

SB 1658

THE STATE SENATE
Tuesday, February 16, 2010

Senate Bill No. 1658
As Amended

SENATE BILL NO. 1658 - By: Myers of the Senate and Sullivan of the House.

[Insurance Commissioner and the Insurance Department - insurance and fees collected - non-appropriated agency - effective date - emergency]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 301.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby declares its intent that beginning July 1, 2010, the Insurance Department shall be a non-appropriated agency of the State of Oklahoma.

B. Beginning July 1, 2010, the Insurance Commissioner shall have the authority to establish, set, amend, revoke and collect any fee falling within the authority of the Commissioner or Department through the promulgation of necessary rules.

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

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

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

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

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

22 2. The revolving fund shall be a continuing fund, not subject
23 to fiscal year limitations. Expenditures from the revolving fund

1 shall be made pursuant to the laws of this state and the statutes
2 relating to the Insurance Department, and without legislative
3 appropriation. Warrants for expenditures from the revolving fund
4 shall be drawn by the State Treasurer, based on claims signed by an
5 authorized employee or employees of the Insurance Department and
6 filed with the Director of State Finance.

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

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

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

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

6 1. For filing charter documents:

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

12 2. Certificate of Authority:

13 (a) Issuance:

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

16 Hospital service and medical
17 indemnity corporations, alien
18 or foreign.....\$150.00

19 All other alien or foreign
20 insurers.....\$150.00

21 (b) Renewal:

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

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

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

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

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

6 SECTION 4. AMENDATORY 36 O.S. 2001, Section 348.1, as
7 last amended by Section 5, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
8 2009, Section 348.1), is amended to read as follows:

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

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

16 a. Application fee for issuance of
17 license.....\$200.00

18 b. License fee.....\$500.00

19 2. Miscellaneous:

20 a. Certificate of Insurance Commissioner,
21 under seal.....\$ 20.00

22 b. Upon each transaction of filing of
23 documents required pursuant to the

1 provisions of Sections 3610 and 6601 of
2 this title:

3 (1) For an individual insurer.....\$ 50.00

4 (2) For an approved joint underwriting
5 association, or rating or advisory
6 organization:

7 (a) Basic fee.....\$ 50.00

8 (b) Additional fee for each member
9 or subscriber insurer.....\$ 10.00,
10 not to exceed.....\$500.00.

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

13 a. For an individual insurer.....\$100.00

14 b. For an approved joint underwriting
15 association, rating or advisory
16 organization:

17 (1) Basic fee.....\$100.00

18 (2) Additional fee for each member
19 or subscriber insurer.....\$ 10.00,
20 not to exceed.....\$500.00.

21 B. The fees, licenses, and taxes imposed by the Commissioner
22 upon persons, firms, associations, or corporations licensed pursuant
23 to this section shall be payment in full with respect thereto of and

1 in lieu of all demands for any and all state, county, district, and
2 municipal license fees, license taxes, business privilege taxes,
3 business privilege fees, and charges of every kind now or hereafter
4 imposed upon all such persons, firms, associations, or corporations.
5 This subsection shall not affect other fees, licenses and taxes
6 imposed by the Insurance Code.

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

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

13 Section 362. ~~An~~ Unless the Insurance Commissioner has set forth
14 a fee as provided for in this subsection through the promulgation of
15 a rule, an annual fee of Seven Hundred Fifty Dollars (\$750.00) shall
16 be paid to the ~~Insurance~~ Commissioner to be expended by the
17 ~~Insurance~~ Commissioner for the purposes of investigation of
18 suspected insurance fraud and civil or administrative action in
19 cases involving suspected insurance fraud. The following shall pay
20 an annual fee of Seven Hundred Fifty Dollars (\$750.00) to the
21 Insurance Department which shall be payable quarterly in the amount
22 of One Hundred Eighty-seven Dollars and fifty cents (\$187.50):
23 Life, accident and health insurers; property and casualty insurers;

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

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

21 Section 622. A. Triplicate copies of legal process against an
22 insurer for whom the Insurance Commissioner is agent shall be served
23 upon the Commissioner at the principal offices of the Insurance

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

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

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

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

- 1 1. a. nonprofit,
- 2 b. (1) established by a trade association, industry
- 3 association or professional association of
- 4 employers or professionals that has a
- 5 constitution or bylaws and that has been
- 6 organized and maintained in good faith for a
- 7 continuous period of five (5) years for purposes
- 8 other than that of obtaining or providing
- 9 insurance, or
- 10 (2) requires membership in an association described
- 11 in division (1) of this subparagraph in order to
- 12 obtain the insurance offered by the MEWA,
- 13 c. operated pursuant to a trust agreement by a board of
- 14 trustees that has complete fiscal control over the
- 15 MEWA and that is responsible for all operations of the
- 16 MEWA. Except as provided in this paragraph, the
- 17 trustees ~~must~~ shall:
- 18 (1) be owners, shareholders, partners, officers,
- 19 directors, or employees of one or more employers
- 20 in the MEWA. With the Insurance Commissioner's
- 21 approval, a person who is not such an owner,
- 22 shareholder, partner, officer, director, or
- 23 employee may serve as a trustee if that person

