

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1022

By: Brown

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5
6 AS INTRODUCED

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

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

1 5002, as amended by Section 21, Chapter 184, O.S.L.
2 2008 (36 O.S. Supp. 2008, Section 5002), which
3 relates to title insurers; deleting exemption from
4 certain investment requirement; amending 36 O.S.
5 2001, Section 6055, as amended by Section 2, Chapter
6 288, O.S.L. 2003 (36 O.S. Supp. 2008, Section 6055),
7 which relates to the Health Care Freedom of Choice
8 Act; adding cost sharing provision; amending 36 O.S.
9 2001, Sections 6103.2, 6103.3 and 6103.5, which
10 relate to unauthorized insurance business; specifying
11 scope of bail bond business; making certain remedies
12 apply to unauthorized persons engaged in the bail
13 bond business; expanding the authorization of the
14 Insurance Commissioner to issue cease and desist
15 orders; amending 36 O.S. 2001, Sections 6203, 6205,
16 as amended by Section 24, Chapter 125, O.S.L. 2007,
17 6206, as amended by Section 25, Chapter 125, O.S.L.
18 2007, 6208, as amended by Section 26, Chapter 125,
19 O.S.L. 2007, 6209, 6210, as last amended by Section
20 24, Chapter 184, O.S.L. 2008, 6212, and 6217, as last
21 amended by Section 25, Chapter 184, O.S.L. 2008 (36
22 O.S. Supp. 2008, Sections 6205, 6206, 6208, 6210 and
23 6217), which relate to the Insurance Adjusters
24 Licensing Act; modifying requirements for nonresident
insurance adjusters; providing for an apprentice
adjuster license; providing procedures and
requirements for the license; limiting term of
license; adding penalties for not reporting changes
to certain information; modifying certain fees;
clarifying certain examination procedures; adding
administrative fee for failure to notify Commissioner
of certain information; staggering term of adjustor
licenses; modifying continuing insurance education
requirements; amending Section 18, Chapter 334,
O.S.L. 2004 (36 O.S. Supp. 2008, Section 6470.11),
which relates to the Oklahoma Captive Insurance
Company Act; modifying required use of accounting
principals; amending 36 O.S. 2001, Section 6512,
which relates to the Small Employer Health Insurance
Reform Act; modifying definitions; amending 36 O.S.
2001, Sections 6602, as last amended by Section 16,
Chapter 353, O.S.L. 2008 and 6607, as amended by
Section 20, Chapter 353, O.S.L. 2008 (36 O.S. Supp.
2008, Sections 6602 and 6607), which relate to the
Service Warranty Insurance Act; modifying
definitions; modifying requirements for licensed
associations; amending Sections 11 and 12, Chapter

1 390, O.S.L. 2003 (36 O.S. Supp. 2008, Sections 6810
2 and 6811), which relate to the Medical Professional
3 Liability Insurance Closed Claim Reports Act; adding
4 short title; modifying definitions; adding
5 procedures, requirements, and penalties for closed
6 claim reporting; amending 59 O.S. 2001, Sections
7 1306, as last amended by Section 1, Chapter 135,
8 O.S.L. 2006 and 1316, as last amended by Section 28,
9 Chapter 184, O.S.L. 2008 (59 O.S. Supp. 2008,
10 Sections 1306 and 1316), which relate to bail
11 bondsmen; requiring the Insurance Commissioner to
12 approve certain deposits; deleting certain
13 authorization; repealing 36 O.S. 2001, Section
14 1425.5, which relates to the Oklahoma Producer
15 Licensing Act; repealing 36 O.S. 2001, Section 6204,
16 which relates to the Insurance Adjustors Licensing
17 Act; repealing Section 11, Chapter 390, O.S.L. 2003,
18 as amended by Section 71, Chapter 264, O.S.L. 2006
19 (36 O.S. Supp. 2008, Section 6812), which relates to
20 medical professional liability insurance; providing
21 for codification; and providing an effective date.

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

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

Section 309.2 A. The Insurance Commissioner or an examiner may conduct an examination, including a financial and market conduct examination, under Sections 309.1 through 309.7 of this title of any company as often as the Commissioner deems appropriate but shall at a minimum, conduct ~~an~~ a financial examination of every domestic insurer licensed in this state not less frequently than once every three (3) years. The Commissioner shall, at a minimum, conduct or cause to be conducted ~~an~~ a financial examination of every foreign

1 insurer licensed in this state not less frequently than once every
2 five (5) years. The Commissioner may accept examinations conducted
3 by other states on foreign insurers domiciled in such states
4 pursuant to subsection C of this section. In scheduling and
5 determining the nature, scope and frequency of the examinations, the
6 Commissioner shall consider such matters as the results of financial
7 statement analyses and ratios, changes in management or ownership,
8 actuarial opinions, reports of independent certified financial
9 examiners or public accountants and other criteria as set forth in
10 the Examiners' Handbook adopted by the National Association of
11 Insurance Commissioners and in effect when the Commissioner
12 exercises discretion under this subsection. The Commissioner may
13 also make examinations upon the request of one or more persons
14 pecuniarily interested therein, who shall make affidavit of their
15 belief, with specifications of their reasons therefor, that the
16 company is in an unsound condition.

17 B. For purposes of completing an examination of any company
18 under Sections 309.1 through 309.7 of this title, the Commissioner
19 may examine or investigate any person, or the business of any
20 person, insofar as such examination or investigation is, in the sole
21 discretion of the Commissioner, necessary or material to the
22 examination of the company.

23 C. In lieu of an examination under Sections 309.1 through 309.7
24 of this title of any foreign or alien insurer licensed in this

1 state, the Commissioner may accept an examination report on such
2 company as prepared by the insurance department for the company's
3 state of domicile or port-of-entry state if:

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

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

14 D. The Commissioner may authorize any employee of the Insurance
15 Department to exercise the Commissioner's authority under Sections
16 309.1 through 309.7 of this title.

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

20 A. Insurers authorized to do business under the provisions of
21 the Oklahoma Insurance Code shall, annually, on or before the last
22 day of June, file with the Insurance Commissioner market conduct
23 annual statements reporting market conduct data of insurers on the
24 thirty-first day of December of the previous year. The statements

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

19 B. The Insurance Commissioner may adopt rules implementing this
20 section including rules that:

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

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

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

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

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

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

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

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

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

7 1. An annual audit of financial statements reporting the
8 financial position and the results of operations of insurers by
9 independent certified public accountants;

10 2. Communication of Internal Control Related Matters Noted in
11 an Audit; and

12 3. Management's Report of Internal Control over Financial
13 Reporting.

14 B. Every insurer as defined in Section 5 of this act shall be
15 subject to the Oklahoma Annual Financial Report Act. Insurers
16 having direct premiums written in this state of less than One
17 Million Dollars (\$1,000,000.00) in any calendar year and less than
18 one thousand (1,000) policy holders or certificate holders of direct
19 written policies nationwide at the end of the calendar year shall be
20 exempt from the Oklahoma Annual Financial Report Act for the year
21 unless the Commissioner makes a specific finding that compliance is
22 necessary for the Commissioner to carry out statutory
23 responsibilities. Insurers having assumed premiums pursuant to
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1 contracts and treaties of reinsurance of One Million Dollars
2 (\$1,000,000.00) or more will not be so exempt.

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

9 1. A copy of the audited financial report, Communication of
10 Internal Control Related Matters Noted in an Audit, and the
11 Accountant's Letter of Qualifications that are filed with the other
12 state are filed with the Commissioner in accordance with the filing
13 dates specified in Sections 6, 13 and 14 of this act, respectively.
14 Canadian insurers may submit accountants' reports as filed with the
15 Office of the Superintendent of Financial Institutions, Canada; and

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

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

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

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

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

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

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

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

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

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

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

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

19 7. "Insurer" means a licensed insurer as defined in Section 103
20 of Title 36 of the Oklahoma Statutes. For purposes of the Oklahoma
21 Annual Financial Report Act, insurer includes but is not limited to
22 fraternal benefit societies, health maintenance organizations,
23 multiple employer welfare arrangements, title insurers, and similar
24 organizations licensed by the Insurance Commissioner;

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

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

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

1 effect on the financial statements, i.e., those items
2 specified in paragraphs 2 through 7 of subsection B of
3 Section 7 of this act;

4 10. "SEC" means the United States Securities and Exchange
5 Commission;

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

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

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

- 16 a. the preapproval requirements of Section 201 (Section
17 10A(i) of the Securities Exchange Act of 1934),
- 18 b. the audit committee independence requirements of
19 Section 301 (Section 10A(m) (3) of the Securities
20 Exchange Act of 1934), and
- 21 c. the internal control over financial reporting
22 requirements of Section 404 (Item 308 of SEC
23 Regulation S-K).

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

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

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

18 C. If an extension is granted in accordance with the provisions
19 in subsection A of this section, a similar extension of thirty (30)
20 days is granted to the filing of Management's Report of Internal
21 Control over Financial Reporting.

22 D. Every insurer required to file an annual audited financial
23 report pursuant to the Oklahoma Annual Financial Report Act shall
24 designate a group of individuals as constituting its audit

1 committee. The audit committee of an entity that controls an
2 insurer may be deemed to be the audit committee of the insurer for
3 purposes of the Oklahoma Annual Financial Report Act at the election
4 of the controlling person.

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

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

14 B. The annual audited financial report shall include the
15 following:

- 16 1. Report of independent certified public accountant;
- 17 2. Balance sheet reporting admitted assets, liabilities,
18 capital, and surplus;
- 19 3. Statement of operations;
- 20 4. Statement of cash flows;
- 21 5. Statement of changes in capital and surplus;
- 22 6. Notes to financial statements. These notes shall be those
23 required by the appropriate NAIC Annual Statement Instructions and
24 the NAIC Accounting Practices and Procedures Manual. The notes

1 shall include a reconciliation of differences, if any, between the
2 audited statutory financial statements and the annual statement
3 filed pursuant to Section 311 of Title 36 of the Oklahoma Statutes
4 with a written description of the nature of these differences; and

5 G. The financial statements included in the audited financial
6 report shall be prepared in a form and using language and groupings
7 substantially the same as the relevant sections of the annual
8 statement of the insurer filed with the Commissioner, and the
9 financial statement shall be comparative, presenting the amounts as
10 of December 31 of the current year and the amounts as of the
11 immediately preceding December 31. However, in the first year in
12 which an insurer is required to file an audited financial report,
13 the comparative data may be omitted.

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

17 A. Each insurer required by the Oklahoma Annual Financial
18 Report Act to file an annual audited financial report must within
19 sixty (60) days after becoming subject to the requirement, register
20 with the Insurance Commissioner in writing the name and address of
21 the independent certified public accountant or accounting firm
22 retained to conduct the annual audit set forth in the Oklahoma
23 Annual Financial Report Act. Insurers not retaining an independent
24 certified public accountant on the effective date of the Oklahoma

1 Annual Financial Report Act shall register the name and address of
2 their retained independent certified public accountant not less than
3 six (6) months before the date when the first audited financial
4 report is to be filed.

5 B. The insurer shall obtain a letter from the accountant, and
6 file a copy with the Commissioner stating that the accountant is
7 aware of the provisions of the insurance code and the regulations of
8 the insurance department of the state of domicile that relate to
9 accounting and financial matters and affirming that the accountant
10 will express the opinion of the accountant on the financial
11 statements in terms of their conformity to the statutory accounting
12 practices prescribed or otherwise permitted by that insurance
13 department, specifying such exceptions as the accountant may believe
14 appropriate.

15 C. If an accountant who was the accountant for the immediately
16 preceding filed audited financial report is dismissed or resigns,
17 the insurer shall within five (5) business days notify the
18 Commissioner of this event. The insurer shall also furnish the
19 Commissioner with a separate letter within ten (10) business days of
20 the above notification stating whether in the twenty-four (24)
21 months preceding such event there were any disagreements with the
22 former accountant on any matter of accounting principles or
23 practices, financial statement disclosure, or auditing scope or
24 procedure, which disagreements, if not resolved to the satisfaction

1 of the former accountant, would have caused the former accountant to
2 make reference to the subject matter of the disagreement in
3 connection with the opinion of the former accountant. The
4 disagreements required to be reported in response to this section
5 include both those resolved to the satisfaction of the former
6 accountant and those not resolved to the satisfaction of the former
7 accountant. Disagreements contemplated by this section are those
8 that occur at the decision-making level, between personnel of the
9 insurer responsible for presentation of its financial statements and
10 personnel of the accounting firm responsible for rendering its
11 report. The insurer shall also in writing request the former
12 accountant to furnish a letter addressed to the insurer stating
13 whether the accountant agrees with the statements contained in the
14 letter of the insurer and, if not, stating the reasons for which the
15 accountant does not agree. The insurer shall furnish the responsive
16 letter from the former accountant to the Commissioner together with
17 its own.

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

21 A. The Insurance Commissioner shall not recognize a person or
22 firm as a qualified independent certified public accountant if the
23 person or firm:

24

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

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

7 B. Except as otherwise provided in the Oklahoma Annual
8 Financial Report Act, the Commissioner shall recognize an
9 independent certified public accountant as qualified as long as the
10 accountant conforms to the standards of the profession, as contained
11 in the Code of Professional Ethics of the AICPA and Rules and
12 Regulations and Code of Ethics and Rules of Professional Conduct of
13 the Oklahoma Board of Public Accountancy, or similar code.

14 C. A qualified independent certified public accountant may
15 enter into an agreement with an insurer to have disputes relating to
16 an audit resolved by mediation or arbitration. However, in the
17 event of a delinquency proceeding commenced against the insurer
18 under Article 19 of the Oklahoma Insurance Code, the mediation or
19 arbitration provisions shall operate at the option of the statutory
20 successor.

