

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2576

By: DeWitt

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5
6 AS INTRODUCED

7 An Act relating to insurance; stating legislative
8 intent to make the Insurance Department a
9 nonappropriated agency; authorizing Insurance
10 Commissioner to promulgate rules establishing
11 authority over certain fees; providing rules shall
12 take effect after certain date; amending Section 1,
13 Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009, Section
14 307.3), which relates to the State Insurance
15 Commissioner Revolving Fund; specifying that
16 Revolving Fund is not subject to appropriation;
17 modifying distribution of funds; amending 36 O.S.
18 2001, Sections 321, as last amended by Section 3,
19 Chapter 432, O.S.L. 2009, and 348.1, as last amended
20 by Section 5, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
21 2009, Sections 321 and 348.1), which relate to the
22 collection of specific fees and licenses; requiring
23 collection of certain fees in a certain manner unless
24 Commissioner promulgates certain rule; amending 36
O.S. 2001, Section 362, as last amended by Section 6,
Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009, Section
362), which relates to certain fees for
investigations of fraud; requiring annual payment of
fees unless Commissioner has promulgated certain rule
specifying otherwise; amending 36 O.S. 2001, Section
622, as amended by Section 7, Chapter 432, O.S.L.
2009 (36 O.S. Supp. 2009, Section 622), which relates
to service of certain legal process; providing for
payment of certain fees unless Commissioner
promulgates certain rule; amending 36 O.S. 2001,
Section 635, as amended by Section 1, Chapter 129,
O.S.L. 2002 (36 O.S. Supp. 2009, Section 635), which
relates to Multiple Employer Welfare Arrangements;
providing for certain fee unless Commissioner
promulgates certain rules; amending 36 O.S. 2001,
Section 1219.4, as last amended by Section 23,

1 Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2009, Section
2 1219.4), which relates to certain medical plan
3 organizations; providing for payment of certain fees
4 unless Commissioner promulgates certain rules;
5 specifying that certain fees be paid into the State
6 Treasury; amending 36 O.S. 2001, Section 1435.23, as
7 last amended by Section 12, Chapter 432, O.S.L. 2009
8 (36 O.S. Supp. 2009, Section 1435.23), which relates
9 to certain application fees; providing for payment of
10 certain fees unless Commissioner promulgates certain
11 rule; amending 36 O.S. 2001, Section 1435.29, as last
12 amended by Section 13, Chapter 432, O.S.L. 2009 (36
13 O.S. Supp. 2009, Section 1435.29), which relates to
14 continuing education requirements for certain
15 insurance producers; clarifying language; amending 36
16 O.S. 2001, Section 1450, as last amended by Section
17 14, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2009,
18 Section 1450), which relates to third-party
19 administrator requirements and fees; providing for
20 payment of certain fees unless Commissioner
21 promulgates certain rules; amending 36 O.S. 2001,
22 Section 1661, as amended by Section 16, Chapter 432,
23 O.S.L. 2009 (36 O.S. Supp. 2009, Section 1661), which
24 relates to certain required initial registration
fees; providing for payment of certain fees unless
Commissioner promulgates certain rule; amending 36
O.S. 2001, Section 3102, which relates to the sale of
certain motor club services and certain fees;
clarifying language; providing for the payment of
certain fees unless the Commissioner promulgates
certain rule; amending Section 3, Chapter 183, O.S.L.
2008, as amended by Section 3, Chapter 344, O.S.L.
2008 (36 O.S. Supp. 2009, Section 4055.3), which
relates to licenses and fees for certain viatical
activities; providing for the payment of certain fees
unless the Commissioner promulgates certain rules;
updating statutory reference; amending 36 O.S. 2001,
Sections 6124, as last amended by Section 3, Chapter
294, O.S.L. 2009, and 6128 (36 O.S. Supp. 2009,
Section 6124), which relate to certain fees for
prepaid funeral benefits; providing for payment of
certain fees unless the Commissioner promulgates
certain rules; amending 36 O.S. 2001, Sections 6144,
as amended by Section 20, Chapter 432, O.S.L. 2009,
and 6145 (36 O.S. Supp. 2009, Section 6144), which
relate to certain fees and requirements for prepaid
dental plans; providing for the payment of certain

