basic health
13 benefit plan, or
- 14 c. an individual health insurance policy, including
15 coverage issued by a health maintenance organization,
16 fraternal benefit society and those entities set forth
17 in Section 2501 et seq. of Title 63 of the Oklahoma
18 Statutes, that provides benefits similar to or
19 exceeding the benefits provided under the basic health
20 benefit plan, provided that such policy has been in
21 effect for a period of at least one (1) year;

1 23. "Rating period" means the calendar period for which premium
2 rates established by a small employer carrier are assumed to be in
3 effect;

4 24. "Reinsuring carrier" means a small employer carrier
5 participating in the reinsurance program pursuant to Section 6522 of
6 this title;

7 25. "Restricted network provision" means any provision of a
8 health benefit plan that conditions the payment of benefits, in
9 whole or in part, on the use of health care providers that have
10 entered into a contractual arrangement with the carrier pursuant to
11 Section 2501 et seq. of Title 63 of the Oklahoma Statutes to provide
12 health care services to covered individuals;

13 26. "Risk-assuming carrier" means a small employer carrier
14 whose application is approved by the Commissioner pursuant to
15 Section 6521 of this title;

16 27. "Small employer" means any person, firm, corporation,
17 partnership, limited liability company or association that is
18 actively engaged in business that, on at least fifty percent (50%)
19 of its working days during the preceding calendar quarter, employed
20 no more than fifty (50) eligible employees, the majority of whom
21 were employed within this state. In determining the number of
22 eligible employees, companies that are affiliated companies, or that

1 are eligible to file a combined tax return for purposes of state
2 income taxation, shall be considered one employer;

3 28. "Small employer carrier" means a carrier that offers health
4 benefit plans covering eligible employees of one or more small
5 employers in this state; and

6 29. "Standard health benefit plan" means the health benefit
7 plan adopted by the state for small employers.

8 SECTION 51. AMENDATORY 36 O.S. 2001, Section 6602, as
9 last amended by Section 16, Chapter 353, O.S.L. 2008 (36 O.S. Supp.
10 2008, Section 6602), is amended to read as follows:

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

12 1. "Commissioner" means the Insurance Commissioner;

13 2. "Consumer product" means tangible personal property
14 primarily used for personal, family, or household purposes;

15 3. "Department" means the Insurance Department;

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

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

21 6. "Impaired" means having liabilities in excess of assets;

22 7. "Indemnify" means to undertake repair or replacement of a
23 consumer product or a newly-constructed residential structure,

1 including any appliances, electrical, plumbing, heating, cooling or
2 air conditioning systems, in return for the payment of a segregated
3 premium, when the consumer product or residential structure becomes
4 defective or suffers operational failure;

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

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

21 (1) has been in continuous operation for ten (10)
22 years or more and has net assets in excess of
23 Five Hundred Million Dollars (\$500,000,000.00),

1 (2) submits a guarantee on a form ~~provided by~~
2 acceptable to the Insurance Commissioner ~~by rule~~
3 that contains a provision which requires that the
4 guarantee be irrevocable, unless the guaranteeing
5 organization can demonstrate to the
6 Commissioner's satisfaction that the cancellation
7 of the guarantee will not result in the net
8 assets of the service warranty association
9 falling below its minimum net asset requirement
10 and the Commissioner approves cancellation of the
11 guarantee,

12 (3) initially submits a statement from a certified
13 public accountant of the guaranteeing
14 organization attesting that the net assets of the
15 guaranteeing organization meets or exceeds the
16 net assets requirement as provided in division
17 (1) of this subparagraph and that the net assets
18 of the guaranteeing organization exceed the
19 amount of the receivable of the service warranty
20 association that is being guaranteed by the
21 guaranteeing organization, ~~and~~

22 (4) submits annually to the Commissioner, within
23 three (3) months after the end of its fiscal

1 year, with the annual statement required by
2 Section 6615 of this title, a statement from an
3 independent certified public accountant ~~of the~~
4 ~~guaranteeing organization~~ attesting that the net
5 assets of the guaranteeing organization meet or
6 exceed the net assets requirement as provided in
7 division (1) of this subparagraph and that the
8 net assets of the guaranteeing organization
9 exceed the amount of the receivable of the
10 service warranty association that is being
11 guaranteed by the guaranteeing organization, and
12 (5) the receivables are maintained as cash or as
13 marketable securities,