1 possesses the expertise required for ~~such~~ the
2 service. A trustee may not be an owner,
3 shareholder, partner, officer or employee of the
4 administrator or service company of the MEWA,
5 (2) have the authority to approve applications of
6 association members for participation in the
7 MEWA, and
8 (3) have the authority to contract with an authorized
9 administrator or service company to administer
10 the operations of the MEWA,
11 d. neither offered nor advertised to the public
12 generally,
13 e. operated in accordance with sound actuarial
14 principles, and
15 f. offered only after Two Hundred Thousand Dollars
16 (\$200,000.00) of cash or federally guaranteed
17 obligations of less than five-year maturity that have
18 a fixed or recoverable principal amount or ~~such~~ other
19 investments as the Commissioner may authorize by rule
20 is titled in ~~such~~ a manner that it may not be traded,
21 sold or otherwise expended without the consent of the
22 Insurance Commissioner; provided, ~~said~~ the funds shall
23 be taken into account in determining whether the MEWA

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

- 1 (1) for the benefit of individuals who receive
2 medical, dental or similar benefits from the
3 MEWA, or
- 4 (2) for the expenses of the MEWA, such as the fees of
5 the trustee, licensed agents, administrator,
6 service company, and all expenses of complying
7 with the provisions of ~~this act~~ Sections 633
8 through 650 of this title,
- 9 c. offered only to employers for the benefit of their
10 employees,
- 11 d. operated in accordance with sound actuarial
12 principles, and
- 13 e. offered only after Two Hundred Thousand Dollars
14 (\$200,000.00) of cash or federally guaranteed
15 obligations of less than five-year maturity that have
16 a fixed or recoverable principal amount or such other
17 investments as the Commissioner may authorize by rule
18 is titled in ~~such~~ a manner that it may not be traded,
19 sold or otherwise expended without the consent of the
20 Insurance Commissioner; provided, ~~said~~ the funds shall
21 be taken into account in determining whether the MEWA
22 is actuarially sound, and evidence of ~~said~~ the
23 investment shall be filed with the State Treasurer.

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

19 2. If applicable, the same documents shall contain in boldface
20 type on the face page of the policy and the certificate: "THE
21 BENEFITS AND COVERAGE DESCRIBED HEREIN ARE FUNDED BY CONTRIBUTIONS
22 FROM EMPLOYERS, EMPLOYEES, AND OTHER INDIVIDUALS ELIGIBLE FOR
23 COVERAGE."

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

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

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

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

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

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

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

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

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

12 SECTION 8. AMENDATORY 36 O.S. 2001, Section 1219.4, as
13 last amended by Section 23, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
14 2009, Section 1219.4), is amended to read as follows:

15 Section 1219.4 A. As used in this section:

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

21 2. "Discount card" means a card or any other purchasing
22 mechanism or device, which is not insurance, that purports to offer

1 discounts or access to discounts in health-related purchases from
2 health care providers;

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

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

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

21 6. "Health care provider network" means an entity which
22 directly contracts with physicians and hospitals and has contractual
23 rights to negotiate on behalf of those health care providers with a

1 discount medical plan organization to provide medical services to
2 members of the discount medical plan organization;

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

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

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

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

21 B. 1. Before doing business in this state as a discount
22 medical plan organization, an entity shall be a corporation, limited
23 liability corporation, partnership, limited liability partnership or

1 other legal entity, organized under the laws of this state or, if a
2 foreign entity, authorized to transact business in this state, and
3 shall be registered as a discount medical plan organization with the
4 Insurance Department of the State of Oklahoma or be licensed by the
5 Insurance Department of the State of Oklahoma as a licensed
6 insurance company, licensed HMO, licensed group health service
7 organization or motor service club.

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

12 a. file with the Insurance Department of the State of
13 Oklahoma an application on the form that the Insurance
14 Commissioner requires, and

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

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

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

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

- 1 a. otherwise is entitled to be registered,
- 2 b. files with the Department a renewal application on the
- 3 form that the Insurance Commissioner requires, and
- 4 c. pays to the Department a renewal fee of Two Hundred
- 5 Fifty Dollars (\$250.00).

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

- 10 a. makes a material misstatement or misrepresentation in
- 11 an application for registration,
- 12 b. fraudulently or deceptively obtains or attempts to
- 13 obtain a registration for the applicant or registrant
- 14 or for another,
- 15 c. in connection with the administration of a health care
- 16 discount program, commits fraud or engages in illegal
- 17 or dishonest activities, or
- 18 d. has violated any provisions of this section.