1 fees unless Commissioner promulgates certain rules;
2 amending 36 O.S. 2001, Section 6209, as amended by
3 Section 45, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
4 2009, Section 6209), which relates to certain fees
5 and requirements for insurance adjusters; providing
6 for the payment of certain fees unless the
7 Commissioner promulgates certain rule; amending 36
8 O.S. 2001, Section 6212, as amended by Section 47,
9 Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2009, Section
10 6212), which relates to fees and requirements of
11 certain adjuster examinations; providing for the
12 payment of certain fees unless the Commissioner
13 promulgates certain rules; amending 36 O.S. 2001,
14 Section 6465, as amended by Section 22, Chapter 432,
15 O.S.L. 2009 (36 O.S. Supp. 2009, Section 6465), which
16 relates to certain fees and requirements of risk
17 retention groups; providing for the payment of
18 certain fees unless the Commissioner promulgates
19 certain rules; amending Section 10, Chapter 334,
20 O.S.L. 2004, as amended by Section 2, Chapter 265,
21 O.S.L. 2006 (36 O.S. Supp. 2009, Section 6470.3),
22 which relates to fees and requirements of captive
23 insurance companies; providing for the payment of
24 certain fees unless the Commissioner promulgates
certain rules; amending 36 O.S. 2001, Section 6559,
which relates to certain in-house utilization
reviews; providing for the payment of certain fees
unless the Commissioner promulgates certain rule;
amending 36 O.S. 2001, Sections 6604, as last amended
by Section 23, Chapter 432, O.S.L. 2009, and 6609, as
amended by Section 27, Chapter 184, O.S.L. 2008 (36
O.S. Supp. 2009, Sections 6604 and 6609), which
relate to fees and requirements of service warranty
associations; providing for the payment of certain
fees unless the Commissioner promulgates certain
rules; amending 36 O.S. 2001, Section 6615, as last
amended by Section 22, Chapter 432, O.S.L. 2009 (36
O.S. Supp. 2009, Section 6615), which relates to
reporting and premium tax requirements; providing for
the payment of certain administrative fees unless the
Commissioner promulgates certain rules; amending
Section 5, Chapter 64, O.S.L. 2002 (40 O.S. Supp.
2009, Section 600.5), which relates to certain fees
and registration requirements under the Oklahoma
Professional Employer Organization Recognition and
Registration Act; providing for the payment of
certain fees unless the Commissioner promulgates

1 certain rules; amending 59 O.S. 2001, Sections 1305,
2 as amended by Section 5, Chapter 204, O.S.L. 2003,
3 1308, 1308.1 and 1309 (59 O.S. Supp. 2009, Section
4 1305), which relate to fees and requirements for bail
5 bondsmen; providing for the payment of certain fees
6 unless the Commissioner promulgates certain rules;
7 amending 59 O.S. 2001, Section 1314, as amended by
8 Section 25, Chapter 432, O.S.L. 2009 (59 O.S. Supp.
9 2009, Section 1314), which relates to certain
10 business requirements for bail bondsmen; providing
11 for the payment of certain fees unless the
12 Commissioner promulgates certain rule; amending 59
13 O.S. 2001, Section 1317, as last amended by Section
14 30, Chapter 184, O.S.L. 2008 (59 O.S. Supp. 2009,
15 Section 1317), which relates to fees and requirements
16 for certain sureties; providing for the payment of
17 certain fee unless the Commissioner promulgates
18 certain rule; providing for codification; providing
19 an effective date; and declaring an emergency.

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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 nonappropriated
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 Insurance Commissioner or
Insurance Department through the promulgation of necessary rules.

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

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

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

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

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

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

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

11 C. ~~The~~ After July 1, 2010, the State Treasury is authorized and
12 directed to deduct from the funds paid ~~into~~ or collected by the
13 Insurance Commissioner ~~Revolving Fund after the effective date of~~
14 ~~this section~~ a sum equal to seventy-six and one half percent (76.5%)
15 of such payment and place the same to the credit of the General
16 Revenue Fund of the state. The State Treasurer shall place to the
17 credit of the State Insurance Commissioner Revolving Fund the
18 remainder of ~~said~~ the funds so paid ~~and~~ or collected ~~shall~~ or both
19 paid and collected by the ~~State Treasurer be placed to the credit of~~
20 ~~the State Insurance Commissioner Revolving Fund.~~