14 b. the business of any such association is being
15 conducted fraudulently, or

16 c. the association has knowingly overvalued its assets;

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

19 10. "Net assets" means the amount by which the total assets of
20 an association, excluding goodwill, franchises, customer lists,
21 patents or trademarks, and receivables from or advances to officers,
22 directors, employees, salesmen, and affiliated companies, exceed the
23 total liabilities of the association. For purposes of the Service

1 Warranty Insurance Act, the term "total liabilities" does not
2 include the capital stock, paid-in capital, or retained earning of
3 an association unless a written guaranty assures repayment and meets
4 the conditions specified in subparagraph a of paragraph 8 of this
5 section;

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

8 12. "Premium" means the total consideration received or to be
9 received, including sales commissions, by whatever name called, by a
10 service warranty association for, or related to, the issuance and
11 delivery of a service warranty, including any charges designated as
12 assessments or fees for membership, policy, survey, inspection, or
13 service or other charges. However, a repair charge is not a premium
14 unless it exceeds the usual and customary repair fee charged by the
15 association, provided the repair is made before the issuance and
16 delivery of the warranty;

17 13. "Sales representative" means any person utilized by an
18 insurer or service warranty association for the purpose of selling
19 or issuing service warranties and includes any individual possessing
20 a certificate of competency who has the power to legally obligate
21 the insurer or service warranty association or who merely acts as
22 the qualifying agent to qualify the association in instances when a

1 state statute or local ordinance requires a certificate of
2 competency to engage in a particular business;

3 14. "Service warranty" means a contract or agreement for a
4 separately stated consideration for a specific duration to perform
5 the repair or replacement of property or indemnification for repair
6 or replacement for the operational or structural failure due to a
7 defect or failure in materials or workmanship, with or without
8 additional provision for incidental payment of indemnity under
9 limited circumstances, including, but not limited to, failure due to
10 normal wear and tear, towing, rental and emergency road service,
11 road hazard, power surge, and accidental damage from handling or as
12 otherwise provided for in said contract or agreement; however:

- 13 a. maintenance service contracts under the terms of which
14 there are no provisions for such indemnification are
15 expressly excluded from this definition,
- 16 b. those contracts issued solely by the manufacturer,
17 distributor, importer or seller of the product, or any
18 affiliate or subsidiary of the foregoing entities,
19 whereby such entity has contractual liability
20 insurance in place, from an insurer licensed in the
21 state, which covers one hundred percent (100%) of the
22 claims exposure on all contracts written without being
23 predicated on the failure to perform under such

1 contracts, are expressly excluded from this
2 definition,
3 c. the term "service warranty" does not include service
4 contracts entered into between consumers and nonprofit
5 organizations or cooperatives the members of which
6 consist of condominium associations and condominium
7 owners, which contracts require the performance of
8 repairs and maintenance of appliances or maintenance
9 of the residential property,
10 d. the term "service warranty" does not include
11 warranties, guarantees, extended warranties, extended
12 guarantees, contract agreements or any other service
13 contracts issued by a company which performs at least
14 seventy percent (70%) of the service work itself and
15 not through subcontractors, which has been selling and
16 honoring such contracts in Oklahoma for at least
17 twenty (20) years, and
18 e. the term "service warranty" does not include
19 warranties, guarantees, extended warranties, extended
20 guarantees, contract agreements or any other service
21 contracts, whether or not such service contracts
22 otherwise meet the definition of service warranty,
23 issued by a company which has net assets in excess of

1 One Hundred Million Dollars (\$100,000,000.00). A
2 service warranty association may use the net assets of
3 a parent company to qualify under this section if the
4 net assets of the company issuing the policy total at
5 least Twenty-five Million Dollars (\$25,000,000.00) and
6 the parent company maintains net assets of at least
7 Seventy-five Million Dollars (\$75,000,000.00) not
8 including the net assets held by the service warranty
9 associations;