21 D. 1. The lead or coordinating audit partner having primary
22 responsibility for the audit may not act in that capacity for more
23 than five (5) consecutive years. The person shall be disqualified
24 from acting in that or a similar capacity for the same company or

1 its insurance subsidiaries or affiliates for a period of five (5)
2 consecutive years. An insurer may make application to the
3 Commissioner for relief from the above rotation requirement on the
4 basis of unusual circumstances. This application should be made at
5 least thirty (30) days before the end of the calendar year. The
6 Commissioner may consider the following factors in determining if
7 the relief should be granted:

8 a. number of partners, expertise of the partners, or the
9 number of insurance clients in the currently
10 registered firm,

11 b. premium volume of the insurer, or

12 c. number of jurisdictions in which the insurer transacts
13 business;

14 2. The insurer shall file, with its annual statement filing,
15 the approval for relief from paragraph 1 of this subsection with the
16 states that it is licensed in or doing business in and with the
17 NAIC. If the nondomestic state accepts electronic filing with the
18 NAIC, the insurer shall file the approval in an electronic format
19 acceptable to the NAIC.

20 E. The Commissioner shall neither recognize as a qualified
21 independent certified public accountant, nor accept an annual
22 audited financial report, prepared in whole or in part by, a natural
23 person who:
24

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

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

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

11 F. The Commissioner may hold a hearing to determine whether an
12 independent certified public accountant is qualified and,
13 considering the evidence presented, may rule that the accountant is
14 not qualified for purposes of expressing the opinion of the
15 accountant on the financial statements in the annual audited
16 financial report made pursuant to the Oklahoma Annual Financial
17 Report Act and require the insurer to replace the accountant with
18 another whose relationship with the insurer is qualified within the
19 meaning of the Oklahoma Annual Financial Report Act.

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

- 1 a. bookkeeping or other services related to the
2 accounting records or financial statements of the
3 insurer,
- 4 b. financial information systems design and
5 implementation,
- 6 c. appraisal or valuation services, fairness opinions, or
7 contribution-in-kind reports,
- 8 d. actuarially-oriented advisory services involving the
9 determination of amounts recorded in the financial
10 statements. The accountant may assist an insurer in
11 understanding the methods, assumptions, and inputs
12 used in the determination of amounts recorded in the
13 financial statement only if it is reasonable to
14 conclude that the services provided will not be
15 subject to audit procedures during an audit of the
16 financial statements of the insurer. The actuary of
17 an accountant may also issue an actuarial opinion or
18 certification on the reserves of an insurer if the
19 following conditions have been met:
- 20 (1) neither the accountant nor the actuary of the
21 accountant has performed any management functions
22 or made any management decisions,
- 23
24

1 (2) the insurer has competent personnel or engages a
2 third party actuary to estimate the reserves for
3 which management takes responsibility, and

4 (3) the actuary of the accountant tests the
5 reasonableness of the reserves after the
6 management of the insurer has determined the
7 amount of the reserves,

8 e. internal audit outsourcing services,

9 f. management functions or human resources,

10 g. broker or dealer, investment adviser, or investment
11 banking services,

12 h. legal services or expert services unrelated to the
13 audit; or

14 i. any other services that the Commissioner determines,
15 by rule, are impermissible,

16 2. In general, the principles of independence with respect to
17 services provided by the qualified independent certified public
18 accountant are largely predicated on three basic principles,
19 violations of which would impair the independence of the accountant.
20 The principles are that the accountant cannot function in the role
21 of management, cannot audit the own work of the accountant, and
22 cannot serve in an advocacy role for the insurer.

23 H. Insurers having direct written and assumed premiums of less
24 than One Hundred Million Dollars (\$100,000,000.00) in any calendar

1 year may request an exemption from paragraph 1 of subsection G of
2 this section. The insurer shall file with the Commissioner a
3 written statement discussing the reasons why the insurer should be
4 exempt from these provisions. If the Commissioner finds, upon
5 review of the statement, that compliance with the Oklahoma Annual
6 Financial Report Act would constitute a financial or organizational
7 hardship upon the insurer, an exemption may be granted.

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

15 J. All auditing services and non-audit services provided to an
16 insurer by the qualified independent certified public accountant of
17 the insurer shall be preapproved by the audit committee. The
18 preapproval requirement is waived with respect to non-audit services
19 if the insurer is a SOX Compliant Entity or a direct or indirect
20 wholly-owned subsidiary of a SOX Compliant entity or:

21 1. The aggregate amount of all such non-audit services provided
22 to the insurer constitutes not more than five percent (5%) of the
23 total amount of fees paid by the insurer to its qualified
24

1 independent certified public accountant during the fiscal year in
2 which the non-audit services are provided;

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

5 3. The services are promptly brought to the attention of the
6 audit committee and approved prior to the completion of the audit by
7 the audit committee or by one or more members of the audit committee
8 who are the members of the board of directors to whom authority to
9 grant such approvals has been delegated by the audit committee.

10 K. The audit committee may delegate to one or more designated
11 members of the audit committee the authority to grant the
12 preapprovals required by subsection J of this section. The
13 decisions of any member to whom this authority is delegated shall be
14 presented to the full audit committee at each of its scheduled
15 meetings.

16 L. 1. The Commissioner shall not recognize an independent
17 certified public accountant as qualified for a particular insurer if
18 a member of the board, president, chief executive officer,
19 controller, chief financial officer, chief accounting officer, or
20 any person serving in an equivalent position for that insurer, was
21 employed by the independent certified public accountant and
22 participated in the audit of that insurer during the one-year period
23 preceding the date that the most current statutory opinion is due.
24 This subsection shall only apply to partners and senior managers

1 involved in the audit. An insurer may make application to the
2 Commissioner for relief from the above requirement on the basis of
3 unusual circumstances.

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

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

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

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

24

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

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

5 4. Explanations of consolidating and eliminating entries shall
6 be included; and

7 5. A reconciliation shall be included of any differences
8 between the amounts shown in the individual insurer columns of the
9 worksheet and comparable amounts shown on the annual statements of
10 the insurers.

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

14 Financial statements furnished pursuant to Section 7 of this act
15 shall be examined by the independent certified public accountant.
16 The audit of the financial statements of the insurer shall be
17 conducted in accordance with generally accepted auditing standards.
18 In accordance with AU Section 319 of the Professional Standards of
19 the AICPA, Consideration of Internal Control in a Financial
20 Statement Audit, the independent certified public accountant should
21 obtain an understanding of internal control sufficient to plan the
22 audit. To the extent required by AU 319, for those insurers
23 required to file a Management's Report of Internal Control over
24 Financial Reporting pursuant to Section 18 of this act, the

1 independent certified public accountant should consider, as that
2 term is defined in Statement on Auditing Standards (SAS) No. 102,
3 Defining Professional Requirements in Statements on Auditing
4 Standards or its replacement, the most recently available report in
5 planning and performing the audit of the statutory financial
6 statements. Consideration shall be given to the procedures
7 illustrated in the Financial Condition Examiners Handbook
8 promulgated by the National Association of Insurance Commissioners
9 as the independent certified public accountant deems necessary.

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

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

1 independent certified public accountant making the report with
2 evidence of the report being furnished to the Commissioner. If the
3 independent certified public accountant fails to receive the
4 evidence within the required five (5) business day period, the
5 independent certified public accountant shall furnish to the
6 Commissioner a copy of its report within the next five (5) business
7 days.

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

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

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

21 A. In addition to the annual audited financial report, each
22 insurer shall furnish the Insurance Commissioner with a written
23 communication as to any unremediated material weaknesses in its
24 internal controls over financial reporting noted during the audit.

1 Such communication shall be prepared by the accountant within sixty
2 (60) days after the filing of the annual audited financial report,
3 and shall contain a description of any unremediated material
4 weakness, as the term material weakness is defined by Statement on
5 Auditing Standard 60, Communication of Internal Control Related
6 Matters Noted in an Audit, or its replacement, as of December 31
7 immediately preceding, so as to coincide with the audited financial
8 report discussed in subsection A of Section 4 of this act in the
9 internal control over financial reporting of the insurer noted by
10 the accountant during the course of their audit of the financial
11 statements. If no unremediated material weaknesses were noted, the
12 communication should so state.

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

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

20 The accountant shall furnish the insurer in connection with, and
21 for inclusion in, the filing of the annual audited financial report,
22 a letter stating:

23 1. That the accountant is independent with respect to the
24 insurer and conforms to the standards of the profession as contained

1 in the Code of Professional Ethics and pronouncements of the AICPA
2 and the Rules of Professional Conduct of the Oklahoma Board of
3 Public Accountancy, or similar code;

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

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

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

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

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

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

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

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

1 examination covering the period of the audit but no longer than
2 seven (7) years from the date of the audit report.

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

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

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

19 B. The audit committee shall be directly responsible for the
20 appointment, compensation, and oversight of the work of any
21 accountant, including resolution of disagreements between management
22 and the accountant regarding financial reporting, for the purpose of
23 preparing or issuing the audited financial report or related work
24

1 pursuant to the Oklahoma Annual Financial Report Act. Each
2 accountant shall report directly to the audit committee.

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

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

18 E. If a member of the audit committee ceases to be independent
19 for reasons outside the reasonable control of the member, that
20 person, with notice by the responsible entity to the state, may
21 remain an audit committee member of the responsible entity until the
22 earlier of the next annual meeting of the responsible entity or one
23 year from the occurrence of the event that caused the member to be
24 no longer independent.

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

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

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

24

1 c. other material written communications between the
2 accountant and the management of the insurer, such as
3 any management or schedule of unadjusted differences;

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

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

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

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

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

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

6 J. For purposes of this section, prior calendar year direct
7 written and assumed premiums shall be the combined total of direct
8 premiums and assumed premiums from non-affiliates for the reporting
9 entities.

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

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

24

1 A. No director or officer of an insurer shall, directly or
2 indirectly:

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

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

13 B. No officer or director of an insurer, or any other person
14 acting under the direction thereof, shall directly or indirectly
15 take any action to coerce, manipulate, mislead, or fraudulently
16 influence any accountant engaged in the performance of an audit
17 pursuant to the Oklahoma Annual Financial Report Act if that person
18 knew or should have known that the action, if successful, could
19 result in rendering the financial statements of the insurer
20 materially misleading.

21 C. For purposes of subsection B of this section, actions that,
22 if successful, could result in rendering the financial statements of
23 the insurer materially misleading include, but are not limited to,
24 actions taken at any time with respect to the professional

1 engagement period to coerce, manipulate, mislead, or fraudulently
2 influence an accountant:

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

8 2. Not to perform audit, review or other procedures required by
9 generally accepted auditing standards or other professional
10 standards;

11 3. Not to withdraw an issued report; or

12 4. Not to communicate matters to the audit committee of an
13 insurer.

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

17 A. Every insurer required to file an audited financial report
18 pursuant to the Oklahoma Annual Financial Report Act that has annual
19 direct written and assumed premiums, excluding premiums reinsured
20 with the Federal Crop Insurance Corporation and Federal Flood
21 Program, of Five Hundred Million Dollars (\$500,000,000.00) or more
22 shall prepare a report of the insurer's or group of insurers'
23 internal control over financial reporting. The report shall be
24 filed with the Insurance Commissioner along with the Communication

1 of Internal Control Related Matters Noted in an Audit described
2 under Section 13 of this act. Management's Report of Internal
3 Control over Financial Reporting shall be as of December 31
4 immediately preceding.

5 B. Notwithstanding the premium threshold in subsection A of
6 this section, the Commissioner may require an insurer to file
7 Management's Report of Internal Control over Financial Reporting if
8 the insurer is in any RBC level event, or meets any one or more of
9 the standards of an insurer deemed to be in hazardous financial
10 condition.

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

12 1. Directly subject to Section 404;

13 2. Part of a holding company system whose parent is directly
14 subject to Section 404;

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

17 4. A member of a holding company system whose parent is not
18 directly subject to Section 404 but is a SOX Compliant Entity;
19 may file its or its parent's Section 404 Report and an addendum in
20 satisfaction of the requirements of this section provided that those
21 internal controls of the insurer or group of insurers' audited
22 statutory financial statements included in paragraphs 2 through 7 of
23 subsection B of Section 7 of this act were included in the scope of
24 the Section 404 Report. The addendum shall be a positive statement

1 by management that there are no material processes with respect to
2 the preparation of the insurer's or group of insurers' audited
3 statutory financial statements included in paragraphs 2 through 7 of
4 subsection B of Section 7 of this act excluded from the Section 404
5 Report. If there are internal controls of the insurer or group of
6 insurers that have a material impact on the preparation of the
7 insurer's or group of insurer's audited statutory financial
8 statements and those internal controls were not included in the
9 scope of the Section 404 Report, the insurer or group of insurers
10 may either file a report pursuant to this section or the Section 404
11 Report and a report pursuant to this section for those internal
12 controls that have a material impact on the preparation of the
13 insurer's or group of insurers' audited statutory financial
14 statements not covered by the Section 404 Report.

15 D. Management's Report of Internal Control over Financial
16 Reporting shall include:

- 17 1. A statement that management is responsible for establishing
18 and maintaining adequate internal control over financial reporting;
- 19 2. A statement that management has established internal control
20 over financial reporting and an assertion, to the best of the
21 knowledge and belief of management, after diligent inquiry, as to
22 whether its internal control over financial reporting is effective
23 to provide reasonable assurance regarding the reliability of
24

1 financial statements in accordance with statutory accounting
2 principles;

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

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

8 5. Disclosure of any unremediated material weaknesses in the
9 internal control over financial reporting identified by management
10 as of December 31 immediately preceding. Management is not
11 permitted to conclude that the internal control over financial
12 reporting is effective to provide reasonable assurance regarding the
13 reliability of financial statements in accordance with statutory
14 accounting principles if there is one or more unremediated material
15 weaknesses in its internal control over financial reporting;

16 6. A statement regarding the inherent limitations of internal
17 control systems; and

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

20 E. Management shall document and make available upon financial
21 condition examination the basis upon which its assertions, required
22 in subsection D of this section, are made. Management may base its
23 assertions, in part, upon its review, monitoring, and testing of
24 internal controls undertaken in the normal course of its activities.

1 F. Management shall have discretion as to the nature of the
2 internal control framework used, and the nature and extent of
3 documentation, in order to make its assertion in a cost effective
4 manner and, as such, may include assembly of or reference to
5 existing documentation.

6 G. Management's Report on Internal Control over Financial
7 Reporting, required by subsection A of this section and any
8 documentation provided in support thereof during the course of a
9 financial condition examination, shall be kept confidential by the
10 Insurance Department.