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

24

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

6 1. For filing charter documents:

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

12 2. Certificate of Authority:

13 (a) Issuance:

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

21 (b) Renewal:

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

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

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

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

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

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

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

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

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

17 2. Miscellaneous:

- 18 a. Certificate of Insurance Commissioner,
19 under seal.....\$ 20.00

20 b. Upon each transaction of filing of
21 documents required pursuant to the
22 provisions of Sections 3610 and 6601 of
23 this title:

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

1 (2) For an approved joint underwriting
2 association, or rating or advisory
3 organization:

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

5 (b) Additional fee for each member
6 or subscriber insurer.....\$ 10.00,
7 not to exceed.....\$500.00.

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

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

11 b. For an approved joint underwriting
12 association, rating or advisory
13 organization:

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

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

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

1 This subsection shall not affect other fees, licenses and taxes
2 imposed by the Insurance Code.

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

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

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

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

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

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

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

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

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

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

- 18 1. a. nonprofit,
- 19 b. (1) established by a trade association, industry
20 association or professional association of
21 employers or professionals that has a
22 constitution or bylaws and that has been
23 organized and maintained in good faith for a
24 continuous period of five (5) years for purposes

1 other than that of obtaining or providing
2 insurance, or

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

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

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

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

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

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

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

8 f. offered only after Two Hundred Thousand Dollars

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

10 obligations of less than five-year maturity that have

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

12 investments as the Commissioner may authorize by rule

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

14 sold or otherwise expended without the consent of the

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

16 be taken into account in determining whether the MEWA

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

18 investment shall be filed with the State Treasurer; or

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

20 which has its situs in this state, is operated

21 pursuant to a trust agreement by a board of trustees

22 that has complete fiscal control over the MEWA, is

23 responsible for all operations of the MEWA, and which

24 has as one of its trustees a financial institution

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

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

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

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

23 c. offered only to employers for the benefit of their
24 employees,

- 1 d. operated in accordance with sound actuarial
2 principles, and
- 3 e. offered only after Two Hundred Thousand Dollars
4 (\$200,000.00) of cash or federally guaranteed
5 obligations of less than five-year maturity that have
6 a fixed or recoverable principal amount or ~~such~~ other
7 investments as the Commissioner may authorize by rule
8 is titled in such a manner that it may not be traded,
9 sold or otherwise expended without the consent of the
10 Insurance Commissioner; provided, ~~said~~ the funds shall
11 be taken into account in determining whether the MEWA
12 is actuarially sound, and evidence of ~~said~~ the
13 investment shall be filed with the State Treasurer.

14 B. 1. The MEWA shall issue to each covered employee a policy,
15 contract, certificate, summary plan description, or other evidence
16 of the benefits and coverages provided. The policy, contract,
17 certificate, summary plan description, or other evidence of the
18 benefits, coverages provided, premium rates to be charged and any
19 contracts between the MEWA and any administrator or service company,
20 including any changes to those documents, ~~must~~ shall be filed with
21 the Oklahoma Insurance Department. The evidence of benefits and
22 coverages provided shall contain, in boldface type on the face page
23 of the policy and the certificate, the following statement: "THE
24 BENEFITS AND COVERAGES DESCRIBED HEREIN ARE PROVIDED THROUGH A TRUST

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

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

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

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

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

21 2. Any trustee, manager or administrator has been found guilty
22 of or has pled guilty or no contest to a felony, a crime involving
23 moral turpitude, or a crime punishable by imprisonment of one (1)
24

1 year or more under the law of any state or country, whether or not a
2 judgment or conviction has been entered; or

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

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

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

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

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

4 Section 1219.4 A. As used in this section:

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

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

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

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

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

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

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

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

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

24

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

2 The term does not include pharmaceutical supplies or prescriptions;

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

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

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

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

23

24

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

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

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

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

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

13 a. otherwise is entitled to be registered,

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

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

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

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

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

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

7 d. has violated any provisions of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 c. pay providers any fees for medical services.