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

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

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

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

11 b. ~~An~~ Unless the Insurance Commissioner has set forth a
12 fee as provided for in this subparagraph through the
13 promulgation of a rule, an affiliate shall register as
14 a discount medical plan organization on a form
15 prescribed by the Insurance Commissioner prior to the
16 sale, marketing or solicitation of a discount medical
17 plan and pay an application fee of One Hundred Dollars
18 (\$100.00).

19 c. A registration shall expire one (1) year after the
20 date of registration, and each year on that date
21 thereafter. A Unless the Insurance Commissioner has
22 set forth a fee as provided for in this subparagraph
23 through the promulgation of a rule, a registrant may

1 renew the registration if the registrant pays an
2 annual registration fee of One Hundred Dollars
3 (\$100.00) and remains in good standing with the
4 Insurance Department of the State of 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~~ the services pursuant to
3 a 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 subsection G of this section, shall first be filed
17 with the Department. Every form filed shall be identified by a
18 unique form number placed in the lower left corner of each form. ~~A~~
19 Unless the Insurance Commissioner has set forth a fee as provided
20 for in this paragraph through the promulgation of a rule, a filing
21 fee of Twenty-five Dollars (\$25.00) per form shall be payable to the
22 Insurance Department of the State of Oklahoma ~~for deposit into the~~
23 ~~General Revenue Fund.~~

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

5 2. The Insurance Department of the State of Oklahoma may not
6 allow a registration unless the discount medical plan organization
7 has a net worth of at least One Hundred Fifty Thousand Dollars
8 (\$150,000.00).

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

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

- 1 d. the organization is not fulfilling its obligations as
2 a discount medical plan organization, or
3 e. the continued operation of the organization would be
4 hazardous to its members.

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

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

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

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

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

15 L. Each discount medical plan organization shall maintain an
16 up-to-date list of the names and addresses of the providers with
17 which it has contracted on an Internet web site page, the address of
18 which shall be prominently displayed on all its advertisements,
19 marketing materials, brochures, and discount cards. This section
20 applies to those providers with whom the discount medical plan
21 organization has contracted directly, as well as those who are
22 members of a provider network with which the discount medical plan
23 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~~ the revocation or
18 suspension, may impose a fine upon the discount medical plan
19 organization in an amount not to exceed One Thousand Dollars
20 (\$1,000.00) per violation.

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

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

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

- 11 1. For filing appointment of Insurance
12 Commissioner as agent for service of process..... \$ 20.00
- 13 2. Miscellaneous:
 - 14 a. Certificate and Clearance of
15 Commissioner..... \$ 3.00
 - 16 b. Insurance producer's study manual:
 - 17 Life, Accident & Health..... not to exceed
18 \$ 40.00
 - 19 Property and Casualty..... not to exceed
20 \$ 40.00
 - 21 c. For filing organizational documents of
22 an entity applying for a license as an
23 insurance producer..... \$ 20.00

1 j. Insurance producer's provisional license \$ 20.00

2 5. Biennial fee for each appointed insurance

3 producer, managing general agent, or limited

4 lines producer by insurer, each license of

5 each insurance producer or representative \$55.00

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

7 current initial license fee.

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

9 fee of an original license.

10 8. The renewal of a license shall require a fee of double the

11 current original license fee if the application for renewal is late,

12 or incomplete on the renewal deadline.

13 9. The administrative fee for submission of a change of legal

14 name or address more than thirty (30) days after the change occurred

15 shall be Fifty Dollars (\$50.00).

16 B. If for any reason an insurance producer license or

17 appointment is not issued or renewed by the Commissioner, all fees

18 accompanying the appointment or application for the license shall be

19 deemed earned and shall not be refundable except as provided in

20 Section 352 of this title.

21 C. The Insurance Commissioner, by order, may waive licensing

22 fees in extraordinary circumstances for a class of producers where

23 the Commissioner deems that the public interest will be best served.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 4. The Insurance Department may promulgate rules providing that
10 courses or programs offered by professional associations shall
11 qualify for presumptive continuing education credit approval. The
12 rules shall include standardized criteria for reviewing the
13 professional associations' mission, membership, and other relevant
14 information, and shall provide a procedure for the Department to
15 disallow all or part of a presumptively approved course.

16 Professional association courses approved in accordance with this
17 paragraph shall be reviewed every three (3) years to determine
18 whether they continue to qualify for continuing education credit.

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

1 Commissioner, or designee of the Commissioner, and appropriate
2 written evidence acceptable to the Commissioner of ~~such~~ the active
3 membership in the organization or association.

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

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

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

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

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

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

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

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

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

1 substantially similar provisions as are contained in the Third-party
2 Administrator Act to that administrator, then that omission shall
3 not operate to disqualify the administrator from receiving a
4 nonresident administrator license in this state.

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

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

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

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

1 the application is denied or refused for any reason by either the
2 applicant or the Commissioner.