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

14 A. Upon written application of any insurer, the Insurance
15 Commissioner may grant an exemption from compliance with any and all
16 provisions of the Oklahoma Annual Financial Report Act if the
17 Commissioner finds, upon review of the application, that compliance
18 with the Oklahoma Annual Financial Report Act would constitute a
19 financial or organizational hardship upon the insurer. An exemption
20 may be granted at any time and from time to time for a specified
21 period or periods. Within ten (10) days from a denial of the
22 written request of an insurer for an exemption from the Oklahoma
23 Annual Financial Report Act, the insurer may request in writing a
24 hearing on its application for an exemption. The hearing shall be

1 held in accordance with the Administrative Procedures Act and the
2 laws and rules of the Insurance Department.

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

8 C. Domestic insurers not retaining a certified public
9 accountant on the effective date of the Oklahoma Annual Financial
10 Report Act who qualifies as independent may meet the following
11 schedule for compliance unless the Commissioner permits otherwise:

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

14 2. For the year ending December 31, 2011 and each year
15 thereafter, such insurers shall file with the Commissioner all
16 reports and communication required by the Oklahoma Annual Financial
17 Report Act.

18 D. Foreign insurers shall comply with the Oklahoma Annual
19 Financial Report Act for the year ending December 31, ____ and each
20 year thereafter, unless the Commissioner permits otherwise.

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

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1 F. The requirements of Section 16 of this act are to be in
2 effect January 1, 2010. An insurer or group of insurers that is not
3 required to have independent audit committee members or only a
4 majority of independent audit committee members, as opposed to a
5 supermajority, because the total written and assumed premium is
6 below the threshold and subsequently becomes subject to one of the
7 independence requirements due to changes in premium shall have one
8 (1) year following the year the threshold is exceeded, but not
9 earlier than January 1, 2010, to comply with the independence
10 requirements. An insurer acquired as a result of a business
11 combination shall have one (1) calendar year following the date of
12 acquisition or combination to comply with the independence
13 requirements.

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

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

4 A. In the case of Canadian and British insurers, the annual
5 Audited financial report shall be defined as the annual statement of
6 total business on the form filed by such companies with their
7 supervision authority duly audited by an independent chartered
8 accountant.

9 B. For such insurers, the letter required in subsection B of
10 Section 8 of this act shall state that the accountant is aware of
11 the requirements relating to the annual audited financial report
12 filed with the Insurance Commissioner pursuant to Section 6 of this
13 act and shall affirm that the opinion expressed is in conformity
14 with those requirements.

15 SECTION 21. AMENDATORY 36 O.S. 2001, Section 361, as
16 last amended by Section 2, Chapter 129, O.S.L. 2005 (36 O.S. Supp.
17 2008, Section 361), is amended to read as follows:

18 Section 361. A. There is hereby created within the Insurance
19 Department, under the control and direction of the Insurance
20 Commissioner, an "Anti-Fraud Unit" within the Legal and
21 Investigation Division of the Insurance Department.

22 B. The Anti-Fraud Unit, upon inquiry, complaint, or referral
23 shall investigate the extent, if any, to which a violation has
24 occurred of any statute or administrative rule of this state

1 pertaining to insurance fraud and may initiate any necessary
2 investigation. Whenever the Unit determines that a violation of any
3 criminal law of this state may have occurred, it may refer the
4 matter to the Oklahoma State Bureau of Investigation for further
5 investigation pursuant to Section 150.5 of Title 74 of the Oklahoma
6 Statutes or the Attorney General pursuant to Section 18b of Title 74
7 of the Oklahoma Statutes. The Insurance Department shall retain the
8 authority to initiate and prosecute any civil action it deems
9 necessary or advisable.

10 C. The Anti-Fraud Unit may employ investigators who are
11 commissioned by the Insurance Commissioner to serve as peace
12 officers, as defined by and pursuant to the guidelines and
13 requirements of Section 3311 of Title 70 of the Oklahoma Statutes
14 and Sections 99 and 99a of Title 21 of the Oklahoma Statutes.

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

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

4 A. An Oklahoma domestic insurer possessing policyholder surplus
5 of at least Fifteen Million Dollars (\$15,000,000) may, pursuant to a
6 resolution by its board of directors, and with the written approval
7 of the Insurance Commissioner, be designated as a domestic surplus
8 line insurer. Such insurers shall write surplus line insurance in
9 any jurisdiction within which it does business, including this
10 state.

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

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

21 D. A domestic surplus line insurer is not subject to the
22 provisions of the Oklahoma Property & Casualty Insurance Guaranty
23 Act nor the Oklahoma Life and Health Insurance Guaranty Association
24 Act.

1 SECTION 23. AMENDATORY 36 O.S. 2001, Section 1219.4, as
2 last amended by Section 9, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
3 2008, 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 directly
10 contracts with physicians and hospitals and has contractual rights to
11 negotiate on behalf of those health care providers with a discount
12 medical plan organization to provide medical services to members of
13 the discount medical plan organization;

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

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

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

2 The term does not include pharmaceutical supplies or prescriptions;

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

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

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

19 2. To register as a discount medical plan organization, an
20 applicant shall:

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

24

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

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

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

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

8 a. otherwise is entitled to be registered,

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

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

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

17 a. makes a material misstatement or misrepresentation in
18 an application for registration,

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

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

1 d. has violated any provisions of this section.

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

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

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

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

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

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

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

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

11 C. 1. The Department may examine or investigate the business
12 and affairs of any discount medical plan organization. The
13 Department may require any discount medical plan organization or
14 applicant to produce any records, books, files, advertising and
15 solicitation materials, or other information and may take statements
16 under oath to determine whether the discount medical plan
17 organization or applicant is in violation of the law or is acting
18 contrary to the public interest. The expenses incurred in
19 conducting any examination or investigation shall be paid by the
20 discount medical plan organization or applicant. Examinations and
21 investigations shall be conducted as provided in Sections 309.1 and
22 309.3 through 309.7 of this title. Discount medical plan
23 organizations shall be governed by the provisions of this section
24

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

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

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

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

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

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

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

- 1 a. use in its advertisements, marketing material,
2 brochures, and discount cards the terms "insurance",
3 "health plan", "coverage", "copay", "copayments",
4 "preexisting conditions", "guaranteed issue",
5 "premium", "PPO", "preferred provider organization",
6 or other terms in a manner that could reasonably
7 mislead a person to believe that the discount medical
8 plan is health insurance,
9 b. except for hospital services, have restrictions on
10 free access to plan providers including waiting
11 periods and notification periods, or
12 c. pay providers any fees for medical services.

13 2. A discount medical plan organization may not collect or
14 accept money from a member for payment to a provider for specific
15 medical services furnished or to be furnished to the member unless
16 the organization has an active license from the Insurance Department
17 of the State of Oklahoma to act as an administrator.

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

- 23 a. that the plan is not insurance,
24

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

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

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

22 G. 1. All providers offering medical services to members under
23 a discount medical plan shall provide such services pursuant to a
24 written agreement. The agreement may be entered into directly by

1 the health care provider or by a health care provider network to
2 which the provider belongs if the provider network has contracts
3 with the health care provider that allow the provider network to
4 contract on behalf of the health care provider.

5 2. A health care provider agreement shall provide the
6 following:

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

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

- 17 a. contain the terms described in paragraph 2 of this
18 subsection,
- 19 b. authorize the health care provider network to contract
20 with the discount medical plan organization on behalf
21 of the provider, and
- 22 c. require the network to maintain an up-to-date list of
23 its contracted health care providers and to provide
24

1 that list on a quarterly basis to the discount medical
2 plan organization.

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

6 H. 1. There shall be a written agreement between the discount
7 medical plan organization and the member specifying the benefits
8 under the discount medical plan and complying with the disclosure
9 requirements of this section.

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

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

21 2. The Insurance Department of the State of Oklahoma may not
22 allow a registration unless the discount medical plan organization
23 has a net worth of at least One Hundred Fifty Thousand Dollars
24 (\$150,000.00).

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

6 a. the organization is not operating in compliance with
7 the provisions of this section,

8 b. the organization does not have the minimum net worth
9 as required by this section,

10 c. the organization has advertised, merchandised or
11 attempted to merchandise its services in such a manner
12 as to misrepresent its services or capacity for
13 service or has engaged in deceptive, misleading or
14 unfair practices with respect to advertising or
15 merchandising,

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

18 e. the continued operation of the organization would be
19 hazardous to its members.

20 2. If the Insurance Department of the State of Oklahoma has
21 cause to believe that grounds for the suspension or revocation of a
22 registration exist, the Department shall notify the discount medical
23 plan organization in writing, specifically stating the grounds for
24 suspension or revocation, and shall provide opportunity for a

1 hearing on the matter in accordance with the Administrative
2 Procedures Act and the Oklahoma Insurance Code.

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

11 4. The Insurance Department of the State of Oklahoma shall, in
12 its order suspending the authority of a discount medical plan
13 organization to enroll new members, specify the period during which
14 the suspension is to be in effect and the conditions, if any, which
15 shall be met by the discount medical plan organization prior to
16 reinstatement of its registration to enroll new members. The order
17 of suspension is subject to rescission or modification by further
18 order of the Department prior to the expiration of the suspension
19 period. Reinstatement may not be made unless requested by the
20 discount medical plan organization; however, the Department may not
21 grant reinstatement if it finds that the circumstances for which the
22 suspension occurred still exist or are likely to reoccur.

23 K. Each discount medical plan organization required to be
24 registered pursuant to this section shall provide the Insurance

1 Department of the State of Oklahoma at least thirty (30) days'
2 advance notice of any change in the discount medical plan
3 organization's name, address, principal business address, or mailing
4 address.

5 L. Each discount medical plan organization shall maintain an
6 up-to-date list of the names and addresses of the providers with
7 which it has contracted on an Internet web site page, the address of
8 which shall be prominently displayed on all its advertisements,
9 marketing materials, brochures, and discount cards. This section
10 applies to those providers with whom the discount medical plan
11 organization has contracted directly, as well as those who are
12 members of a provider network with which the discount medical plan
13 organization has contracted.

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

17 2. The discount medical plan organization shall have an
18 executed written agreement with a marketer prior to the marketer's
19 marketing, promoting, selling, or distributing the discount medical
20 plan.

21 N. The Insurance Commissioner may promulgate rules to
22 administer the provisions of this section.

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

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

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

11 Q. 1. A person who knowingly and willfully operates as or aids
12 and abets another operating as a discount medical plan organization
13 in violation of subsection B of this section commits a felony,
14 punishable as provided for in Oklahoma law, as if the discount
15 medical plan organization were an unauthorized insurer, and the
16 fees, dues, charges, or other consideration collected from the
17 members by the discount medical plan organization or marketer were
18 insurance premium.

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

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

1 a. a discount medical plan organization is being operated
2 by any person or entity that is not registered
3 pursuant to this section, or

4 b. any person, entity, or discount medical plan
5 organization has engaged in any activity prohibited by
6 this section or any rule adopted pursuant to this
7 section.

8 2. The venue for any proceeding brought pursuant to the
9 provisions of this section shall be in the district court of
10 Oklahoma County.

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

15 2. A discount medical plan organization being operated by any
16 person or entity that is not registered pursuant to this section, or
17 any person, entity or discount medical plan organization that has
18 engaged or is engaging in any activity prohibited by this section or
19 any rules adopted pursuant to this section shall be subject to the
20 Unauthorized Insurer Act as if the discount medical plan
21 organization were an unauthorized insurer, and shall be subject to
22 all the remedies available to the Insurance Commissioner under the
23 Unauthorized Insurer Act.

1 T. If the Insurance Commissioner finds that a discount medical
2 plan organization has violated any provision of this section or that
3 grounds exist for the discretionary revocation or suspension of a
4 registration, the Commissioner, in lieu of such revocation or
5 suspension, may impose a fine upon the discount medical plan
6 organization in an amount not to exceed One Thousand Dollars
7 (\$1,000.00) per violation.

8 SECTION 24. AMENDATORY 36 O.S. 2001, Section 1435.6, as
9 last amended by Section 44, Chapter 264, O.S.L. 2006 (36 O.S. Supp.
10 2008, Section 1435.6), is amended to read as follows:

11 Section 1435.6 A. A resident individual applying for an
12 insurance producer license shall pass a written examination unless
13 exempt pursuant to Section 1435.10 of this title. The examination
14 shall test the knowledge of the individual concerning the lines of
15 authority for which application is made, the duties and
16 responsibilities of an insurance producer and the insurance laws and
17 regulations of this state. Examinations required by this section
18 shall be developed and conducted under rules and regulations
19 prescribed by the Insurance Commissioner.

20 B. The Commissioner may make arrangements, including
21 contracting with an outside testing service, for administering
22 examinations and collecting the nonrefundable fee set forth in
23 Section 1435.23 of this title.

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

4 D. After completion and filing of the application with the
5 Insurance Commissioner, except as provided in Section 1435.10 of
6 this title, the Commissioner shall subject each applicant for
7 license as an insurance agent, insurance consultant, limited
8 insurance representative, or customer service representative to an
9 examination approved by the Commissioner as to competence to act as
10 a licensee, which each applicant shall personally take and pass to
11 the satisfaction of the Commissioner. The Commissioner may accept
12 examinations administered by a testing service as satisfying the
13 examination requirements of persons seeking license as agents,
14 solicitors, counselors, or adjusters under the Oklahoma Insurance
15 Code. The Commissioner may negotiate agreements with such testing
16 services to include performance of examination development, test
17 scheduling, examination site arrangements, test administration,
18 grading, reporting, and analysis. The Commissioner may require such
19 testing services to correspond directly with the applicants with
20 regard to the administration of such examinations and that such
21 testing services collect fees for administering such examinations
22 directly from the applicants. The Commissioner may stipulate that
23 any agreements with such testing services provide for the
24 administration of examinations in specific locales and at specified

1 frequencies. The Commissioner shall retain the authority to
2 establish the scope and type of all examinations.

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

5 F. Each examination for a license shall be approved for use by
6 the Commissioner and shall reasonably test the knowledge of the
7 applicant as to the lines of insurance, policies, and transactions
8 to be handled pursuant to the license applied for, the duties and
9 responsibilities of the licensee, and the pertinent insurance laws
10 of this state.