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

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

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

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

24

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

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

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

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

17 a. a description of the services and products to be
18 provided at a discount,

19 b. the amount or amounts of the discounts or,
20 alternatively, a fee schedule which reflects the
21 health care provider's discounted rates, and

22 c. a provision that the health care provider will not
23 charge members more than the discounted rates.
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

24

1 Section 1435.23 A. All applications shall be accompanied by
2 the applicable fees. An appointment may be deemed by the
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 Insurance Commissioner has set forth a fee as
8 provided for in this subsection through the promulgation of a rule,
9 the Insurance Commissioner shall collect in advance the following
10 fees and licenses:

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

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

4 4. Licenses:

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

24

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

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

7 ~~7.~~ 6. The fee for a duplicate license shall be one-half (1/2)
8 the fee of an original license.

9 ~~8.~~ 7. The renewal of a license shall require a fee of double
10 the current original license fee if the application for renewal is
11 late, or incomplete on the renewal deadline.

12 ~~9.~~ 8. The administrative fee for submission of a change of
13 legal name or address more than thirty (30) days after the change
14 occurred shall be Fifty Dollars (\$50.00).

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

24

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

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

20 5. Subject to approval by the Commissioner, the active
21 membership of the licensed producer or broker in local, regional,
22 state, or national professional insurance organizations or
23 associations may be approved for up to one (1) annual hour of
24 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

1 H. Any person who is acting as or presenting himself or herself
2 to be an administrator without a valid license shall be subject,
3 upon conviction, to a fine of not less than One Thousand Dollars
4 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each
5 occurrence. This fine shall be in addition to any other penalties
6 which may be imposed for violations of the Oklahoma Insurance Code
7 or other laws of this state.

8 I. Except as provided for in subsections F and G of this
9 section, any person convicted of violating any provisions of the
10 Third-party Administrator Act shall be guilty of a misdemeanor and
11 shall be subject to a fine of not more than One Thousand Dollars
12 (\$1,000.00).

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

16 Section 1661. ~~The~~ Unless the Insurance Commissioner has set
17 forth a fee as provided for in this section through the promulgation
18 of a rule, the initial fee for registration required by the
19 provisions of Section 1654 of this title shall be Two Hundred Fifty
20 Dollars (\$250.00) and an additional fee of One Hundred Dollars
21 (\$100.00) shall be payable on May 1 of each calendar year thereafter
22 so long as such registration continues.

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

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

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

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

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

23 3. A certificate from the Secretary of State, State of
24 Oklahoma, in the event that it is a domestic corporation, signifying

1 that the company is in compliance with the corporation laws of the
2 State of Oklahoma;

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

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

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

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

24

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

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

8 1. Paid an initial filing fee of Two Hundred Fifty Dollars
9 (\$250.00) ~~to the General Fund of the State of Oklahoma;~~

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

12 3. Had its name approved by the Commissioner under the
13 provisions of ~~Title 36 of the Oklahoma Statutes,~~ Sections 620 and
14 2104 of this title, the provisions of which are hereby made
15 applicable to motor clubs;

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

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

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

4 SECTION 14. AMENDATORY Section 3, Chapter 183, O.S.L.
5 2008, as amended by Section 3, Chapter 344, O.S.L. 2008 (36 O.S.
6 Supp. 2009, Section 4055.3), is amended to read as follows:

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

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

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

1 acknowledgement by the life insurance producer that he
2 or she will operate as a viatical settlement broker in
3 accordance with the Viatical Settlements Act of 2008.

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

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

20 B. Application for a viatical settlement provider or a viatical
21 settlement broker license shall be made to the Commissioner by the
22 applicant on a form prescribed by the Commissioner. ~~The~~ Unless the
23 Insurance Commissioner has set forth a fee as provided for in this
24

1 subsection through the promulgation of a rule, the application shall
2 be accompanied by a fee of Five Hundred Dollars (\$500.00).