3 E. The administrator's license shall continue in force no
4 longer than twelve (12) months from the original month of issuance.
5 ~~Upon~~ Unless the Commissioner has set forth a fee as provided for in
6 this subsection through the promulgation of a rule, upon filing a
7 renewal form prescribed by the Commissioner, accompanied by a fee of
8 One Hundred Dollars (\$100.00), the license may be renewed annually
9 for a one-year term. Late application for renewal of a license
10 shall require a fee of double the amount of the original license
11 fee. The administrator shall submit, together with the application
12 for renewal, a list of the names and addresses of the persons with
13 whom the administrator has contracted in accordance with Section
14 1443 of this title. The Commissioner shall hold this information
15 confidential except as provided in Section 1443 of this title.

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

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

10 H. Any person who is acting as or presenting himself or herself
11 to be an administrator without a valid license shall be subject,
12 upon conviction, to a fine of not less than One Thousand Dollars
13 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each
14 occurrence. This fine shall be in addition to any other penalties
15 which may be imposed for violations of the Oklahoma Insurance Code
16 or other laws of this state.

17 I. Except as provided for in subsections F and G of this
18 section, any person convicted of violating any provisions of the
19 Third-party Administrator Act shall be guilty of a misdemeanor and
20 shall be subject to a fine of not more than One Thousand Dollars
21 (\$1,000.00).

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

4 Section 1661. ~~The~~ Unless the Insurance Commissioner has set
5 forth a fee as provided for in this section through the promulgation
6 of a rule, the initial fee for registration required by the
7 provisions of Section 1654 of this title shall be Two Hundred Fifty
8 Dollars (\$250.00) and an additional fee of One Hundred Dollars
9 (\$100.00) shall be payable on May 1 of each calendar year thereafter
10 so long as such registration continues.

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

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

1 all breaches of the conditions of the bond and for the payment of
2 all fines and penalties shall, in no event, exceed the amount of
3 ~~said~~ the bond.

4 B. No Certificate of Authority shall be issued by the
5 Commissioner until the company has filed with ~~him~~ the Commissioner
6 the following:

- 7 1. A formal application for the certificate in ~~such~~ the form
8 and detail as the Commissioner requires, executed under oath by its
9 president or another principal officer of the company;
- 10 2. A certified copy of its charter or articles of incorporation
11 and its bylaws, if any;
- 12 3. A certificate from the Secretary of State, State of
13 Oklahoma, in the event that it is a domestic corporation, signifying
14 that the company is in compliance with the corporation laws of the
15 State of Oklahoma;
- 16 4. A copy of its latest financial statement, or report of
17 independent audit, as the Commissioner may require; or, in the event
18 that neither is available, its most recent audited and certified
19 operating statement and balance sheet. Any ~~such~~ certified operating
20 statement, audit or audited and certified operating statement and
21 balance sheet shall be verified by the person compiling or making
22 the same and by an executive officer of the applicant;

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

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

- 8 a. its application for membership,
- 9 b. the proposed membership certificate or identification
10 card and any proposed addendum thereto,
- 11 c. any individual insurance policy and any group master
12 policy and individual certificates thereunder to be
13 offered, and
- 14 d. any service contract to be issued; and

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

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

- 21 1. Paid an initial filing fee of Two Hundred Fifty Dollars
22 (\$250.00) ~~to the General Fund of the State of Oklahoma;~~

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

3 3. Had its name approved by the Commissioner under the
4 provisions of ~~Title 36 of the Oklahoma Statutes, Sections 620 and~~
5 ~~2104~~ Sections 620 and 2104 of this title, the provisions of which
6 are hereby made applicable to motor clubs;

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

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

15 D. Certificates of Authority issued hereunder shall expire
16 annually on July 1, unless sooner revoked or suspended, as
17 hereinafter provided.

18 SECTION 14. AMENDATORY Section 3, Chapter 183, O.S.L.
19 2008, as amended by Section 3, Chapter 344, O.S.L. 2009 (36 O.S.
20 Supp. 2009, Section 4055.3), is amended to read as follows:

21 Section 4055.3 A. 1. A person shall not operate as a viatical
22 settlement provider or viatical settlement broker without first

1 obtaining a license from the Insurance Commissioner of the state of
2 residence of the viator.