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

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

16 I. The applicant shall pass the examination with a grade
17 determined by the Commissioner to indicate satisfactory knowledge
18 and understanding of the line or lines of insurance for which the
19 applicant seeks qualification. Within ten (10) days after the
20 examination, the Commissioner shall inform the applicant and the
21 appointing insurer, when applicable, as to whether or not the
22 applicant has passed. Formal evidence of licensing shall be issued
23 by the Commissioner to the licensee within a reasonable time.

24

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

5 K. An applicant who has failed to pass the first two
6 examinations for the license applied for shall not be permitted to
7 take a subsequent examination until the expiration of thirty (30)
8 days after the last previous examination. An applicant shall take
9 and pass the examination within one hundred eighty (180) days of the
10 date of the initial application. If applicant fails to pass the
11 examination within the specified time period, the applicant shall
12 submit a new application accompanied by any applicable fees.
13 Examination fees for subsequent examinations shall not be waived.

14 L. An applicant for a license as a resident surplus lines
15 broker shall have passed the property and casualty insurance
16 examination on the line or lines of insurance to be written to
17 qualify for a surplus lines broker license.

18 SECTION 25. AMENDATORY 36 O.S. 2001, Section 1435.7, as
19 last amended by Section 10, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
20 2008, Section 1435.7), is amended to read as follows:

21 Section 1435.7 A. A person applying for a resident insurance
22 producer license shall make application to the Insurance
23 Commissioner on the Uniform Application or an application approved
24 by the Commissioner and declare under penalty of refusal, suspension

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

- 6 1. Is at least eighteen (18) years of age;
- 7 2. Has not committed any act that is a ground for denial,
8 suspension or revocation set forth in Section 1435.13 of this title;
- 9 3. Has held a provisional insurance producer license or has
10 been a participant in an approved training program offered by an
11 insurance company licensed in this state except for title, aircraft
12 title, or any other producer applicant exempt by rule;
- 13 4. Has paid the fees set forth in Section 1435.23 of this
14 title; and
- 15 5. Has successfully passed the examinations for the lines of
16 authority for which the person has applied.

17 B. A business entity acting as an insurance producer is
18 required to obtain an insurance producer license. Application shall
19 be made using the Uniform Business Entity Application or an
20 application approved by the Commissioner. Before approving the
21 application, the Insurance Commissioner shall find that:

- 22 1. The business entity has paid the fees set forth in Section
23 1435.23 of this title;

24

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

4 3. A domestic business entity is organized pursuant to the
5 provisions of the laws of this state and maintains its principal
6 place of business in this state; and

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

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

16 ~~D.~~ An applicant for any license required by the provisions of
17 the Oklahoma Producer Licensing Act shall demonstrate to the
18 Insurance Commissioner that the applicant is competent, trustworthy,
19 financially responsible, and of good personal and business
20 reputation.

21 ~~E.~~ D. The Insurance Commissioner may require any documents
22 reasonably necessary to verify the information contained in an
23 application.

1 SECTION 26. AMENDATORY 36 O.S. 2001, Section 1435.8, as
2 last amended by Section 45, Chapter 264, O.S.L. 2006 (36 O.S. Supp.
3 2008, Section 1435.8), is amended to read as follows:

4 Section 1435.8 A. Unless denied licensure pursuant to Section
5 1435.13 of this title, persons who have met the requirements of
6 Sections 1435.6 and 1435.7 of this title shall be issued an
7 insurance producer license. An insurance producer may receive
8 qualification for a license in one or more of the following lines of
9 authority:

10 1. Life - insurance coverage on human lives including benefits
11 of endowment and annuities, and may include benefits in the event of
12 death or dismemberment by accident and benefits for disability
13 income;

14 2. Accident and health or sickness - insurance coverage for
15 sickness, bodily injury or accidental death and may include benefits
16 for disability income;

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

19 4. Casualty - insurance coverage against legal liability,
20 including that for death, injury or disability or damage to real or
21 personal property;

22 5. Variable life and variable annuity products - insurance
23 coverage provided under variable life insurance contracts and
24 variable annuities;

1 6. Personal lines - property and casualty insurance coverage
2 sold to individuals and families for primarily noncommercial
3 purposes;

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

6 8. Credit - limited line credit insurance;

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

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

14 11. Any other line of insurance permitted under state laws or
15 regulations.

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

20 C. An individual insurance producer who allows the license to
21 lapse may, within twenty-four (24) months from the due date of the
22 renewal fee, reinstate the same license without the necessity of
23 passing a written examination unless the license was revoked,
24 suspended, or continuation thereof was refused by the Commissioner.

1 However, a penalty in the amount of double the unpaid renewal fee
2 shall be required for any renewal fee received after the due date.
3 Continuing education requirements must be kept current.

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

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

14 F. Licensees shall inform the Insurance Commissioner by any
15 means acceptable to the Insurance Commissioner of a change of legal
16 name or address within thirty (30) days of the change. Failure to
17 ~~timely~~ inform the Insurance Commissioner of a change in legal name
18 or address ~~shall result in a penalty~~ within thirty (30) days of the
19 change shall result in an administrative fee of Fifty Dollars
20 (\$50.00). Failure to pay the fee and provide acceptable
21 notification of a change of address to the Insurance Commissioner
22 within forty-five (45) days of the issuance date of the
23 administrative fee will result in additional penalties pursuant to
24 Section 1435.13 of this title.

1 G. In order to assist in the performance of the Insurance
2 Commissioner's duties, the Insurance Commissioner may contract with
3 nongovernmental entities, including the National Association of
4 Insurance Commissioners (NAIC) or any affiliates or subsidiaries
5 that the NAIC oversees, to perform any ministerial functions,
6 including the collection of fees, related to producer licensing that
7 the Insurance Commissioner and the nongovernmental entity may deem
8 appropriate.

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

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

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

- 9 1. Any limited lines producer; and
- 10 2. ~~A surplus lines insurance broker; and~~
- 11 ~~3.~~ A title insurance producer licensed prior to November 1,
12 2006, who is an applicant for an aircraft title producer license.

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

21 SECTION 28. AMENDATORY 36 O.S. 2001, Section 1435.15, as
22 last amended by Section 13, Chapter 125, O.S.L. 2007 (36 O.S. Supp.
23 2008, Section 1435.15), is amended to read as follows:

24

1 Section 1435.15 A. An insurance producer shall not act as an
2 agent of an insurer unless the insurance producer becomes an
3 appointed agent of that insurer. An insurance producer who is not
4 acting as an agent of an insurer is not required to become
5 appointed.

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

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

1 ineligible for appointment, the Insurance Commissioner shall notify
2 the insurer and the authorized representative of the insurer within
3 five (5) days of its determination.

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

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

17 SECTION 29. AMENDATORY 36 O.S. 2001, Section 1435.23, as
18 last amended by Section 13, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
19 2008, Section 1435.23), is amended to read as follows:

20 Section 1435.23 A. All applications shall be accompanied by
21 the applicable fees. An appointment may be deemed by the
22 Commissioner to have terminated upon failure by the insurer to pay
23 the prescribed renewal fee. The Commissioner may also by order
24

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

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

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

7 2. Miscellaneous:

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

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

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

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

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

22 4. Licenses:
23
24

- 1 a. Insurance producer's biennial license,
2 regardless of number of companies
3 represented..... \$ 60.00
- 4 b. Insurance producer's biennial license
5 for sale or solicitation of separate
6 accounts or agreements, as provided for
7 in Section 6061 of this title..... \$ 60.00
- 8 c. Limited lines producer biennial license..... \$ 40.00
- 9 d. Temporary license as agent..... \$ 20.00
- 10 e. Managing general agent's biennial
11 license..... \$ 60.00
- 12 f. Surplus lines broker's biennial license..... \$100.00
- 13 g. Insurance vending machine, each machine,
14 biennial fee..... \$100.00
- 15 h. Insurance consultant's biennial license,
16 resident or nonresident..... \$100.00
- 17 i. Customer service representative biennial
18 license..... \$ 40.00
- 19 j. Insurance producer's provisional license \$ 20.00
- 20 5. Biennial fee for each appointed insurance
21 producer, managing general agent, or limited
22 lines producer by insurer, each license of
23 each insurance producer or representative..... \$ 40.00
- 24

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

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

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

8 9. The administrative fee for failing to notify the Insurance
9 Commissioner of a change of address or name within thirty (30) days
10 of the change shall be Fifty Dollars (\$50.00).

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

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

23 C. There is hereby created in the State Treasury the State
24 Insurance Commissioner Revolving Fund which shall be a continuing

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

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

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

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

24

1 SECTION 30. AMENDATORY 36 O.S. 2001, Section 1435.29, as
2 last amended by Section 14, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
3 2008, 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 ~~fourteen (14)~~ twenty-one (21) clock hours of continuing
8 insurance education which shall cover subjects in the lines for
9 which the insurance producer is licensed. Such education may
10 include a written or 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, ~~two (2)~~ three (3) clock
19 hours of 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 education may include a written or oral
2 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
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 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 thirty-day period, the recommendation made to the
9 Commissioner will 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
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 (20) hours. Each approved professional
3 designation program included in this section shall be reviewed for
4 quality and compliance every three (3) years in accordance with
5 standardized criteria promulgated by rule. Continuation of approved
6 status is contingent upon the findings of the review. The list of
7 professional designation programs approved under this paragraph
8 shall be made available to producers and providers annually.

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

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

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

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

7 C. ~~Each provider of resident provisional producer prelicensing~~
8 ~~education and continuing education shall, after approval by the~~
9 ~~Commissioner, submit an annual fee. A fee may be assessed for each~~
10 ~~course submission at the time it is first submitted for review and~~
11 ~~upon submission for renewal at expiration.~~ Annual fees and course
12 submission fees shall be set forth as a rule by the Commissioner.
13 The fees are payable to the Insurance Commissioner which shall be
14 deposited in the State Insurance Commissioner Revolving Fund,
15 created in subsection C of Section 1435.23 of this title, for the
16 purposes of fulfilling and accomplishing the conditions and purposes
17 of the Oklahoma Producer Licensing Act and the Insurance Adjusters
18 Licensing Act. Provided, public-funded educational institutions,
19 federal agencies, non-profit organizations, not-for-profit
20 organizations, and Oklahoma state agencies shall be exempt from this
21 subsection.

22 D. Failure of an insurance producer or customer service
23 representative to comply with the requirements of the Oklahoma
24 Producer Licensing Act may, after notice and opportunity for

1 hearing, result in censure, suspension, nonrenewal of license or a
2 civil penalty of up to Five Hundred Dollars (\$500.00) or by both
3 such penalty and civil penalty. Said civil penalty may be enforced
4 in the same manner in which civil judgments may be enforced. Any
5 civil penalties collected under this act shall be deposited in the
6 State Insurance Commissioner Revolving Fund.

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

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

15 ~~G.~~ Members of the Legislature shall be exempt from this
16 section.

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

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

22 Section 3636. A. No policy insuring against loss resulting
23 from liability imposed by law for bodily injury or death suffered by
24 any person arising out of the ownership, maintenance or use of a

1 motor vehicle shall be issued, delivered, renewed, or extended in
2 this state with respect to a motor vehicle registered or principally
3 garaged in this state unless the policy includes the coverage
4 described in subsection B of this section.

5 B. The policy referred to in subsection A of this section shall
6 provide coverage therein or supplemental thereto for the protection
7 of persons insured thereunder who are legally entitled to recover
8 damages from owners or operators of uninsured motor vehicles and
9 hit-and-run motor vehicles because of bodily injury, sickness or
10 disease, including death resulting therefrom. Coverage shall be not
11 less than the amounts or limits prescribed for bodily injury or
12 death for a policy meeting the requirements of Section 7-204 of
13 Title 47 of the Oklahoma Statutes, as the same may be hereafter
14 amended; provided, however, that increased limits of liability shall
15 be offered and purchased if desired, not to exceed the limits
16 provided in the policy of bodily injury liability of the insured.
17 The uninsured motorist coverage shall be upon a form approved by the
18 Insurance Commissioner as otherwise provided in the Insurance Code
19 and may provide that the parties to the contract shall, upon demand
20 of either, submit their differences to arbitration; provided, that
21 if agreement by arbitration is not reached within three (3) months
22 from date of demand, the insured may sue the tort-feasor.

23 C. For the purposes of this coverage the term "uninsured motor
24 vehicle" shall include an insured motor vehicle where the liability

1 insurer thereof is unable to make payment with respect to the legal
2 liability of its insured within the limits specified therein because
3 of insolvency. For the purposes of this coverage the term
4 "uninsured motor vehicle" shall also include an insured motor
5 vehicle, the liability limits of which are less than the amount of
6 the claim of the person or persons making such claim, regardless of
7 the amount of coverage of either of the parties in relation to each
8 other.

9 D. An insurer's insolvency protection shall be applicable only
10 to accidents occurring during a policy period in which its insured's
11 uninsured motorist coverage is in effect where the liability insurer
12 of the tort-feasor becomes insolvent within one (1) year after such
13 an accident. Nothing herein contained shall be construed to prevent
14 any insurer from according insolvency protection under terms and
15 conditions more favorable to its insured than is provided hereunder.

16 E. For purposes of this section, there is no coverage for any
17 insured while occupying a motor vehicle owned by, or furnished or
18 available for the regular use of the named insured, a resident
19 spouse of the named insured, or a resident relative of the named
20 insured, if such motor vehicle is not insured by a motor vehicle
21 insurance policy.