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

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

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

23 F. Upon the filing of an application and the payment of the
24 license fee, the Commissioner shall make an investigation of each

1 applicant and issue a license if the Commissioner finds that the
2 applicant:

3 1. If a viatical settlement provider, has provided a detailed
4 plan of operation;

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

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

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

19 b. If a viatical settlement broker, has demonstrated
20 evidence of financial responsibility in a format
21 prescribed by the Commissioner, through a surety bond
22 executed and issued by an insurer authorized to issue
23 surety bonds in this state, a policy of errors and
24 omissions insurance, or a deposit of cash,

1 certificates of deposit or securities or any
2 combination thereof in an amount not to exceed Fifty
3 Thousand Dollars (\$50,000.00), or

4 c. The Commissioner may ask for evidence of financial
5 responsibility at any time the Commissioner deems
6 necessary;

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

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

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

21 H. A viatical settlement provider, viatical settlement broker
22 or viatical settlement investment agent shall provide to the
23 Commissioner new or revised information about officers, ten percent
24

1 (10%) or more stockholders, partners, directors, members or
2 designated employees within thirty (30) days of the change.

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

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

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

24

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

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

5 3. Making a finding that the organization has complied with the
6 rules promulgated under this act by the Insurance Commissioner. All
7 applications shall be signed by the organization requesting the
8 permit, and shall contain a statement that the organization ~~will~~
9 shall comply with all the requirements as established by this act.

10 ~~All~~ Unless the Insurance Commissioner has set forth a fee as
11 provided for in this paragraph through the promulgation of a rule,

12 all permits shall expire on December 31 of the year the permit is
13 first issued, unless renewed; permits may be renewed for a period

14 not to exceed the succeeding December 31 upon the payment of a

15 renewal fee of Fifty Dollars (\$50.00). Late application for renewal
16 of a permit shall require a fee of double the renewal fee. No

17 application for renewal of a permit shall be accepted after January
18 31 of each year. The Insurance Commissioner may authorize

19 acceptance of a new permit application pursuant to this section
20 prior to the expiration of the one-year period upon good cause
21 shown.

22 B. The Insurance Commissioner may cancel a permit or refuse to
23 issue a permit or refuse to issue a renewal of a permit for failure
24 to comply with any provision of this act, or any valid rule, which

1 the Insurance Commissioner has promulgated, after reasonable notice
2 to the 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 a form as the Insurance Commissioner may require, showing
22 the names and addresses of all persons with whom contracts for
23 prepaid funeral benefits have been made prior to December 31 of the
24 preceding year which had not been fully discharged on December 31

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

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

20 Section 6144. A. An application for a certificate of authority
21 to operate as a prepaid dental plan organization shall be filed with
22 the Commissioner in a form prescribed by the Commissioner. The
23 application shall be verified by an officer or authorized
24

1 representative of the applicant, and shall set forth or be
2 accompanied by:

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

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

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

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

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

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

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

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

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

20 10. A Unless the Insurance Commissioner has set forth a fee as
21 provided for in this paragraph through the promulgation of a rule, a
22 fee of One Hundred Dollars (\$100.00) for issuance of a certificate
23 of authority; and

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

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

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

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

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

15 2. The prepaid dental plan organization constitutes an
16 appropriate mechanism to achieve an effective prepaid dental plan;
17 and

18 3. Each officer, responsible for conducting the business
19 affairs of the prepaid dental plan organization, has filed with the
20 Commissioner a fidelity bond in the amount of Fifty Thousand Dollars
21 (\$50,000.00), said bond to be subject to the approval of the
22 Commissioner; and

23 4. The financial structure of the prepaid dental plan
24 organization may reasonably be expected to meet obligations for

1 payment of services for members and prospective members. In making
2 this determination the Commissioner may consider:

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

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

1 SECTION 19. AMENDATORY 36 O.S. 2001, Section 6209, as
2 amended by Section 45, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2009,
3 Section 6209), is amended to read as follows:

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

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

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

22 2. Fire and allied lines, including marine, inland marine, and
23 aircraft; or
24

- 1 3. Casualty, meaning all lines of liability insurance coverages
- 2 for bodily injuries, personal injury, and property damages; or
- 3 4. Workers' compensation; or
- 4 5. Crime and fidelity bonds; or
- 5 6. Crop/hail.

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

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

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

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

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

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

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

22 D. The fee for the original license or renewal license shall be
23 collected in advance of issuance. Late application for renewal
24

1 shall require a fee of double the amount of the original license
2 fee.

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

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

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

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

1 Purchasing Unless the Insurance Commissioner has set forth a fee
2 as provided for in this section through the promulgation of a rule,
3 purchasing groups shall pay annually at the time of registration, a
4 fee of Four Hundred Dollars (\$400.00).