- 3 2. a. A life insurance producer who has been duly licensed
4 as a resident insurance producer with a life line of
5 authority in this state or his or her home state for
6 at least one (1) year and is licensed as a nonresident
7 producer in this state shall be deemed to meet the
8 licensing requirements of this section and shall be
9 permitted to operate as a viatical settlement broker.
- 10 b. Not later than thirty (30) days from the first day of
11 operating as a viatical settlement broker, the life
12 insurance producer shall notify the Commissioner that
13 he or she is acting as a viatical settlement broker on
14 a form prescribed by the Commissioner, and shall pay
15 any applicable fee to be determined by the
16 Commissioner. Notification shall include an
17 acknowledgement by the life insurance producer that he
18 or she will operate as a viatical settlement broker in
19 accordance with the Viatical Settlements Act of 2008.
- 20 c. The insurer that issued the policy being viaticated
21 shall not be responsible for any act or omission of a
22 viatical settlement broker or viatical settlement
23 provider arising out of or in connection with the

1 viatical settlement transaction, unless the insurer
2 receives compensation for the placement of a viatical
3 settlement contract from the viatical settlement
4 provider or viatical settlement broker in connection
5 with the viatical settlement contract.

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

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

19 C. ~~Licenses~~ Unless the Commissioner has set forth a fee as
20 provided for in this subsection through the promulgation of a rule,
21 licenses may be renewed from year to year on the anniversary date
22 upon payment of the annual renewal fees of Five Hundred Dollars

1 (\$500.00). Failure to pay the fees by the renewal date results in
2 expiration of the license.

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

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

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

21 1. If a viatical settlement provider, has provided a detailed
22 plan of operation;

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

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

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

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

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

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

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

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

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

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

10 SECTION 15. AMENDATORY 36 O.S. 2001, Section 6124, as
11 last amended by Section 3, Chapter 294, O.S.L. 2009 (36 O.S. Supp.
12 2009, Section 6124), is amended to read as follows:

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

22 1. The receipt of the application and payment of the filing
23 fee;

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

20 B. The Insurance Commissioner may cancel a permit or refuse to
21 issue a permit or refuse to issue a renewal of a permit for failure
22 to comply with any provision of ~~this act~~ Sections 6121 through
23 6136.18 of this title, or any valid rule, which the Insurance

1 Commissioner has promulgated, after reasonable notice to the
2 organization and after hearing if the organization requests a
3 hearing. When the Insurance Commissioner cancels a permit or
4 refuses to issue a renewal of a permit for a violation as provided
5 by this subsection, the Insurance Commissioner shall notify the
6 Oklahoma Funeral Board of the action and the nature of any
7 violations.

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

14 D. Any person or organization aggrieved by the actions of the
15 Insurance Commissioner may appeal therefrom as provided by Article
16 II of the Administrative Procedures Act.

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

19 Section 6128. Each organization shall file an annual report
20 with the Insurance Commissioner on or before March 15 of each year
21 in such form as the Insurance Commissioner may require, showing the
22 names and addresses of all persons with whom contracts for prepaid
23 funeral benefits have been made prior to December 31 of the

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

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

21 Section 6144. A. An application for a certificate of authority
22 to operate as a prepaid dental plan organization shall be filed with
23 the Insurance Commissioner in a form prescribed by the Commissioner.

1 The application shall be verified by an officer or authorized
2 representative of the applicant, and shall set forth or be
3 accompanied by:

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

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

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

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

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

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

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

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

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

22 10. A Unless the Commissioner has set forth a fee as provided
23 for in this subsection through the promulgation of a rule, a fee of

1 One Hundred Dollars (\$100.00) for issuance of a certificate of
2 authority; and

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

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

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

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

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

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

21 3. Each officer, responsible for conducting the business
22 affairs of the prepaid dental plan organization, has filed with the
23 Commissioner a fidelity bond in the amount of Fifty Thousand Dollars

1 (\$50,000.00), ~~said~~ the bond to be subject to the approval of the
2 Commissioner; and

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

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

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

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

4 SECTION 19. AMENDATORY 36 O.S. 2001, Section 6209, as
5 amended by Section 45, Chapter 179, O.S.L. 2009 (36 O.S. Supp. 2009,
6 Section 6209), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

21 Section 6212. A. The Insurance Unless the Insurance
22 Commissioner has set forth a fee as provided for in this subsection
23 through the promulgation of a rule, the Commissioner or an

1 administrator approved by the ~~Insurance~~ Commissioner shall collect a
2 fee of Twenty Dollars (\$20.00) for an examination for an adjuster's
3 license in any of the following single classes of business. The fee
4 for any examination which includes two or more classes of business
5 shall not exceed Forty Dollars (\$40.00). The classes of business
6 are:

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

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

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

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

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

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

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

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

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

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

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

12 SECTION 22. AMENDATORY Section 10, Chapter 334, O.S.L.
13 2004, as amended by Section 2, Chapter 265, O.S.L. 2006 (36 O.S.
14 Supp. 2009, Section 6470.3), is amended to read as follows:

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

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

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

4 3. An industrial insured captive insurance company may not
5 insure any risks other than those of the industrial insureds that
6 comprise the industrial insured group and their affiliated
7 companies;

8 4. A special purpose captive insurance company may only insure
9 the risks of its parent. Notwithstanding any other provisions of
10 the Oklahoma Captive Insurance Company Act, a special purpose
11 captive insurance company may provide insurance or reinsurance, or
12 both, for risks as approved by the Insurance Commissioner;

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

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

18 B. To conduct insurance business in this state a captive
19 insurance company shall:

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

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

4 3. Maintain its principal place of business in this state, or
5 in the case of a branch captive insurance company, maintain the
6 principal place of business for its branch operations in this state;
7 and

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

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

20 b. formed as a reciprocal insurer, whenever the
21 registered agent cannot with reasonable diligence be
22 found at the registered office of the captive
23 insurance company, the Insurance Commissioner ~~must~~

1 shall be an agent of the captive insurance company
2 upon whom any process, notice, or demand may be
3 served.