22 F. In the event of payment to any person under the coverage
23 required by this section and subject to the terms and conditions of
24 such coverage, the insurer making such payment shall, to the extent

1 | thereof, be entitled to the proceeds of any settlement or judgment
2 | resulting from the exercise of any rights of recovery of such person
3 | against any person or organization legally responsible for the
4 | bodily injury for which such payment is made, including the proceeds
5 | recoverable from the assets of the insolvent insurer. Provided,
6 | however, with respect to payments made by reason of the coverage
7 | described in subsection C of this section, the insurer making such
8 | payment shall not be entitled to any right of recovery against such
9 | tort-feasor in excess of the proceeds recovered from the assets of
10 | the insolvent insurer of said tort-feasor. Provided further, that
11 | any payment made by the insured tort-feasor shall not reduce or be a
12 | credit against the total liability limits as provided in the
13 | insured's own uninsured motorist coverage. Provided further, that
14 | if a tentative agreement to settle for liability limits has been
15 | reached with an insured tort-feasor, written notice shall be given
16 | by certified mail to the uninsured motorist coverage insurer by its
17 | insured. Such written notice shall include:

- 18 | 1. Written documentation of pecuniary losses incurred,
19 | including copies of all medical bills; and
- 20 | 2. Written authorization or a court order to obtain reports
21 | from all employers and medical providers. Within sixty (60) days of
22 | receipt of this written notice, the uninsured motorist coverage
23 | insurer may substitute its payment to the insured for the tentative
24 | settlement amount. The uninsured motorist coverage insurer shall

1 then be entitled to the insured's right of recovery to the extent of
2 such payment and any settlement under the uninsured motorist
3 coverage. If the uninsured motorist coverage insurer fails to pay
4 the insured the amount of the tentative tort settlement within sixty
5 (60) days, the uninsured motorist coverage insurer has no right to
6 the proceeds of any settlement or judgment, as provided herein, for
7 any amount paid under the uninsured motorist coverage.

8 G. A named insured or applicant shall have the right to reject
9 uninsured motorist coverage in writing, and except that unless a
10 named insured or applicant requests such coverage in writing, such
11 coverage need not be provided in or supplemental to any renewal,
12 reinstatement, substitute, amended or replacement policy where a
13 named insured or applicant had rejected the coverage in connection
14 with a policy previously issued to him by the same insurer.

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

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

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

24

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

4 After selection of limits, rejection, or exercise of the option
5 not to purchase uninsured motorist coverage by a named insured or
6 applicant for insurance, the insurer shall not be required to notify
7 any insured in any renewal, reinstatement, substitute, amended or
8 replacement policy as to the availability of such uninsured motorist
9 coverage or such optional limits. Such selection, rejection, or
10 exercise of the option not to purchase uninsured motorist coverage
11 by a named insured or an applicant shall be valid for all insureds
12 under the policy and shall continue until a named insured requests
13 in writing that the uninsured motorist coverage be added to an
14 existing or future policy of insurance.

15 ~~I. Effective for forms required before April 1, 2005, the offer~~
16 ~~of the coverage required by subsection B of this section shall be in~~
17 ~~the following form which shall be filed with and approved by the~~
18 ~~Insurance Commissioner. The form shall be provided to the proposed~~
19 ~~insured in writing separately from the application and shall read~~
20 ~~substantially as follows:~~

21 ~~OKLAHOMA UNINSURED MOTORIST COVERAGE LAW~~

22 ~~Oklahoma law gives you the right to buy Uninsured Motorist~~
23 ~~coverage in the same amount as your bodily injury liability~~
24 ~~coverage. THE LAW REQUIRES US TO ADVISE YOU OF THIS VALUABLE RIGHT~~

1 ~~FOR THE PROTECTION OF YOU, MEMBERS OF YOUR FAMILY, AND OTHER PEOPLE~~
2 ~~WHO MAY BE HURT WHILE RIDING IN YOUR INSURED VEHICLE. YOU SHOULD~~
3 ~~SERIOUSLY CONSIDER BUYING THIS COVERAGE IN THE SAME AMOUNT AS YOUR~~
4 ~~LIABILITY INSURANCE COVERAGE LIMIT.~~

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

15 ~~You may make one of four choices about Uninsured Motorist~~
16 ~~Coverage:~~

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

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

23
24

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

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

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

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

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

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

12 ~~_____ I want to reject Uninsured Motorist coverage.~~

13 _____

14 _____ Proposed Insured

15 ~~THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE~~
16 ~~COVERAGE.~~

17 ~~J. The Insurance Commissioner shall approve a deviation to the~~
18 ~~form described in subsection I of this section if the form includes~~
19 ~~substantially the same information.~~

20 ~~K. The following are effective on forms required on or after~~
21 ~~April 1, 2005. The offer of the coverage required by subsection B~~
22 ~~of this section shall be in the following form which shall be filed~~
23 ~~with and approved by the Insurance Commissioner. The form shall be~~

24

1 provided to the proposed insured in writing separately from the
2 application and shall read substantially as follows:

3 OKLAHOMA UNINSURED MOTORIST COVERAGE LAW

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

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

21 You may make one of four choices about Uninsured Motorist
22 Coverage:

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

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

5 3. You may buy Uninsured Motorist coverage in an amount less
6 than your bodily injury liability coverage, but more than the
7 minimum levels.

8 4. You may reject Uninsured Motorist coverage.

9 _____ I want the same amount of Uninsured Motorist coverage as
10 my bodily injury liability coverage.

11 _____ I want minimum Uninsured Motorist coverage \$25,000.00 per
12 person/\$50,000.00 per occurrence.

13 _____ I want Uninsured Motorist coverage in the following amount:
14 \$_____ per person/\$_____ per occurrence.

15 _____ I want to reject Uninsured Motorist coverage.

16 _____

17 Proposed Insured

18 THIS FORM IS NOT A PART OF YOUR POLICY AND DOES NOT PROVIDE
19 COVERAGE.

20 ~~H.~~ J. The Insurance Commissioner shall approve a deviation from
21 the form described in subsection ~~K~~ I of this section if the form
22 includes substantially the same information.

23 ~~M.~~ K. A change in the bodily injury liability coverage due to a
24 change in the amount or limits prescribed for bodily injury or death

1 by a policy meeting the requirements of Section 7-204 of Title 47 of
2 the Oklahoma Statutes shall not be considered an amendment of the
3 bodily injury liability coverage under paragraph 3 of subsection H
4 of this section.

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

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

4 Section 4430. A. ~~1. An insurer may not charge a renewal~~
5 ~~premium rate for a long-term care insurance policy which exceeds by~~
6 ~~more than fifteen percent (15%) any premium charged for the policy~~
7 ~~during the preceding twelve (12) months.~~

8 ~~2.~~ Upon approval of the Insurance Commissioner, an insurer may
9 charge a an increased renewal premium ~~exceeding the fifteen percent~~
10 ~~(15%) increase provided for in paragraph 1 of this subsection upon~~
11 showing that a ~~larger~~ the increase is necessary because of
12 utilization of policy benefits in excess of the expected rate.

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

15 2. For certificates issued or delivered on or after November 1,
16 1995, under a group long-term care insurance policy as defined in
17 Section 4424 of this title, which policy was in force on November 1,
18 1995, the provisions of this section shall not apply.

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

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

23 Section 4509. A. When an insured employee or a dependent whose
24 group insurance coverage is terminated and the coverage is subject

1 to the provisions of the Consolidated Omnibus Budget Reconciliation
2 Act of 1985 (COBRA), Pub. L. 99-272, April 7, 1986, 100 Stat. 82,
3 subsection B does not apply.

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

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

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

15 SECTION 34. AMENDATORY Section 2, Chapter 276, O.S.L.
16 2002 (36 O.S. Supp. 2008, Section 4522), is amended to read as
17 follows:

18 Section 4522. As used in the Employer Health Insurance
19 Purchasing Group Act:

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

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

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

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

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

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

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

23 9. "HIPG health carrier" means a health insurer as defined in
24 this act;

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

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

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

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

10 14. a. "State-mandated health benefits" means coverages for
11 health care services or benefits, required by state
12 law or state regulations, requiring the reimbursement
13 or utilization related to a specific illness, injury,
14 or condition of the covered person, or inclusion of a
15 specific category of licensed health care practitioner
16 to be provided to the covered person in a health
17 benefits plan for a health-related condition of a
18 covered person. Provided, that for the purposes of
19 the options provided by this act, state-mandated
20 health benefits which may be excluded in whole or in
21 part shall not include any health care services or
22 benefits which were mandated by federal law, and
23 b. "State-mandated health benefits" does not mean
24 standard provisions or rights required to be present

1 in a health benefit plan pursuant to state law or
2 state regulations unrelated to a specific illness,
3 injury or condition of the insured, including, but not
4 limited to, those related to continuation of benefits
5 found in Article 45 of the Oklahoma Insurance Code;
6 and

7 15. "Total eligible employees" means two hundred or more
8 eligible employees.

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

12 Section 5002. A. A domestic title insurer shall invest its
13 capital accumulations, up to the sum of One Hundred Thousand Dollars
14 (\$100,000.00), in capital investments as defined in Section 1606 of
15 Article 16 (Investments), but subject to the exception in subsection
16 B of this section, below.

17 B. A domestic title insurer may invest its capital and
18 accumulations in excess of One Hundred Thousand Dollars
19 (\$100,000.00) in such investments as are made eligible for funds of
20 domestic insurers by Article 16; except, that any such insurer may
21 invest an amount not exceeding fifty percent (50%) of its combined
22 capital and surplus in the preparation and purchase of material or
23 plants or both necessary to enable it to engage in the business of
24 title insurance, and such materials and plants shall be deemed to be

1 capital funds investments and shall be valued as the actual cost
2 thereof.

3 C. ~~Section 1606 of Article 16 shall not apply to domestic~~
4 Domestic title insurers, ~~nor shall such insurers~~ not be subject to
5 the limitations as to amount invested in real estate for home office
6 and branch office purposes contained in paragraph 1 of Section 1624
7 of Article 16.

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

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

19 B. An accident and health insurance policy may:

20 1. Exclude or limit coverage for a particular illness, disease,
21 injury or condition; but, except for such exclusions or limits,
22 shall not exclude or limit particular services or procedures that
23 can be provided for the diagnosis and treatment of a covered
24 illness, disease, injury or condition, if such exclusion or

1 limitation has the effect of discriminating against a particular
2 class of practitioner. However, such services and procedures, in
3 order to be a covered medical expense, must:

- 4 a. be medically necessary,
- 5 b. be of proven efficacy, and
- 6 c. fall within the licensed scope of practice of the
7 practitioner providing same; and

8 2. Provide for the application of deductibles and copayment
9 provisions, when equally applied to all covered charges for services
10 and procedures that can be provided by any practitioner for the
11 diagnosis and treatment of a covered illness, disease, injury or
12 condition. ~~This provision~~

13 3. Paragraph 2 of this subsection shall not be construed to
14 prohibit differences in cost sharing provisions such as deductibles
15 and copayment provisions between practitioners, hospitals and
16 ambulatory surgical centers who are participating preferred provider
17 organization providers and practitioners, hospitals and ambulatory
18 surgical centers who are not participating in the preferred provider
19 organization, subject to the following limitations:

- 20 a. the amount of any annual deductible per covered person
21 or per family for treatment in a hospital or
22 ambulatory surgical center that is not a preferred
23 provider shall not exceed three times the amount of a
24 corresponding annual deductible for treatment in a

1 hospital or ambulatory surgical center that is a
2 preferred provider,

3 b. if the policy has no deductible for treatment in a
4 preferred provider hospital or ambulatory surgical
5 center, the deductible for treatment in a hospital or
6 ambulatory surgical center that is not a preferred
7 provider shall not exceed One Thousand Dollars
8 (\$1,000.00) per covered-person visit,

9 c. the amount of any annual deductible per covered person
10 or per family treatment, other than inpatient
11 treatment, by a practitioner that is not a preferred
12 practitioner shall not exceed three times the amount
13 of a corresponding annual deductible for treatment,
14 other than inpatient treatment, by a preferred
15 practitioner,

16 d. if the policy has no deductible for treatment by a
17 preferred practitioner, the annual deductible for
18 treatment received from a practitioner that is not a
19 preferred practitioner shall not exceed Five Hundred
20 Dollars (\$500.00) per covered person,

21 e. the percentage amount of any coinsurance to be paid by
22 an insured to a practitioner, hospital or ambulatory
23 surgical center that is not a preferred provider shall
24 not exceed by more than thirty (30) percentage points

1 the percentage amount of any coinsurance payment to be
2 paid to a preferred provider, and

3 f. a any other cost sharing arrangement which in the
4 discretion of the Commissioner will provide a
5 reduction in premium costs.

6 4. A practitioner, hospital or ambulatory surgical center that
7 is not a preferred provider shall disclose to the insured, in
8 writing, that the insured may be responsible for:

9 ~~(1)~~

10 a. higher coinsurance and deductibles, and

11 ~~(2)~~

12 b. practitioner, hospital or ambulatory surgical center
13 charges which exceed the allowable charges of a preferred
14 provider, and

15 ~~g. when~~

16 5. When a referral is made to a nonparticipating hospital or
17 ambulatory surgical center, the referring practitioner must disclose
18 in writing to the insured, any ownership interest in the
19 nonparticipating hospital or ambulatory surgical center.

20 C. Upon submission of a claim by a practitioner, hospital, home
21 care agency, or ambulatory surgical center to an insurer on a
22 uniform health care claim form adopted by the Insurance Commissioner
23 pursuant to Section 6581 of this title, the insurer shall provide a
24 timely explanation of benefits to the practitioner, hospital, home

1 care agency, or ambulatory surgical center regardless of the network
2 participation status of such person or entity.

3 D. Benefits available under an accident and health insurance
4 policy, at the option of the insured, shall be assignable to a
5 practitioner, hospital, home care agency or ambulatory surgical
6 center who has provided services and procedures which are covered
7 under the policy. A practitioner, hospital, home care agency or
8 ambulatory surgical center shall be compensated directly by an
9 insurer for services and procedures which have been provided when
10 the following conditions are met:

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

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

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

21 4. A copy of the claim has been provided by the practitioner,
22 hospital, home care agency or ambulatory surgical center to the
23 insured.

24

1 E. The provisions of subsection D of this section shall not
2 apply to:

3 1. Any preferred provider organization (PPO) as defined by
4 generally accepted industry standards, that contracts with
5 practitioners that agree to accept the reimbursement available under
6 the PPO agreement as payment in full and agree not to balance bill
7 the insured; or

8 2. Any statewide provider network which:

9 a. provides that a practitioner, hospital, home care
10 agency or ambulatory surgical center who joins the
11 provider network shall be compensated directly by the
12 insurer,

13 b. does not have any terms or conditions which have the
14 effect of discriminating against a particular class of
15 practitioner,

16 c. allows any practitioner, hospital, home care agency or
17 ambulatory surgical center, except a practitioner who
18 has a prior felony conviction, to become a network
19 provider if said hospital or practitioner is willing
20 to comply with the terms and conditions of a standard
21 network provider contract, and

22 d. contracts with practitioners that agree to accept the
23 reimbursement available under the network agreement as
24

1 payment in full and agree not to balance bill the
2 insured.