10 15. "Service warranty association" or "association" means any
11 person, other than an authorized insurer, contractually obligated to
12 a service contract holder under the terms of a service warranty;
13 provided, this term shall not mean any person engaged in the
14 business of erecting or otherwise constructing a new home;

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

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

1 SECTION 52. AMENDATORY 36 O.S. 2001, Section 6607, as
2 amended by Section 20, Chapter 353, O.S.L. 2008 (36 O.S. Supp. 2008,
3 Section 6607), is amended to read as follows:

4 Section 6607. A. An association licensed pursuant to the
5 Service Warranty Insurance Act shall maintain a funded, unearned
6 premium reserve account, consisting of unencumbered assets, equal to
7 a minimum of twenty-five percent (25%) of the gross written premiums
8 received on all warranty contracts in force, wherever written. In
9 the case of multiyear contracts which are offered by associations
10 having net assets of less than Five Hundred Thousand Dollars
11 (\$500,000.00) for which premiums are collected in advance for
12 coverage in a subsequent year, one hundred percent (100%) of the
13 premiums for such subsequent years shall be placed in the funded,
14 unearned premium reserve account. Additionally, an association
15 establishing such reserve account shall also place in trust with the
16 Insurance Commissioner a surety bond issued by an authorized surety
17 having a value of not less than five percent (5%) of the gross
18 premium received, less claims paid, on the sale of the service
19 warranties for all service contracts issued and in force in this
20 state, but in no event shall the bond be less than Twenty-five
21 Thousand Dollars (\$25,000.00).

22 B. An association shall not be required to establish an
23 unearned premium reserve ~~or demonstrate minimum net worth~~ if it has

1 purchased an insurance policy which demonstrates to the satisfaction
2 of the Insurance Commissioner that one hundred percent (100%) of its
3 claim exposure is covered by such policy and satisfies the
4 requirements of this section. The insurance shall be obtained from
5 an insurer that is licensed, registered, or otherwise authorized to
6 do business in this state, is a member of the Oklahoma Property and
7 Casualty Insurance Guaranty Association or the Oklahoma Life and
8 Health Insurance Guaranty Association and that meets the
9 requirements of subsection C of this section. For the purposes of
10 this subsection, the insurance policy shall contain the following
11 provisions:

12 1. In the event that the service warranty association is unable
13 to fulfill its obligation under contracts issued in this state for
14 any reason, including insolvency, bankruptcy, or dissolution, the
15 insurer will pay losses and unearned premiums under such plans
16 directly to the person making a claim under the contract;

17 2. The insurer issuing the insurance policy shall assume full
18 responsibility for the administration of claims in the event of the
19 inability of the association to do so; and

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

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

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

6 a. maintain surplus as to policyholders and paid-in
7 capital of at least Fifteen Million Dollars
8 (\$15,000,000.00), and

9 b. annually file copies of the audited financial
10 statements of the insurer, its NAIC Annual Statement,
11 and the actuarial certification required by and filed
12 in the state of domicile of the insurer; or

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

15 a. maintain surplus as to policyholders and paid-in
16 capital of less than Fifteen Million Dollars
17 (\$15,000,000.00) but at least equal to Ten Million
18 Dollars (\$10,000,000.00),

19 b. demonstrate to the satisfaction of the Commissioner
20 that the company maintains a ratio of net written
21 premiums, wherever written, to surplus as to
22 policyholders and paid-in capital of not greater than
23 three to one, and

1 c. annually file copies of the audited financial
2 statements of the insurer, its NAIC Annual Statement,
3 and the actuarial certification required by and filed
4 in the state of domicile of the insurer.

5 D. No warrantor or warranty seller shall allow its gross
6 written premiums to exceed seven to one ratio to net assets.