5 SECTION 22. AMENDATORY Section 10, Chapter 334, O.S.L.
6 2004, as amended by Section 2, Chapter 265, O.S.L. 2006 (36 O.S.
7 Supp. 2009, Section 6470.3), is amended to read as follows:

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

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

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

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

23 4. A special purpose captive insurance company may only insure
24 the risks of its parent. Notwithstanding any other provisions of

1 the Oklahoma Captive Insurance Company Act, a special purpose
2 captive insurance company may provide insurance or reinsurance, or
3 both, for risks as approved by the Insurance Commissioner;

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

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

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

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

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

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

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

1 principal place of business in this state. In the case of a captive
2 insurance company:

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

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

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

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

23 b. formed as a reciprocal shall:
24

- 1 (1) file with the Insurance Commissioner a certified
2 copy of the power of attorney of its attorney-in-
3 fact, a certified copy of its subscribers'
4 agreement, a statement under oath of its
5 attorney-in-fact showing its financial condition
6 and any other statements or documents required by
7 the Insurance Commissioner, and
- 8 (2) submit to the Insurance Commissioner for approval
9 a description of the coverages, deductibles,
10 coverage limits, and rates and any other
11 information the Insurance Commissioner may
12 reasonably require. If there is a subsequent
13 material change in an item in the description,
14 the reciprocal captive insurance company shall
15 submit to the Insurance Commissioner for approval
16 an appropriate revision and may not offer any
17 additional kinds of insurance until a revision of
18 the description is approved by the Insurance
19 Commissioner. The reciprocal captive insurance
20 company shall inform the Insurance Commissioner
21 of any material change in rates within thirty
22 (30) days of the adoption of the change.
- 23
24

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

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

16 3. In addition to the information required by paragraphs 1 and
17 2 of this subsection, an applicant sponsored captive insurance
18 company shall file with the Insurance Commissioner:

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

- 1 b. a statement acknowledging that all financial records
2 of the sponsored captive insurance company, including
3 records pertaining to any protected cells, ~~must~~ shall
4 be made available for inspection or examination by the
5 Insurance Commissioner,
- 6 c. all contracts or sample contracts between the
7 sponsored captive insurance company and any
8 participants, and
- 9 d. evidence that expenses will be allocated to each
10 protected cell in an equitable manner.

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

- 15 a. information may be discoverable by a party in a civil
16 action or contested case to which the captive
17 insurance company that submitted the information is a
18 party, upon a showing by the party seeking to discover
19 the information that:
- 20 (1) the information sought is relevant to and
21 necessary for the furtherance of the action or
22 case,
- 23 (2) the information sought is unavailable from other
24 nonconfidential sources, and

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

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

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

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

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

1 conducted under the authority of this section. ~~In~~ Unless the
2 Insurance Commissioner has set forth a fee as provided for in this
3 subsection through the promulgation of a rule, in addition, a
4 captive insurance company shall pay a license fee for the year of
5 registration and a renewal fee of Three Hundred Dollars (\$300.00).

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

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

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

- 19 1. A utilization review plan that includes:
- 20 a. an adequate summary description of review standards,
21 protocol and procedures to be used in evaluating
22 proposed or delivered hospital and medical care,
 - 23 b. assurances that the standards and criteria to be
24 applied in review determinations are established with

1 input from health care providers representing major
2 areas of specialty and certified by the boards of the
3 various American medical specialties, and

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

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

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

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

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

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

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

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

21 B. Insurance Unless the Insurance Commissioner has set forth a
22 fee as provided for in this subsection through the promulgation of a
23 rule, insurance companies that provide for in-house utilization
24

1 review shall pay an annual fee to the Insurance Commissioner of Five
2 Hundred Dollars (\$500.00).

3 SECTION 24. AMENDATORY 36 O.S. 2001, Section 6604, as
4 last amended by Section 23, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
5 2009, Section 6604), is amended to read as follows:

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

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

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

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

24

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

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

7 Section 6609. Each license issued to a service warranty
8 association shall expire on November 1 following the date of
9 issuance. ~~If~~ Unless the Insurance Commissioner has set forth a fee
10 as provided for in this section through the promulgation of a rule,
11 if the association is then qualified therefor under the provisions
12 of the Service Warranty Insurance Act, its license may be renewed
13 annually, upon its request, and upon payment to the Insurance
14 Commissioner of the license fee in the amount of ~~Two Hundred Dollars~~
15 ~~(\$200.00)~~ Four Hundred Dollars (\$400.00) in advance for each ~~such~~
16 license year.