3 F. A nonparticipating practitioner, hospital or ambulatory
4 surgical center may request from an insurer and the insurer shall
5 supply a good-faith estimate of the allowable fee for a procedure to
6 be performed upon an insured based upon information regarding the
7 anticipated medical needs of the insured provided to the insurer by
8 the nonparticipating practitioner.

9 G. A practitioner shall be equally compensated for covered
10 services and procedures provided to an insured on the basis of
11 charges prevailing in the same geographical area or in similar sized
12 communities for similar services and procedures provided to
13 similarly ill or injured persons regardless of the branch of the
14 healing arts to which the practitioner may belong, if:

15 1. The practitioner does not authorize or permit false and
16 fraudulent advertising regarding the services and procedures
17 provided by the practitioner; and

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

20 H. Nothing in the Health Care Freedom of Choice Act shall
21 prohibit an insurer from establishing a preferred provider
22 organization and a standard participating provider contract
23 therefor, specifying the terms and conditions, including, but not
24 limited to, provider qualifications, and alternative levels or

1 methods of payment that must be met by a practitioner selected by
2 the insurer as a participating preferred provider organization
3 provider.

4 I. A preferred provider organization, in executing a contract,
5 shall not, by the terms and conditions of the contract or internal
6 protocol, discriminate within its network of practitioners with
7 respect to participation and reimbursement as it relates to any
8 practitioner who is acting within the scope of the practitioner's
9 license under the law solely on the basis of such license.

10 J. Decisions by an insurer or a preferred provider organization
11 (PPO) to authorize or deny coverage for an emergency service shall
12 be based on the patient presenting symptoms arising from any injury,
13 illness, or condition manifesting itself by acute symptoms of
14 sufficient severity, including severe pain, such that a reasonable
15 and prudent layperson could expect the absence of medical attention
16 to result in serious:

- 17 1. Jeopardy to the health of the patient;
- 18 2. Impairment of bodily function; or
- 19 3. Dysfunction of any bodily organ or part.

20 K. An insurer or preferred provider organization (PPO) shall
21 not deny an otherwise covered emergency service based solely upon
22 lack of notification to the insurer or PPO.

23 L. An insurer or a preferred provider organization (PPO) shall
24 compensate a provider for patient screening, evaluation, and

1 examination services that are reasonably calculated to assist the
2 provider in determining whether the condition of the patient
3 requires emergency service. If the provider determines that the
4 patient does not require emergency service, coverage for services
5 rendered subsequent to that determination shall be governed by the
6 policy or PPO contract.

7 M. Nothing in this act shall be construed as prohibiting an
8 insurer, preferred provider organization or other network from
9 determining the adequacy of the size of its network.

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

12 Section 6103.2 A. Unless otherwise indicated, the term
13 "insurer" as used in Sections 6103.1 through 6103.11 of this title
14 includes all legal entities, associations, and individuals engaged
15 as principals in the business of insurance and also includes
16 interinsurance exchanges, mutual benefit societies and insurance
17 exchanges and syndicates.

18 B. The venue of any act listed in this section shall be
19 Oklahoma County.

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

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

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

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

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

9 a. the execution of contracts of insurance with citizens
10 of this or any other state,

11 b. maintaining files or records of contracts of
12 insurance,

13 c. the processing of claims, and

14 d. the receiving or collection of any premiums,
15 commissions, membership fees, assessments, dues or
16 other consideration for any insurance or any part
17 thereof;

18 5. The issuance or delivery of contracts of insurance to
19 residents of this state or to persons authorized to do business in
20 this state;

21 6. Directly or indirectly acting as an agent for, or otherwise
22 representing or aiding on behalf of another, any person or insurer
23 in:

24

- a. the solicitation, negotiation, procurement or effectuation of insurance or renewals thereof,
- b. the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts,
- c. inspection of risks,
- d. fixing of rates or investigation or adjustment of claims or losses,
- e. the transaction of matters subsequent to effectuation of the contract and arising out of it, or
- f. in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state;

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

7. Contracting to provide indemnification or expense reimbursement in this state to persons domiciled in this state or for risks located in this state, whether as an insurer, agent, administrator, trust, funding mechanism, or by any other method, for any type of medical expenses including, but not limited to, surgical, chiropractic, physical therapy, speech pathology,

1 audiology, professional mental health, dental, hospital, or
2 optometric expenses, whether this coverage is by direct payment,
3 reimbursement, or otherwise. This provision shall not apply to:

4 a. any program otherwise authorized by law that is
5 established by any political subdivision of this state
6 or under the provisions of Sections 1001 through 1008
7 of Title 74 of the Oklahoma Statutes, or

8 b. a multiple employer welfare arrangement as defined in
9 Section 3 of the Employee Retirement Income Security
10 Act of 1974, 29 U.S.C., Section 1002(40)(A), as
11 amended, that holds a valid license issued by the
12 Insurance Commissioner or is exempt from state
13 regulation pursuant to subsection B of Section 634 of
14 this title;

15 8. The doing of any kind of insurance business specifically
16 recognized as constituting the doing of an insurance business within
17 the meaning of the statutes relating to insurance;

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

21 10. Any other transactions of business in this state by an
22 insurer.

23 D. The definition of a bail bond shall be the same as the
24 definition of a bond in Section 1301 of Title 59 of the Oklahoma

1 Statutes. The business of bail bonds shall be all aspects of acting
2 as a bail bondsman, including but not limited to, depositing or
3 pledging cash or real property as security for an appearance bond in
4 a criminal judicial proceeding, or executing or countersigning bail
5 bonds for an insurer or professional bondsman in connection with an
6 appearance bond in criminal judicial proceedings, and charging and
7 receiving money for these services. The business of bail bonds
8 shall also include solicitation for a bail bond, as defined in
9 Section 1301 of Title 59 of the Oklahoma Statutes.

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

11 1. The lawful transaction of surplus lines insurance;

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

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

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

23

24

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

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

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

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

21 C. Any person which the Insurance Commissioner has reason to
22 believe is doing any of the acts specified in Section 6103.2 of this
23 title, upon written request by the Commissioner, shall immediately
24

1 provide to the Commissioner such information as requested in
2 relation to such acts.

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

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

- 17 1. Issue an ex parte cease and desist order under the
18 procedures provided by Sections 6103.5 and 6103.6 of this title;
- 19 2. Institute in the district court of Oklahoma County a civil
20 suit for injunctive relief to restrain the person from continuing
21 the violation or threat of violation;
- 22 3. Institute in the district court of Oklahoma County a civil
23 suit to recover a civil penalty as provided for in this section; or

24

1 4. Exercise any combination of the acts provided for in this
2 subsection.

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

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

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

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

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

1 1. The Commissioner believes:

2 a. an unauthorized person is engaging in the business of
3 insurance in violation of Section 6103.2 of this title
4 or in violation of a rule promulgated pursuant to
5 Sections 6103.1 through 6103.11 of this title, or

6 b. an unauthorized person engaged in the business of
7 insurance acting in violation of Section 6103.3 of
8 this title is committing an unfair method of
9 competition or an unfair or deceptive act or practice
10 in violation of Section 1201 et seq. of this title or
11 in violation of any rule promulgated pursuant
12 thereto, or

13 c. an unauthorized person or individual is engaging in
14 the business of bail bonds in violation of section
15 6103.2 of this title or in violation of a rule
16 promulgated pursuant to Sections 6103.1 through
17 6103.11 of this title; or

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

22 SECTION 40. AMENDATORY 36 O.S. 2001, Section 6203, is
23 amended to read as follows:
24

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

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

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

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

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

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

22 6. a person employed solely for the purpose of furnishing
23 technical assistance to a licensed adjuster, including but not
24 limited to photographers, appraisers, estimators, private

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

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

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

15 A. The apprentice adjuster license is an optional license to
16 facilitate the experience, education, and training necessary to
17 ensure reasonable competency of the responsibilities and duties of
18 an adjuster as defined in this guideline.

19 B. An individual applying for a resident apprentice adjuster
20 license shall make application to the Insurance Commissioner on the
21 appropriate NAIC Uniform Individual Application or an application
22 approved by the Commissioner in a format prescribed by the
23 Commissioner and declare under penalty of suspension, revocation, or
24 refusal of the license that the statements made in the application

1 are true, correct, and complete to the best of the knowledge and
2 belief of the individual. Before approving the application, the
3 Insurance Commissioner shall find that the individual:

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

5 2. Is a resident of this state and has designated this state as
6 the home state of the individual;

7 3. Has a business or mailing address in this state for
8 acceptance of service of process;

9 4. Has not committed any act that is a ground for probation,
10 suspension, revocation, or denial of licensure as set forth in
11 Section 6220 of Title 36 of the Oklahoma Statutes;

12 5. Is trustworthy, reliable, and of good reputation, evidence
13 of which may be determined by the Insurance Commissioner; and

14 6. Has paid the fees set forth in Section 6212 of Title 36 of
15 the Oklahoma Statutes.

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

18 1. Accompanying the apprentice application shall be an
19 attestation, from a licensed adjuster with the same line or lines of
20 authority for which the apprentice has applied, certifying that the
21 apprentice will be subject to training, direction, and control by
22 the licensed adjuster and further certifying that the licensed
23 adjuster assumes responsibility for the actions of the apprentice in
24 the apprentice's capacity as an adjuster;

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

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

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

9 5. The apprentice adjuster shall not be required to take and
10 successfully complete the adjuster examination pursuant to Section
11 6208 of Title 36 of the Oklahoma Statutes, to adjust claims as an
12 apprentice adjuster. However, at any time during the apprenticeship
13 the apprentice adjuster may choose to take the examination. If the
14 individual takes and successfully completes the adjuster exam, the
15 apprentice adjuster license shall automatically terminate and an
16 adjuster license shall be issued to that individual;

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

19 7. The licensee shall be subject to probation, suspension,
20 revocation, or refusal pursuant to Section 6220 of Title 36 of the
21 Oklahoma Statutes.

22 D. The licensed adjuster responsible for the apprentice
23 adjuster, as stated paragraph 1 of subsection C of this section,
24

1 shall supervise no more than five (5) active apprentice licensees at
2 any given time.

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

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

13 B. Unless denied licensure pursuant to Section 6220 of this
14 title, a nonresident applicant shall receive a nonresident adjuster
15 license if:

16 1. The applicant has passed an examination in the applicant's
17 home state;

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

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

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

24

1 C. If a nonresident applicant's home state does not license or
2 require an examination for an adjuster license, ~~the applicant shall~~
3 ~~pass an examination in this state prior to receiving a nonresident~~
4 ~~adjuster license~~ the adjuster may declare another state which has an
5 examination requirement and in which the adjuster is licensed to be
6 the home state. Should the applicant not hold an active adjuster
7 license in their home state or declared home state, the applicant
8 shall pass the adjuster examination of this state prior to receiving
9 a nonresident adjuster license.

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

13 Section 6206. A. The Insurance Commissioner shall license as
14 an adjuster only an individual who has fully complied with the
15 provisions of the Insurance Adjusters Licensing Act, including the
16 furnishing of evidence satisfactory to the Commissioner that the
17 applicant:

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

19 2. Is a bona fide resident of this state or is a resident of a
20 state or country which permits adjusters who are residents of this
21 state to act as adjusters in such other state or country;

22 3. If a nonresident of the United States, has complied with all
23 federal laws pertaining to employment and the transaction of
24 business in the United States;

1 4. Is a trustworthy person;

2 5. Has had experience or special education or training of
3 sufficient duration and extent with reference to the handling of
4 loss claims pursuant to insurance contracts to make the applicant
5 competent to fulfill the responsibilities of an adjuster;

6 6. Has successfully passed an examination as required by the
7 Commissioner or has been exempted from examination, in accordance
8 with the provisions of Section 6208 of this title; and

9 7. If the application is for a public adjuster's license, the
10 applicant has filed the bond required by Section 6214 of this title.

11 B. Residence addresses and telephone listings, birth dates, and
12 social security numbers for insurance adjusters and public adjusters
13 on file with the Insurance Department are exempt from disclosure as
14 public records. A separate business or mailing address as provided
15 by the adjuster shall be considered a public record and upon request
16 shall be disclosed. If an adjuster's residence and business address
17 or residence and business telephone number are the same, such
18 address or telephone number shall be considered a public record.

19 C. The mailing address shall appear on all licenses of the
20 licensee, and the licensee shall promptly notify the Insurance
21 Commissioner within thirty (30) days of any change in the mailing,
22 business or residence address of the licensee. Failure to inform
23 the Insurance Commissioner of a change in address within thirty (30)
24 days of the change shall result in an administrative fee of Fifty

1 Dollars (\$50.00). Failure to pay the fee and provide acceptable
2 notification of a change of address to the Insurance Commissioner
3 within forty-five (45) days of the issuance date of the
4 administrative fee will result in additional penalties pursuant to
5 Section 6220 of this title.

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

9 Section 6208. A. Each applicant for a license as an adjuster
10 shall, prior to issuance of said license, personally take and pass,
11 to the satisfaction of the Commissioner, an examination ~~given~~
12 approved by the Commissioner as a test of the qualifications and
13 competency of the applicant.

14 B. The requirement of an examination shall not apply to the
15 following:

16 1. An applicant who is licensed as an adjuster in this state
17 during the ninety-day period preceding November 1, 1983; or

18 2. A nonresident applicant who has passed an examination in the
19 home state of the applicant and who is currently licensed and in
20 good standing in the applicant's home state; or

21 3. Any applicant for a license covering the same class or
22 classes of insurance for which the applicant was licensed in this
23 state pursuant to a similar license during the twenty-four-month
24 period immediately preceding the date of application, unless said

1 previous license was revoked or suspended, or continuation of the
2 license was refused by the Commissioner; or

3 4. An applicant for a resident license who has passed an
4 examination in the former home state and who is licensed and in good
5 standing in the former home state at the time the application is
6 submitted. The applicant shall make application to become a
7 resident adjuster within ninety (90) days after establishing legal
8 residence in Oklahoma.