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

5 a. formed as a corporation, shall file with the Insurance
6 Commissioner a certified copy of its charter and
7 bylaws, a statement under oath of its president and
8 secretary showing its financial condition, and any
9 other statements or documents required by the
10 Insurance Commissioner, or

11 b. formed as a reciprocal shall:

12 (1) file with the Insurance Commissioner a certified
13 copy of the power of attorney of its attorney-in-
14 fact, a certified copy of its subscribers'
15 agreement, a statement under oath of its
16 attorney-in-fact showing its financial condition
17 and any other statements or documents required by
18 the Insurance Commissioner, and

19 (2) submit to the Insurance Commissioner for approval
20 a description of the coverages, deductibles,
21 coverage limits, and rates and any other
22 information the Insurance Commissioner may
23 reasonably require. If there is a subsequent

1 material change in an item in the description,
2 the reciprocal captive insurance company shall
3 submit to the Insurance Commissioner for approval
4 an appropriate revision and may not offer any
5 additional kinds of insurance until a revision of
6 the description is approved by the Insurance
7 Commissioner. The reciprocal captive insurance
8 company shall inform the Insurance Commissioner
9 of any material change in rates within thirty
10 (30) days of the adoption of the change.

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

- 14 a. the amount and liquidity of its assets relative to the
15 risks to be assumed,
- 16 b. the adequacy of the expertise, experience, and
17 character of the person or persons who will manage it,
- 18 c. the overall soundness of its plan of operation,
- 19 d. the adequacy of the loss prevention programs of its
20 parent, member organizations, or industrial insureds
21 as applicable, and
- 22 e. ~~such~~ other factors considered relevant by the
23 Insurance Commissioner in ascertaining whether the

1 proposed captive insurance company will be able to
2 meet its policy obligations.

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

6 a. a business plan demonstrating how the applicant will
7 account for the loss and expense experience of each
8 protected cell at a level of detail found to be
9 sufficient by the Insurance Commissioner, and how it
10 will report the experience to the Insurance
11 Commissioner,

12 b. a statement acknowledging that all financial records
13 of the sponsored captive insurance company, including
14 records pertaining to any protected cells, ~~must~~ shall
15 be made available for inspection or examination by the
16 Insurance Commissioner,

17 c. all contracts or sample contracts between the
18 sponsored captive insurance company and any
19 participants, and

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

22 4. Information submitted pursuant to this subsection is
23 confidential and may not be made public by the Insurance

1 Commissioner or an agent or employee of the Insurance Commissioner
2 without the written consent of the company, except that:

3 a. information may be discoverable by a party in a civil
4 action or contested case to which the captive
5 insurance company that submitted the information is a
6 party, upon a showing by the party seeking to discover
7 the information that:

8 (1) the information sought is relevant to and
9 necessary for the furtherance of the action or
10 case,

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

13 (3) a subpoena issued by a judicial or administrative
14 officer of competent jurisdiction has been
15 submitted to the Insurance Commissioner; however,
16 the provisions of this paragraph do not apply to
17 an industrial insured captive insurance company
18 insuring the risks of an industrial insured
19 group, and

20 b. the Insurance Commissioner may disclose the
21 information to a public officer having jurisdiction
22 over the regulation of insurance in another state if:

- 1 (1) the public official agrees in writing to maintain
2 the confidentiality of the information, and
3 (2) the laws of the state in which the public
4 official serves require the information to be
5 confidential.

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

20 E. If the Insurance Commissioner is satisfied that the
21 documents and statements filed by the captive insurance company
22 comply with the provisions of the Oklahoma Captive Insurance Company
23 Act, the Insurance Commissioner may grant a license authorizing the

1 company to do insurance business in this state until March 1 at
2 which time the license may be renewed.

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

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

- 10 1. A utilization review plan that includes:
 - 11 a. an adequate summary description of review standards,
12 protocol and procedures to be used in evaluating
13 proposed or delivered hospital and medical care,
 - 14 b. assurances that the standards and criteria to be
15 applied in review determinations are established with
16 input from health care providers representing major
17 areas of specialty and certified by the boards of the
18 various American medical specialties, and
 - 19 c. the provisions by which patients or health care
20 providers may seek reconsideration or appeal of
21 adverse decisions concerning requests for medical
22 evaluation, treatment or procedures;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 SECTION 26. AMENDATORY 36 O.S. 2001, Section 6615, as
14 last amended by Section 24, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
15 2009, Section 6615), is amended to read as follows:

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

1 necessary by the Commissioner, using accounting principles which
2 ~~will~~ shall enable the Commissioner to ascertain whether the
3 financial requirements set forth in Section 6607 of this title have
4 been satisfied.