7 E. If the gross written premiums of a warrantor or a warranty
8 seller exceed the required net asset ratios, the Commissioner may
9 require, in addition to other measures as the Commissioner deems
10 necessary, any one or more of the following:

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

15 SECTION 53. AMENDATORY Section 11, Chapter 390, O.S.L.
16 2003 (36 O.S. Supp. 2008, Section 6810), is amended to read as
17 follows:

18 Section 6810. MEDICAL PROFESSIONAL LIABILITY INSURANCE CLOSED
19 CLAIM REPORTS

20 A. Sections 6810 through 6820 of this title shall be known and
21 may be cited as the "Medical Professional Liability Insurance Closed
22 Claim Reports Act"

1 5. "Companion claims" means separate claims involving the same
2 incident of medical malpractice made against other providers or
3 facilities;

4 6. "Economic damages" means objectively verifiable monetary
5 losses, including medical expenses, loss of earnings, burial costs,
6 loss of use of property, cost of replacement or repair, cost of
7 obtaining substitute domestic services, and loss of business or
8 employment opportunities;

9 7. "Health care facility" or "facility" means a clinic,
10 diagnostic center, hospital, laboratory, mental health center,
11 nursing home, office, surgical facility, treatment facility, or
12 similar place where a health care provider provides health care to
13 patients;

14 8. "Health care provider" or "provider" means:

15 a. a person licensed to provide health care or related
16 services, including an acupuncturist, doctor of
17 medicine or osteopathy, a dentist, a nurse, an
18 optometrist, a podiatric physician and surgeon, a
19 chiropractor, a physical therapist, a psychologist, a
20 pharmacist, an optician, a physician's assistant, a
21 midwife, an osteopathic physician's assistant, a nurse
22 practitioner, or a physician's trained mobile
23 intensive care paramedic. If the person is deceased,

1 this includes the estate or personal representative of
2 the person; or
3 b. an employee or agent of a person described in
4 subparagraph a of this paragraph, acting in the course
5 and scope of the employment of the employee. If the
6 employee or agent is deceased, this includes the
7 estate or personal representative of the employee;

8 9. "Insuring entity" means:

- 9 a. an authorized insurer,
- 10 b. a captive insurer,
- 11 c. a joint underwriting association,
- 12 d. a patient compensation fund,
- 13 e. a risk retention group, or
- 14 f. an unauthorized insurer that provides surplus lines
15 coverage;

16 10. "Medical malpractice" means an actual or alleged negligent
17 act, error, or omission in providing or failing to provide health
18 care services;

19 11. "Noneconomic damages" means subjective, nonmonetary losses,
20 including pain, suffering, inconvenience, mental anguish, disability
21 or disfigurement incurred by the injured party, emotional distress,
22 loss of society and companionship, loss of consortium, humiliation

1 and injury to reputation, and destruction of the parent-child
2 relationship; and

3 12. "Self-insurer" means any health care provider, facility, or
4 other individual or entity that assumes operational or financial
5 risk for claims of medical professional liability.

6 SECTION 54. AMENDATORY Section 12, Chapter 390, O.S.L.
7 2003 (36 O.S. Supp. 2008, Section 6811), is amended to read as
8 follows:

9 Section 6811. A. Not later than the tenth day after the last
10 day of the calendar quarter in which a claim for recovery under a
11 medical professional liability insurance policy is closed, the
12 insurer shall file with the Insurance Department a closed claim
13 report. These reports must include data for all claims closed in
14 the preceding calendar year and any adjustments to data reported in
15 prior years.

16 B. Any violation by an insurer of the Medical Professional
17 Liability Insurance Closed Claim Reports Act shall subject the
18 insurer to discipline including a civil penalty of not less than
19 Five Thousand Dollars (\$5,000.00).

20 C. Every insuring entity or self-insurer that provides medical
21 professional liability insurance to any facility or provider in this
22 state must report each medical professional liability closed claim
23 to the Insurance Commissioner.

1 D. A closed claim that is covered under a primary policy and
2 one or more excess policies shall be reported only by the insuring
3 entity that issued the primary policy. The insuring entity that
4 issued the primary policy shall report the total amount, if any,
5 paid with respect to the closed claim, including any amount paid
6 under an excess policy, any amount paid by the facility or provider,
7 and any amount paid by any other person on behalf of the facility or
8 provider.

9 E. If a claim is not covered by an insuring entity or self-
10 insurer, the facility or provider named in the claim must report it
11 to the Commissioner after a final claim disposition has occurred due
12 to a court proceeding or a settlement by the parties. Instances in
13 which a claim may not be covered by an insuring entity or self-
14 insurer include situations in which:

15 1. The facility or provider did not buy insurance or maintained
16 a self-insured retention that was larger than the final judgment or
17 settlement;

18 2. The claim was denied by an insuring entity or self-insurer
19 because it did not fall within the scope of the insurance coverage
20 agreement; or

21 3. The annual aggregate coverage limits had been exhausted by
22 other claim payments.