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

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

19 B. An applicant for a license as an adjuster may qualify in
20 any one of the following classes of insurance or combinations
21 thereof, and the license when issued may be limited to cover
22 adjusting in any one of the following classes of insurance or
23 combinations thereof. The application for a license shall specify
24

1 which of the following classes of business the application and
2 license are to cover:

- 3 1. motor vehicle physical damage, meaning damages to all land
4 motor vehicles and trailers whether or not covered by first party
5 physical damage coverages or property damage liability coverages; or
- 6 2. fire and allied lines, including marine, inland marine, and
7 aircraft; or
- 8 3. casualty, meaning all lines of liability insurance coverages
9 for bodily injuries, personal injury, and property damages; or
- 10 4. workers' compensation; or
- 11 5. crime and fidelity bonds; or
- 12 6. crop/hail.

13 C. The Commissioner shall prepare and make available to
14 applicants a manual of instructions stating in general terms the
15 subjects which may be covered in any examination for a license as an
16 adjuster. The Commissioner may charge a reasonable amount not to
17 exceed ~~Twenty-five Dollars (\$25.00)~~ Forty Dollars (\$40.00) for the
18 study manual.

19 SECTION 46. AMENDATORY 36 O.S. 2001, Section 6210, as
20 last amended by Section 24, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
21 2008, Section 6210), is amended to read as follows:

22 Section 6210. A. The answers of the applicant to any
23 examination for licensing as an adjuster shall be written by the
24

1 applicant under supervision of the Insurance Commissioner or an
2 administrator approved by the Insurance Commissioner.

3 B. ~~The examination shall be given at such times and places~~
4 ~~within this state as the Commissioner deems necessary to reasonably~~
5 ~~serve the convenience of both the Commissioner and the applicants~~
6 Examination for licensing shall be at such reasonable times and
7 places as are designated by the Insurance Commissioner.

8 C. An applicant who has failed to pass the first examination
9 for the license for which applied may take a second examination
10 within thirty (30) days following the first examination. An
11 applicant who has failed to pass the first two examinations for the
12 license for which applied shall not be permitted to take a
13 subsequent examination until the expiration of thirty (30) days
14 after the last previous examination. An applicant shall take and
15 pass the examination within one hundred eighty (180) days of the
16 date of the initial application. If the applicant fails to pass an
17 examination within the specified time period, the applicant shall
18 submit a new application accompanied by any applicable fees.
19 Examination fees for subsequent examinations shall not be waived.

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

22 Section 6212 A. The Insurance Commissioner or an administrator
23 approved by the Insurance Commissioner shall collect a fee of Twenty
24 Dollars (\$20.00) for an examination for an adjuster's license in any

1 of the following single classes of business. The fee for any
2 ~~combination of two or more examinations~~ examination which includes
3 two (2) or more classes of business shall not exceed Forty Dollars
4 (\$40.00). The classes of business are:

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

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

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

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

24

1 D. The fee for the original license or renewal license shall be
2 collected in advance of issuance. Late application for renewal
3 shall require a fee of double the amount of the original license
4 fee.

5 E. The Commissioner may issue a duplicate license for any lost,
6 stolen, or destroyed license issued pursuant to the provisions of
7 the Insurance Adjusters Licensing Act if an affidavit is submitted
8 by the licensee to the Commissioner concerning the facts of such
9 loss, theft, or destruction. Said affidavit shall be in a form
10 prescribed by the Commissioner. The fee for a duplicate license
11 shall be ~~Five Dollars (\$5.00)~~ one-half (1/2) the fee of the license.

12 F. The administrative fee for failing to notify the Insurance
13 Commissioner of a change of address within thirty (30) days of the
14 change shall be Fifty Dollars (\$50.00).

15 SECTION 48. AMENDATORY 36 O.S. 2001, Section 6217, as
16 last amended by Section 25, Chapter 184, O.S.L. 2008 (36 O.S. Supp.
17 2008, Section 6217), is amended to read as follows:

18 Section 6217. A. ~~A license as an adjuster shall expire two (2)~~
19 ~~years from the month of original issuance of the license or~~
20 ~~subsequent renewal of the license~~ All licenses issued pursuant to
21 the provisions of the Insurance Adjustors Licensing Act shall
22 continue in force not longer than twenty-four (24) months. The
23 renewal dates for the licenses may be staggered throughout the year
24 by notifying licensees in writing of the expiration and renewal date

1 being assigned to the licensees by the Insurance Commissioner and by
2 making appropriate adjustments in the biennial licensing fee.

3 B. Any licensee applying for renewal of a license as an
4 adjuster shall have completed not less than ~~twelve (12)~~ twenty-four
5 (24) clock hours of continuing insurance education, of which three
6 (3) hours must be in ethics, within the previous twenty-four (24)
7 months prior to renewal of the license. Such continuing education
8 shall cover subjects in the classes of insurance for which the
9 adjuster is licensed. ~~Such continuing education shall not include a~~
10 ~~written or oral examination.~~ The Insurance Commissioner shall
11 approve courses and providers of continuing education for insurance
12 adjusters as required by this section.

13 The Insurance Department may use one or more of the following to
14 review and provide a nonbinding recommendation to the Insurance
15 Commissioner on approval or disapproval of courses and providers of
16 continuing education:

17 1. Employees of the Insurance Commissioner;

18 2. A continuing education advisory committee. The continuing
19 education advisory committee is separate and distinct from the
20 Advisory Board established by Section 6221 of this title;

21 3. An independent service whose normal business activities
22 include the review and approval of continuing education courses and
23 providers. The Commissioner may negotiate agreements with such
24 independent service to review documents and other materials

1 submitted for approval of courses and providers and present the
2 Commissioner with its nonbinding recommendation. The Commissioner
3 may require such independent service to collect the fee charged by
4 the independent service for reviewing materials provided for review
5 directly from the course providers.

6 C. An adjuster who, during the time period prior to renewal,
7 participates in an approved professional designation program shall
8 be deemed to have met the biennial requirement for continuing
9 education. Each course in the curriculum for the program shall
10 total a minimum of twenty (20) hours. Each approved professional
11 designation program included in this section shall be reviewed for
12 quality and compliance every three (3) years in accordance with
13 standardized criteria promulgated by rule. Continuation of approved
14 status is contingent upon the findings of the review. The list of
15 professional designation programs approved under this subsection
16 shall be made available to producers and providers annually.

17 D. The Insurance Department may promulgate rules providing that
18 courses or programs offered by professional associations shall
19 qualify for presumptive continuing education credit approval. The
20 rules shall include standardized criteria for reviewing the
21 professional associations' mission, membership, and other relevant
22 information, and shall provide a procedure for the Department to
23 disallow a presumptively approved course. Professional association
24 courses approved in accordance with this subsection shall be

1 reviewed every three (3) years to determine whether they continue to
2 qualify for continuing education credit.

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

7 F. Each provider of continuing education shall, after approval
8 by the Commissioner, submit an annual fee. A fee may be assessed
9 for each course submission at the time it is first submitted for
10 review and upon submission for renewal at expiration. Annual fees
11 and course submission fees shall be set forth as a rule by the
12 Commissioner. The fees are payable to the Insurance Commissioner
13 and shall be deposited in the State Insurance Commissioner Revolving
14 Fund, created in subsection C of Section 1435.23 of this title, for
15 the purposes of fulfilling and accomplishing the conditions and
16 purposes of the Oklahoma Producer Licensing Act and the Insurance
17 Adjusters Licensing Act. Public-funded educational institutions,
18 federal agencies and Oklahoma state agencies shall be exempt from
19 this subsection.

20 G. Subject to the right of the Commissioner to suspend, revoke,
21 or refuse to renew a license of an adjuster, any such license may be
22 renewed by filing on the form prescribed by the Commissioner on or
23 before the expiration date a written request by or on behalf of the
24 licensee for such renewal and proof of completion of the continuing

1 education requirement set forth in subsection B of this section,
2 accompanied by payment of the renewal fee.

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

14 SECTION 49. AMENDATORY Section 18, Chapter 334, O.S.L.
15 2004 (36 O.S. Supp. 2008, Section 6470.11), is amended to read as
16 follows:

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

20 B. Before March 1 of each year, a captive insurance company or
21 a captive reinsurance company shall submit to the Insurance
22 Commissioner a report of its financial condition, verified by oath
23 of two of its executive officers. Except as provided in Sections ~~13~~
24 6470.6 and ~~15~~ 6470.8 of this ~~act~~ title, a captive insurance company

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

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

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

22 2. In order to provide sufficient detail to support the premium
23 tax return, the pure captive insurance company shall file before
24 March 1 of each year for each calendar year-end, pages 1 through 7

1 of the "Captive Annual Statement: Pure or Industrial Insured",
2 verified by oath of two of its executive officers.

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

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

17 Section 6512. As used in the Small Employer Health Insurance
18 Reform Act:

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

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

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

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

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

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

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

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

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

14 9. "Commissioner" means the Insurance Commissioner;

15 10. "Control" (including the terms "controlling", "controlled
16 by" and "under common control with") means the possession, direct or
17 indirect, of the power to direct or cause the direction of the
18 management and policies of a person, whether through the ownership
19 of voting securities, by contract or otherwise, unless the power is
20 the result of an official position with or corporate office held by
21 the person. Control shall be presumed to exist if any person,
22 directly or indirectly, owns, controls, holds with the power to
23 vote, or holds proxies representing ten percent (10%) or more of the
24 voting securities of any other person. This presumption may be

1 rebutted by a showing that control does not exist in fact in the
2 manner provided in Section 1654 of this title. The Commissioner may
3 determine, after furnishing all persons in interest notice and
4 opportunity to be heard and making specific findings of fact to
5 support such determination, that control exists in fact,
6 notwithstanding the absence of a presumption to that effect;

7 11. "Department" means the Insurance Department;

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

13 13. "Eligible employee" means an employee who works on a full-
14 time basis ~~and has~~ or, at the option of the employer, an employee
15 who works on a part time basis with a normal work week of twenty-
16 four (24) or more hours. The term includes a sole proprietor, a
17 partner of a partnership, and associates of a limited liability
18 company, if the sole proprietor, partner or associate is included as
19 an employee under a health benefit plan of a small employer, but
20 does not include an employee who works on a part-time, temporary or
21 substitute basis;

22 14. "Established geographic service area" means a geographic
23 area, as approved by the Commissioner and based on the carrier's
24

1 certificate of authority to transact insurance in this state, within
2 which the carrier is authorized to provide coverage;

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

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

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

20 (1) the carrier files on or before March 1 of each
21 year a certification with the Commissioner that
22 contains the statement and information described
23 in division (2) of this subparagraph,
24

1 (2) the certification required in division (1) of
2 this subparagraph shall contain the following:

3 (a) a statement from the carrier certifying that
4 policies or certificates described in this
5 subparagraph are being offered and marketed
6 as supplemental health insurance and not as
7 a substitute for hospital or medical expense
8 insurance or major medical expense
9 insurance, and

10 (b) a summary description of each policy or
11 certificate described in this subparagraph,
12 including the average annual premium rates
13 (or range of premium rates in cases where
14 premiums vary by age, gender or other
15 factors) charged for such policies and
16 certificates in this state, and

17 (3) in the case of a policy or certificate that is
18 described in this subparagraph and that is
19 offered for the first time in this state on or
20 after the effective date of this act, the carrier
21 files with the Commissioner the information and
22 statement required in division (2) of this
23 subparagraph at least thirty (30) days prior to
24

1 the date such a policy or certificate is issued
2 or delivered in this state;

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

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

14 a. the individual meets each of the following:

15 (1) the individual was covered under qualifying
16 previous coverage at the time of the initial
17 enrollment,

18 (2) the individual lost coverage under qualifying
19 previous coverage as a result of termination of
20 employment or eligibility, the involuntary
21 termination of the qualifying previous coverage,
22 death of a spouse or divorce, and
23
24

1 (3) the individual requests enrollment within thirty
2 (30) days after termination of the qualifying
3 previous coverage,

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

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

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

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

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

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

3 22. "Qualifying previous coverage" and "qualifying existing
4 coverage" mean benefits or coverage provided under:

5 a. Medicare or Medicaid,

6 b. an employer-based health insurance or health benefit
7 arrangement that provides benefits similar to or
8 exceeding benefits provided under the basic health
9 benefit plan, or

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

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

21 24. "Reinsuring carrier" means a small employer carrier
22 participating in the reinsurance program pursuant to Section 6522 of
23 this title;

24

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

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

10 27. "Small employer" means any person, firm, corporation,
11 partnership, limited liability company or association that is
12 actively engaged in business that, on at least fifty percent (50%)
13 of its working days during the preceding calendar quarter, employed
14 no more than fifty (50) eligible employees, the majority of whom
15 were employed within this state. In determining the number of
16 eligible employees, companies that are affiliated companies, or that
17 are eligible to file a combined tax return for purposes of state
18 income taxation, shall be considered one employer;

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

22 29. "Standard health benefit plan" means the health benefit
23 plan adopted by the state for small employers.