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

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

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

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

11 SECTION 27. AMENDATORY Section 5, Chapter 64, O.S.L.
12 2002 (40 O.S. Supp. 2009, Section 600.5), is amended to read as
13 follows:

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

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

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

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

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

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

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

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

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

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

21 C. ~~An~~ Unless the Commissioner has set forth a fee as provided
22 for in this subsection through the promulgation of a rule, an
23 applicant shall furnish to the Commissioner a license fee of Two

1 Hundred Fifty Dollars (\$250.00) with the application, a complete set
2 of the applicant's fingerprints and two recent credential-size full
3 face photographs of the applicant. The applicant's fingerprints
4 shall be certified by an authorized law enforcement officer. The
5 Unless the Commissioner has set forth a fee as provided for in this
6 subsection through the promulgation of a rule, the applicant shall
7 provide with the application an investigative fee of One Hundred
8 Dollars (\$100.00) with which the Commissioner will conduct an
9 investigation of the applicant. All fees shall be nonrefundable.

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

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

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

1 B. Each applicant shall become eligible for examination ninety
2 (90) days after the date the application is received by the
3 Commissioner, if the applicant has completed sixteen (16) hours of
4 education as required by Section 1308.1 of this title and the
5 Commissioner is otherwise satisfied as to the applicant's fitness to
6 take the examination. Examinations shall be held at times and
7 places as designated by the Commissioner, and the applicant shall be
8 given notice of the time and place not less than fifteen (15) days
9 prior to taking the examination.

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

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

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

3 Section 1308.1 A. In order to be eligible to take the
4 examination required to be licensed as a bail bondsman, each person
5 shall complete not less than sixteen (16) clock hours of education
6 in subjects pertinent to the duties and responsibilities of a bail
7 bondsman, including all laws and regulations related thereto.
8 Further, each licensee shall complete annually not less than eight
9 (8) clock hours of continuing education in ~~said~~ the subjects prior
10 to renewal of the license. ~~Such~~ The continuing education shall not
11 include a written or oral examination.

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

20 B. The Oklahoma Bondsman Association shall provide education
21 for bail bondsman licensure as required by this section; provided
22 that the Insurance Commissioner shall approve the courses offered

1 and provided further ~~such~~ the education meets the general standards
2 for education otherwise established by the Insurance Commissioner.

3 C. ~~The~~ Unless the Insurance Commissioner has set forth a fee as
4 provided for in this subsection through the promulgation of a rule,
5 the Oklahoma Bondsman Association shall submit an annual fee of One
6 Hundred Dollars (\$100.00), payable to the Insurance Commissioner
7 which shall be deposited in the Bail Bondsmen Revolving Fund for the
8 purposes of fulfilling and accomplishing the conditions and purposes
9 of this section.

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

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

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

18 Section 1309. A. ~~A~~ Unless the Insurance Commissioner has set
19 forth a fee as provided for in this subsection through the
20 promulgation of a rule, a renewal license shall be issued by the
21 ~~Insurance~~ Commissioner to a licensee who has continuously maintained
22 same in effect, without further examination, upon payment of a
23 renewal fee of One Hundred Dollars (\$100.00) for a bail bondsman and

1 proof of completion of eight (8) hours of continuing education as
2 required by Section 1308.1 of this title. The renewal fee shall be
3 submitted by September 15 of each year. Such licensee shall in all
4 other respects be required to comply with and be subject to the
5 provisions of ~~Section~~ Sections 1301 ~~et seq.~~ through 1340 of this
6 title.

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

19 C. In case of renewal of a property bondsman license, the
20 application shall also provide a county assessor's written statement
21 stating the property's assessed value for each property used to post
22 bonds and a written statement from any lien holder stating the
23 current payoff amount on each lien for each property used to post

1 bonds. The written statements shall be submitted by September 15 of
2 each year.

3 D. If the license is not renewed or the renewal fee is not paid
4 by September 30 of each year, such license shall expire
5 automatically pursuant to Section 1304 of this title. If after
6 November 30 of each year the license has not been renewed or the
7 renewal fee paid, then ~~such~~ the licensee shall be required to apply
8 for a license as a new applicant.