1 F. If a claim is covered by an insuring entity or self-insurer
2 that fails to report the claim to the Commissioner, the facility or
3 provider named in the claim must report it to the Commissioner after
4 a final claim disposition has occurred due to a court proceeding or
5 a settlement by the parties.

6 1. If a facility or provider is insured by a risk retention
7 group and the risk retention group refuses to report closed claims
8 and asserts that the federal liability risk retention act (95 Stat.
9 949; 15 U.S.C. Sec. 3901 et seq.) preempts state law, the facility
10 or provider must report all data required by the Medical
11 Professional Liability Insurance Closed Claim Reports Act on behalf
12 of the risk retention group.

13 2. If a facility or provider is insured by an unauthorized
14 insurer and the unauthorized insurer refuses to report closed claims
15 and asserts a federal exemption or other jurisdictional preemption,
16 the facility or provider must report all data required by the
17 Medical Professional Liability Insurance Closed Claim Reports Act on
18 behalf of the unauthorized insurer.

19 3. If a facility or provider is insured by a captive insurer
20 and the captive insurer refuses to report closed claims and asserts
21 a federal exemption or other jurisdictional preemption, the facility
22 or provider must report all data required by the Medical

1 Professional Liability Insurance Closed Claim Reports Act on behalf
2 of the captive insurer.

3 SECTION 55. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6812.1 of Title 36, unless there
5 is created a duplication in numbering, reads as follows:

6 Reports required under Section 6811 of this title must contain
7 the following information in a format and coding protocol prescribed
8 by the Insurance Commissioner. To the greatest extent possible
9 while still fulfilling the purposes of the Medical Professional
10 Liability Insurance Closed Claim Reports Act, the format and coding
11 protocol shall be consistent with the format and coding protocol for
12 data reported to the National Practitioner Data Bank.

13 1. Claim and incident identifiers, including:

14 a. a claim identifier assigned to the claim by the
15 insuring entity, self-insurer, facility, or provider,
16 and

17 b. an incident identifier if companion claims have been
18 made by a claimant;

19 2. The policy limits of the medical professional liability
20 insurance policy covering the claim;

21 3. The medical specialty of the provider who was primarily
22 responsible for the medical malpractice incident that led to the
23 claim;

- 1 4. The type of health care facility where the medical
2 malpractice incident occurred;
- 3 5. The primary location within a facility where the medical
4 malpractice incident occurred;
- 5 6. The geographic location, by city and county, where the
6 medical malpractice incident occurred;
- 7 7. The sex and age of the injured person on the incident date;
- 8 8. The severity of malpractice injury using the National
9 Practitioner Data Bank severity scale;
- 10 9. The dates of:
- 11 a. the earliest act or omission by the defendant that was
12 the proximate cause of the claim,
- 13 b. notice to the insuring entity, self-insurer, facility,
14 or provider,
- 15 c. suit, if a suit was filed,
- 16 d. final indemnity payment, if any, and
- 17 e. final action by the insuring entity, self-insurer,
18 facility, or provider to close the claim;
- 19 10. Settlement information that identifies the timing and final
20 method of claim disposition, including:
- 21 a. claims settled by the parties,
- 22 b. claims disposed of by a court, including the date
23 disposed,

1 settlement, the insuring entity's or self-
2 insurer's best estimate of noneconomic damages
3 included in the settlement,

4 (3) the insuring entity's or self-insurer's best
5 estimate of noneconomic damages included in the
6 settlement, and

7 (4) defense and cost containment expenses, including
8 court costs, attorney fees, and costs of expert
9 witnesses;

10 12. The reason for the medical professional liability claim.
11 The reporting entity must use the same allegation group and specific
12 allegation codes that are used for mandatory reporting to the
13 National Practitioner Data Bank; and

14 13. Any other closed claim data the Commissioner determines to
15 be necessary to accomplish the purpose of the Medical Professional
16 Liability Insurance Closed Claim Reports Act and requires by rule.