17 SECTION 26. AMENDATORY 36 O.S. 2001, Section 6615, as
18 last amended by Section 22, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
19 2009, Section 6615), is amended to read as follows:

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

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

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

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

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

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

13 SECTION 27. AMENDATORY Section 5, Chapter 64, O.S.L.
14 2002 (40 O.S. Supp. 2009, Section 600.5), is amended to read as
15 follows:

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

22 B. Renewal. ~~Upon~~ Unless the Insurance Commissioner has set
23 forth a fee as provided for in this subsection through the
24 promulgation of a rule, upon each annual renewal of a registration

1 statement filed under the Oklahoma Professional Employer
2 Organization Recognition and Registration Act, a PEO shall pay a
3 renewal fee of Two Hundred Fifty Dollars (\$250.00).

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

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

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

- 15 1. Is a person who has reached the age of twenty-one (21)
16 years;
- 17 2. Is of good character and reputation;
- 18 3. Has not been previously convicted of, or pled guilty or nolo
19 contendere to, any felony, or to a misdemeanor involving moral
20 turpitude or dishonesty;
- 21 4. Is a citizen of the United States;
- 22 5. Has been a bona fide resident of the state for at least one
23 (1) year;
- 24 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 1301 ~~et seq.~~ through 1340 of this title,
11 or on any renewal thereof, relating to qualifications, residence,
12 prospective place of business and any other matters which, in the
13 opinion of the Commissioner, are deemed necessary or expedient in
14 order to protect the public and ascertain the qualifications of the
15 applicant. The Commissioner may also conduct any reasonable inquiry
16 or investigation relative to the determination of the applicant's
17 fitness to be licensed or to continue to be licensed including, but
18 not limited to, requiring a national criminal history record check
19 as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

20 C. ~~An~~ Unless the Insurance Commissioner has set forth a fee as
21 provided for in this subsection through the promulgation of a rule,
22 an applicant shall furnish to the Commissioner a license fee of Two
23 Hundred Fifty Dollars (\$250.00) with the application, a complete set
24 of the applicant's fingerprints and two recent credential-size full

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 B. In case of renewal of a professional bondsman license, the
24 application shall also provide a financial statement prepared by an

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

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

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

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

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

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

1 whichever is greater, in an action brought by the person,
2 organization or corporation injured thereby. For collateral taken,
3 or liens or encumbrances taken or made pursuant to the provisions of
4 this section, the individual bondsman or managing general agent
5 taking possession of the property or making the lien, claim or
6 encumbrance shall do so on behalf of his or her surety company or
7 professional bondsman, as the case may be, and ~~such~~ the individual
8 licensed bondsman shall be deemed to act in the capacity of
9 fiduciary in relation to both:

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

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

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

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

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

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

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

18 C. Every licensee shall keep at his or her place of business
19 the usual and customary records pertaining to transactions
20 authorized by his or her license. All ~~such~~ of these records shall
21 be available and open to the inspection of the Commissioner at any
22 time during business hours during the three (3) years immediately
23 following the date of the transaction. The Commissioner may require
24

1 a financial examination or market conduct survey during any
2 investigation of a licensee.

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

10 SECTION 33. AMENDATORY 59 O.S. 2001, Section 1317, as
11 last amended by Section 30, Chapter 184, O.S.L. 2008 (59 O.S. Supp.
12 2009, Section 1317), is amended to read as follows:

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

1 rule, if the surety changes the liability limitations of the surety
2 bondsman or the managing general agent, or any other provisions of
3 the appointment, the surety shall submit an amended appointment form
4 and a filing fee of Ten Dollars (\$10.00) payable to the
5 Commissioner.

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

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

21 D. Every bail bondsman who negotiates and posts a bond shall,
22 in any controversy between the defendant, indemnitor, or guarantor
23 and the bail bondsman or surety, be regarded as representing the
24

1 surety. This provision shall not affect the apparent authority of a
2 bail bondsman as an agent for the insurer.

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

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

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