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

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

13 Section 1314. A. When a bail bondsman or managing general
14 agent accepts collateral, he or she shall give a written receipt for
15 same, and this receipt shall give in detail a full description of
16 the collateral received. A description of the collateral shall be
17 listed on the undertaking by affidavit. All property taken as
18 collateral, whether personal, intangible or real, shall be receipted
19 for and deemed, for all purposes, to be in the name of, and for the
20 use and benefit of, the surety company or licensed professional
21 bondsman, as the case may be. Every receipt, encumbrance, mortgage
22 or other evidence of ~~such~~ custody, possession or claim shall
23 facially indicate that it has been taken or made on behalf of the

1 surety company or professional bondsman through its authorized
2 agent, the individual licensed bondsman or managing general agent
3 who has transacted the undertaking with the bond principal. Any
4 mortgage or other encumbrance against real property taken under the
5 provisions of this section which does not indicate beneficial
6 ownership of the claim to be in favor of the surety company or
7 professional bondsman shall be deemed to constitute a cloud on the
8 title to real estate and shall subject the person filing, or causing
9 same to be filed, in the real estate records of the county, to a
10 penalty of treble damages or One Thousand Dollars (\$1,000.00),
11 whichever is greater, in an action brought by the person,
12 organization or corporation injured thereby. For collateral taken,
13 or liens or encumbrances taken or made pursuant to the provisions of
14 this section, the individual bondsman or managing general agent
15 taking possession of the property or making the lien, claim or
16 encumbrance shall do so on behalf of his or her surety company or
17 professional bondsman, as the case may be, and ~~such~~ the individual
18 licensed bondsman shall be deemed to act in the capacity of
19 fiduciary in relation to both:

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

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

1 As fiduciary and bailee for hire, the individual bondsman shall be
2 liable in criminal or civil actions at law for failure to properly
3 receipt or account for, maintain or safeguard, release or deliver
4 possession upon lawful demand, in addition to any other penalties
5 set forth in this subsection. No person who takes possession of
6 property as collateral pursuant to this section shall use or
7 otherwise dissipate ~~such~~ the asset, or do otherwise with ~~such~~ the
8 property than to safeguard and maintain its condition pending its
9 return to its lawful owner, or deliver to the surety company or
10 professional bondsman, upon lawful demand pursuant to the terms of
11 the bailment.

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

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

19 2. Professional bondsmen shall submit by mail with return
20 receipt requested notarized monthly reports showing total current
21 liabilities, all bonds written during the month by the professional
22 bondsman and by any licensed bondsman who may countersign for him or
23 her, all bonds terminated during the month, and the total liability

1 and a list of all bondsmen currently employed by ~~such~~ the
2 professional bondsmen.

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

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

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

21 SECTION 33. AMENDATORY 59 O.S. 2001, Section 1317, as
22 last amended by Section 30, Chapter 184, O.S.L. 2008 (59 O.S. Supp.
23 2009, Section 1317), is amended to read as follows:

1 Section 1317. A. Every surety who appoints a surety bondsman
2 or managing general agent in the state, shall give notice thereof to
3 the Insurance Commissioner. ~~The~~ Unless the Commissioner has set
4 forth a fee as provided for in this subsection through the
5 promulgation of a rule, the filing fee for appointment of each
6 surety bondsman or managing general agent shall be Ten Dollars
7 (\$10.00), payable to the Commissioner and shall be submitted with
8 the appointment. The appointment shall remain in effect until the
9 surety submits a notice of cancellation to the Commissioner, the
10 bail bondsman's license expires, or the Commissioner cancels the
11 appointment. ~~If~~ Unless the Commissioner has set forth a fee as
12 provided for in this subsection through the promulgation of a rule,
13 if the surety changes the liability limitations of the surety
14 bondsman or the managing general agent, or any other provisions of
15 the appointment, the surety shall submit an amended appointment form
16 and a filing fee of Ten Dollars (\$10.00) payable to the
17 Commissioner.

18 B. A surety terminating the appointment of a surety bondsman or
19 managing general agent immediately shall file written notice thereof
20 with the Commissioner, together with a statement that it has given
21 or mailed notice to the surety bondsman or managing general agent.
22 The notice filed with the Commissioner shall state the reasons, if
23 any, for the termination.

1 C. Prior to issuance of a new surety appointment for a surety
2 bondsman or managing general agent, the bondsman or agent shall file
3 an affidavit with the Commissioner stating that no forfeitures are
4 owed to any court, no fines are owed to the ~~insurance department~~
5 Insurance Department, and no premiums or indemnification for
6 forfeitures or fines are owed to any insurer. This provision shall
7 not require that all outstanding liabilities have been exonerated,
8 but may provide that the liabilities are still being monitored by
9 the bondsman or agent.

10 D. Every bail bondsman who negotiates and posts a bond shall,
11 in any controversy between the defendant, indemnitor, or guarantor
12 and the bail bondsman or surety, be regarded as representing the
13 surety. This provision shall not affect the apparent authority of a
14 bail bondsman as an agent for the insurer.

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

16 SECTION 35. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-10-10 - DO
21 PASS, As Amended and Coauthored.