17 SECTION 56. AMENDATORY 59 O.S. 2001, Section 1306, as
18 last amended by Section 1, Chapter 135, O.S.L. 2006 (59 O.S. Supp.
19 2008, Section 1306), is amended to read as follows:

20 Section 1306. A. 1. An applicant for a cash bondsman license
21 shall meet all requirements set forth in Section 1305 of this title
22 with exception of residence.

1 2. In addition to the requirements prescribed in Section 1305
2 of this title, an applicant for a professional bondsman license
3 shall submit to the Insurance Commissioner financial statements
4 prepared by an accounting firm or individual holding a permit to
5 practice public accounting in this state in accordance with
6 generally accepted principles of accounting procedures setting forth
7 the total assets of the bondsman less liabilities and debts as
8 follows: For all applications made prior to ~~the effective date of~~
9 ~~this act~~ November 1, 2006, and the subsequent renewals of a license
10 issued upon such application when continuously maintained in effect
11 as required by law, the statement shall show a net worth of at least
12 Fifty Thousand Dollars (\$50,000.00). For all applications made on
13 and after ~~the effective date of this act~~ November 1, 2006, and the
14 subsequent renewals of a license issued upon such application when
15 continuously maintained in effect as required by law, or for the
16 renewal or reinstatement of any license that is expired pursuant to
17 subsection D of Section 1309 of this title, suspended or revoked,
18 the statement shall show a net worth of at least One Hundred Fifty
19 Thousand Dollars (\$150,000.00), said statements to be current as of
20 a date not earlier than ninety (90) days prior to submission of the
21 application and the statement shall be attested to by an unqualified
22 opinion of the accountant.

1 3. Professional bondsman applicants shall make a deposit with
2 the Insurance Commissioner in the same manner as required of
3 domestic insurance companies of an amount to be determined by the
4 Commissioner. For all applications made prior to ~~the effective date~~
5 ~~of this act~~ November 1, 2006, and the subsequent renewals of a
6 license issued upon such application when continuously maintained in
7 effect as required by law, the deposit shall not be less than Twenty
8 Thousand Dollars (\$20,000.00). For all applications made on and
9 after ~~the effective date of this act~~ November 1, 2006, and the
10 subsequent renewals of a license issued upon such application when
11 continuously maintained in effect as required by law, or for the
12 renewal or reinstatement of any license that is expired pursuant to
13 subsection D of Section 1309 of this title, suspended or revoked,
14 the deposit shall not be less than Fifty Thousand Dollars
15 (\$50,000.00). Such deposits shall be subject to all laws, rules and
16 regulations as deposits by domestic insurance companies but in no
17 instance shall a professional bondsman write bonds which equal more
18 than ten times the amount of the deposit which such bondsman has
19 submitted to the Commissioner. Such deposit shall require the
20 review and approval of the Insurance Commissioner prior to exceeding
21 the maximum amount of Federal Deposit Insurance Corporation basic
22 deposit coverage for any one bank or financial institution. In
23 addition, a professional bondsman may make the deposit by purchasing

1 an annuity through a licensed domestic insurance company in the
2 State of Oklahoma. The annuity shall be in the name of the bondsman
3 as owner with legal assignment to the Insurance Commissioner. The
4 assignment form shall be approved by the Commissioner. If a
5 bondsman exceeds the above limitation, the bondsman shall be
6 notified by the Commissioner by mail with return receipt requested
7 that the excess shall be reduced or the deposit increased within ten
8 (10) days of notification, or the license of the bondsman shall be
9 suspended immediately after the ten-day period, pending a hearing on
10 the matter.

11 4. The deposit herein provided for shall constitute a reserve
12 available to meet sums due on forfeiture of any bonds or
13 recognizance executed by such bondsman.

14 5. Any deposit made by a professional bondsman pursuant to this
15 section shall be released and returned by the Commissioner to the
16 professional bondsman only upon extinguishment of all liability on
17 outstanding bonds.

18 6. No release of deposits to a professional bondsman shall be
19 made by the Commissioner except upon written application and the
20 written order of the Commissioner. The Commissioner shall have no
21 liability for any such release to a professional bondsman provided
22 the release was made in good faith.

1 B. The deposit provided in this section shall be held in
2 safekeeping by the Insurance Commissioner and shall only be used if
3 a bondsman fails to pay an order and judgment of forfeiture after
4 being properly notified or shall be used if the license of a
5 professional bondsman has been revoked. The deposit shall be held
6 in the name of the Insurance Commissioner and the bondsman. The
7 bondsman shall execute an assignment of the deposit to the Insurance
8 Commissioner for the payment of unpaid bond forfeitures.

9 C. Currently licensed professional bondsmen may maintain their
10 aggregate liability limits upon presentation of documented proof
11 that they have previously been granted a limitation greater than the
12 requirements of subsection A of this section.

13 D. Notwithstanding any other provision of Section 1301 et seq.
14 of this title, the license of a professional bondsman is
15 transferable upon the death or legal or physical incapacitation of
16 the bondsman to the bondsman's spouse, or to such other transferee
17 as the professional bondsman may designate in writing, and the
18 transferee may elect to act as a professional bondsman until the
19 expiration of the license or for a period of one hundred eighty
20 (180) days, whichever is greater, if the following conditions are
21 met:

22 1. The transferee must hold a valid license as a surety
23 bondsman in this state; and

1 2. The asset and deposit requirements set forth in this section
2 continue to be met.

3 SECTION 57. AMENDATORY 59 O.S. 2001, Section 1316, as
4 last amended by Section 28, Chapter 184, O.S.L. 2008 (59 O.S. Supp.
5 2008, Section 1316), is amended to read as follows:

6 Section 1316. A. 1. A bail bondsman shall neither sign nor
7 countersign in blank any bond, nor shall the bondsman give a power
8 of attorney to, or otherwise authorize, anyone to countersign his or
9 her name to bonds unless the person so authorized is a licensed
10 surety bondsman or managing general agent directly employed by a
11 licensed professional bondsman giving such power of attorney. The
12 professional bondsman shall submit to the Insurance Commissioner the
13 agreement between the professional bondsman and the employed
14 bondsman. The agreement shall be submitted to the Commissioner
15 prior to the employed bondsman writing bonds on behalf of the
16 professional. The professional bondsman shall notify the
17 Commissioner whenever any agreement is canceled. If the bondsman
18 surrenders the professional qualification, or the professional
19 qualification is suspended or revoked, then the Commissioner shall
20 suspend the appointment of all of the professional bondsman's bail
21 agents. The Commissioner shall immediately notify any bail agent
22 whose license is affected and the court clerk of the agent's
23 resident county upon such suspension or revocation of the

1 professional bondsman's qualification. If the professional
2 qualification is reinstated within twenty-four (24) hours, the
3 Commissioner shall not be required to suspend the bail agent
4 appointments. If the Commissioner reinstates the professional
5 qualification within twenty-four (24) hours, the Commissioner shall
6 also reinstate the appointment of the professional bondsman's bail
7 agents. If more than twenty-four (24) hours elapse following the
8 suspension or revocation, then the professional bondsman shall
9 submit new agent appointments to the Commissioner.

10 2. Bail bondsmen shall not allow other licensed bondsmen to
11 present bonds that have previously been signed and completed by
12 ~~other licensed bondsmen unless a written authorization is on file~~
13 ~~with the court clerk where the bond is filed.~~ The individual that
14 presents the bond shall sign the form in the presence of the
15 official that receives the bond.

16 B. Premium charged must be indicated on the appearance bond
17 prior to the filing of the bond.

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

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

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

4 SECTION 58. REPEALER 36 O.S. 2001, Section 1425.5, is
5 hereby repealed.

6 SECTION 59. REPEALER 36 O.S. 2001, Section 6204, is
7 hereby repealed.

8 SECTION 60. REPEALER Section 13, Chapter 390, O.S.L.
9 2003, as amended by Section 71, Chapter 264, O.S.L. 2006 (36 O.S.
10 Supp. 2008, Section 6812), is hereby repealed.

11 SECTION 61. This act shall become effective November 1, 2009.

12 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated
13 2-19-09 - DO PASS, As Amended and Coauthored.