1 SECTION 51. AMENDATORY 36 O.S. 2001, Section 6602, as
2 last amended by Section 16, Chapter 353, O.S.L. 2008 (36 O.S. Supp.
3 2008, Section 6602), is amended to read as follows:

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

- 5 1. "Commissioner" means the Insurance Commissioner;
- 6 2. "Consumer product" means tangible personal property
7 primarily used for personal, family, or household purposes;
- 8 3. "Department" means the Insurance Department;
- 9 4. "Gross income" means the total amount of revenue received in
10 connection with business-related activity;
- 11 5. "Gross written premiums" means the total amount of premiums,
12 inclusive of commissions, for which the association is obligated
13 under service warranties issued in this state;
- 14 6. "Impaired" means having liabilities in excess of assets;
- 15 7. "Indemnify" means to undertake repair or replacement of a
16 consumer product or a newly-constructed residential structure,
17 including any appliances, electrical, plumbing, heating, cooling or
18 air conditioning systems, in return for the payment of a segregated
19 premium, when the consumer product or residential structure becomes
20 defective or suffers operational failure;
- 21 8. "Insolvent" means any actual or threatened delinquency
22 including, but not limited to, any one or more of the following
23 circumstances:

24

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

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

17 (2) submits a guarantee on a form ~~provided by~~
18 acceptable to the Insurance Commissioner ~~by rule~~
19 that contains a provision which requires that the
20 guarantee be irrevocable, unless the guaranteeing
21 organization can demonstrate to the
22 Commissioner's satisfaction that the cancellation
23 of the guarantee will not result in the net
24 assets of the service warranty association

1 falling below its minimum net asset requirement
2 and the Commissioner approves cancellation of the
3 guarantee,

4 (3) initially submits a statement from a certified
5 public accountant of the guaranteeing
6 organization attesting that the net assets of the
7 guaranteeing organization meets or exceeds the
8 net assets requirement as provided in division
9 (1) of this subparagraph and that the net assets
10 of the guaranteeing organization exceed the
11 amount of the receivable of the service warranty
12 association that is being guaranteed by the
13 guaranteeing organization, ~~and~~

14 (4) submits annually to the Commissioner, within
15 three (3) months after the end of its fiscal
16 year, with the annual statement required by
17 Section 6615 of this title, a statement from an
18 independent certified public accountant ~~of the~~
19 ~~guaranteeing organization~~ attesting that the net
20 assets of the guaranteeing organization meet or
21 exceed the net assets requirement as provided in
22 division (1) of this subparagraph and that the
23 net assets of the guaranteeing organization
24 exceed the amount of the receivable of the

1 service warranty association that is being
2 guaranteed by the guaranteeing organization, and
3 (5) the receivables are maintained as cash or as
4 marketable securities,

5 b. the business of any such association is being
6 conducted fraudulently, or

7 c. the association has knowingly overvalued its assets;

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

10 10. "Net assets" means the amount by which the total assets of
11 an association, excluding goodwill, franchises, customer lists,
12 patents or trademarks, and receivables from or advances to officers,
13 directors, employees, salesmen, and affiliated companies, exceed the
14 total liabilities of the association. For purposes of the Service
15 Warranty Insurance Act, the term "total liabilities" does not
16 include the capital stock, paid-in capital, or retained earnings of
17 an association unless a written guaranty assures repayment and meets
18 the conditions specified in subparagraph a of paragraph 8 of this
19 section;

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

22 12. "Premium" means the total consideration received or to be
23 received, including sales commissions, by whatever name called, by a
24 service warranty association for, or related to, the issuance and

1 delivery of a service warranty, including any charges designated as
2 assessments or fees for membership, policy, survey, inspection, or
3 service or other charges. However, a repair charge is not a premium
4 unless it exceeds the usual and customary repair fee charged by the
5 association, provided the repair is made before the issuance and
6 delivery of the warranty;

7 13. "Sales representative" means any person utilized by an
8 insurer or service warranty association for the purpose of selling
9 or issuing service warranties and includes any individual possessing
10 a certificate of competency who has the power to legally obligate
11 the insurer or service warranty association or who merely acts as
12 the qualifying agent to qualify the association in instances when a
13 state statute or local ordinance requires a certificate of
14 competency to engage in a particular business;

15 14. "Service warranty" means a contract or agreement for a
16 separately stated consideration for a specific duration to perform
17 the repair or replacement of property or indemnification for repair
18 or replacement for the operational or structural failure due to a
19 defect or failure in materials or workmanship, with or without
20 additional provision for incidental payment of indemnity under
21 limited circumstances, including, but not limited to, failure due to
22 normal wear and tear, towing, rental and emergency road service,
23 road hazard, power surge, and accidental damage from handling or as
24 otherwise provided for in said contract or agreement; however:

- 1 a. maintenance service contracts under the terms of which
2 there are no provisions for such indemnification are
3 expressly excluded from this definition,
- 4 b. those contracts issued solely by the manufacturer,
5 distributor, importer or seller of the product, or any
6 affiliate or subsidiary of the foregoing entities,
7 whereby such entity has contractual liability
8 insurance in place, from an insurer licensed in the
9 state, which covers one hundred percent (100%) of the
10 claims exposure on all contracts written without being
11 predicated on the failure to perform under such
12 contracts, are expressly excluded from this
13 definition,
- 14 c. the term "service warranty" does not include service
15 contracts entered into between consumers and nonprofit
16 organizations or cooperatives the members of which
17 consist of condominium associations and condominium
18 owners, which contracts require the performance of
19 repairs and maintenance of appliances or maintenance
20 of the residential property,
- 21 d. the term "service warranty" does not include
22 warranties, guarantees, extended warranties, extended
23 guarantees, contract agreements or any other service
24 contracts issued by a company which performs at least

1 seventy percent (70%) of the service work itself and
2 not through subcontractors, which has been selling and
3 honoring such contracts in Oklahoma for at least
4 twenty (20) years, and

5 e. the term "service warranty" does not include
6 warranties, guarantees, extended warranties, extended
7 guarantees, contract agreements or any other service
8 contracts, whether or not such service contracts
9 otherwise meet the definition of service warranty,
10 issued by a company which has net assets in excess of
11 One Hundred Million Dollars (\$100,000,000.00). A
12 service warranty association may use the net assets of
13 a parent company to qualify under this section if the
14 net assets of the company issuing the policy total at
15 least Twenty-five Million Dollars (\$25,000,000.00) and
16 the parent company maintains net assets of at least
17 Seventy-five Million Dollars (\$75,000,000.00) not
18 including the net assets held by the service warranty
19 associations;

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

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

5 17. "Warranty seller" means any service warranty association
6 engaged in the sale of service warranties and deriving more than
7 fifty percent (50%) of its gross income from the sale of service
8 warranties.

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

12 Section 6607. A. An association licensed pursuant to the
13 Service Warranty Insurance Act shall maintain a funded, unearned
14 premium reserve account, consisting of unencumbered assets, equal to
15 a minimum of twenty-five percent (25%) of the gross written premiums
16 received on all warranty contracts in force, wherever written. In
17 the case of multiyear contracts which are offered by associations
18 having net assets of less than Five Hundred Thousand Dollars
19 (\$500,000.00) for which premiums are collected in advance for
20 coverage in a subsequent year, one hundred percent (100%) of the
21 premiums for such subsequent years shall be placed in the funded,
22 unearned premium reserve account. Additionally, an association
23 establishing such reserve account shall also place in trust with the
24 Insurance Commissioner a surety bond issued by an authorized surety

1 having a value of not less than five percent (5%) of the gross
2 premium received, less claims paid, on the sale of the service
3 warranties for all service contracts issued and in force in this
4 state, but in no event shall the bond be less than Twenty-five
5 Thousand Dollars (\$25,000.00).

6 B. An association shall not be required to establish an
7 unearned premium reserve ~~or demonstrate minimum net worth~~ if it has
8 purchased an insurance policy which demonstrates to the satisfaction
9 of the Insurance Commissioner that one hundred percent (100%) of its
10 claim exposure is covered by such policy and satisfies the
11 requirements of this section. The insurance shall be obtained from
12 an insurer that is licensed, registered, or otherwise authorized to
13 do business in this state, is a member of the Oklahoma Property and
14 Casualty Insurance Guarantee Association or the Oklahoma Life and
15 Health insurance Guaranty Association and that meets the
16 requirements of subsection C of this section. For the purposes of
17 this subsection, the insurance policy shall contain the following
18 provisions:

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

24

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

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

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

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

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

16 b. annually file copies of the audited financial
17 statements of the insurer, its NAIC Annual Statement,
18 and the actuarial certification required by and filed
19 in the state of domicile of the insurer; or

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

22 a. maintain surplus as to policyholders and paid-in
23 capital of less than Fifteen Million Dollars

1 (\$15,000,000.00) but at least equal to Ten Million
2 Dollars (\$10,000,000.00),

3 b. demonstrate to the satisfaction of the Commissioner
4 that the company maintains a ratio of net written
5 premiums, wherever written, to surplus as to
6 policyholders and paid-in capital of not greater than
7 three to one, and

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

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

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

- 18 1. A complete review of financial condition;
- 19 2. An increase in deposit;
- 20 3. A suspension of any new writings; or
- 21 4. Capital infusion into the business.

22 SECTION 53. AMENDATORY Section 11, Chapter 390, O.S.L.
23 2003 (36 O.S. Supp. 2008, Section 6810), is amended to read as
24 follows:

1 Section 6810. MEDICAL PROFESSIONAL LIABILITY INSURANCE CLOSED
2 CLAIM REPORTS

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

6 B. As used in Sections 12 through 21 of this act, the
7 following words, terms, or phrases shall have the following
8 meanings, unless the context otherwise clearly indicates the Medical
9 Professional Liability Insurance Closed Claim Reports Act:

10 1. ~~"Insurer" means an insurance company or other entity that is~~
11 ~~or has been authorized to write medical professional liability~~
12 ~~insurance in this state; and~~

13 2. ~~"Medical professional liability insurance" means any insurance~~
14 ~~that provides professional liability coverage for any health care~~
15 ~~provider as defined in Section 1-1708.1C of Title 63 of the Oklahoma~~
16 ~~Statutes~~ "Claim" means:

17 a. a demand for monetary damages for injury or death
18 caused by medical malpractice, or

19 b. a voluntary indemnity payment for injury or death
20 caused by medical malpractice;

21 2. "Claimant" means a person, including an estate of a
22 decedent, who is seeking or has sought monetary damages for injury
23 or death caused by medical malpractice;

24

1 3. "Closed claim" means a claim that has been settled or
2 otherwise disposed of by the insuring entity, self-insurer,
3 facility, or provider. A claim may be closed with or without an
4 indemnity payment to a claimant;

5 4. "Commissioner" means the Insurance Commissioner;

6 5. "Companion claims" means separate claims involving the same
7 incident of medical malpractice made against other providers or
8 facilities;

9 6. "Economic damages" means objectively verifiable monetary
10 losses, including medical expenses, loss of earnings, burial costs,
11 loss of use of property, cost of replacement or repair, cost of
12 obtaining substitute domestic services, and loss of business or
13 employment opportunities;

14 7. "Health care facility" or "facility" means a clinic,
15 diagnostic center, hospital, laboratory, mental health center,
16 nursing home, office, surgical facility, treatment facility, or
17 similar place where a health care provider provides health care to
18 patients;

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

20 a. a person licensed to provide health care or related
21 services, including an acupuncturist, doctor of
22 medicine or osteopathy, a dentist, a nurse, an
23 optometrist, a podiatric physician and surgeon, a
24 chiropractor, a physical therapist, a psychologist, a

1 pharmacist, an optician, a physician's assistant, a
2 midwife, an osteopathic physician's assistant, a nurse
3 practitioner, or a physician's trained mobile
4 intensive care paramedic. If the person is deceased,
5 this includes the estate or personal representative of
6 the person; or

7 b. an employee or agent of a person described in
8 subparagraph a of this paragraph, acting in the course
9 and scope of the employment of the employee. If the
10 employee or agent is deceased, this includes the
11 estate or personal representative of the employee;

12 9. "Insuring entity" means:

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

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

23 11. "Noneconomic damages" means subjective, nonmonetary losses,
24 including pain, suffering, inconvenience, mental anguish, disability

1 or disfigurement incurred by the injured party, emotional distress,
2 loss of society and companionship, loss of consortium, humiliation
3 and injury to reputation, and destruction of the parent-child
4 relationship; and

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

8 SECTION 54. AMENDATORY Section 12, Chapter 390, O.S.L.
9 2003 (36 O.S. Supp. 2008, Section 6811), is amended to read as
10 follows:

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

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

22 C. Every insuring entity or self-insurer that provides medical
23 professional liability insurance to any facility or provider in this
24

1 state must report each medical professional liability closed claim
2 to the Insurance Commissioner.

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

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

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

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

23 3. The annual aggregate coverage limits had been exhausted by
24 other claim payments.

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

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

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

19 3. If a facility or provider is insured by a captive insurer
20 and the captive insurer refuses to report closed claims and asserts
21 a federal exemption or other jurisdictional preemption, the facility
22 or provider must report all data required by the Medical
23 Professional Liability Insurance Closed Claim Reports Act on behalf
24 of the captive insurer.

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

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

11 1. Claim and incident identifiers, including:

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

15 b. an incident identifier if companion claims have been
16 made by a claimant;

17 2. The policy limits of the medical professional liability
18 insurance policy covering the claim;

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

22 4. The type of health care facility where the medical
23 malpractice incident occurred;

24

1 5. The primary location within a facility where the medical
2 malpractice incident occurred;

3 6. The geographic location, by city and county, where the
4 medical malpractice incident occurred;

5 7. The sex and age of the injured person on the incident date;

6 8. The severity of malpractice injury using the National
7 Practitioner Data Bank severity scale;

8 9. The dates of:

9 a. the earliest act or omission by the defendant that was
10 the proximate cause of the claim,

11 b. notice to the insuring entity, self-insurer, facility,
12 or provider,

13 c. suit, if a suit was filed,

14 d. final indemnity payment, if any, and

15 e. final action by the insuring entity, self-insurer,
16 facility, or provider to close the claim;

17 10. Settlement information that identifies the timing and final
18 method of claim disposition, including:

19 a. claims settled by the parties,

20 b. claims disposed of by a court, including the date
21 disposed,

22 c. claims disposed of by alternative dispute resolution,
23 such as arbitration, mediation, private trial, and
24 other common dispute resolution methods, and

1 d. whether the settlement occurred before or after trial,
2 if a trial occurred;

3 11. Specific information about the indemnity payments and
4 defense and cost containment expenses, including:

5 a. for claims disposed of by a court that result in a
6 verdict or judgment that itemizes damages:

7 (1) the indemnity payment made on behalf of the
8 defendant,

9 (2) economic damages,

10 (3) noneconomic damages,

11 (4) punitive damages, if applicable, and

12 (5) defense and cost containment expenses, including
13 court costs, attorney fees, and costs of expert
14 witnesses; and

15 b. for claims that do not result in a verdict or judgment
16 that itemizes damages:

17 (1) the total amount of the settlement on behalf of
18 the defendant,

19 (2) the insuring entity's or self-insurer's best
20 estimate of economic damages included in the
21 settlement, the insuring entity's or self-
22 insurer's best estimate of noneconomic damages
23 included in the settlement, and
24

1 (3) defense and cost containment expenses, including
2 court costs, attorney fees, and costs of expert
3 witnesses;

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

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

11 SECTION 56. AMENDATORY 59 O.S. 2001, Section 1306, as
12 last amended by Section 1, Chapter 135, O.S.L. 2006 (59 O.S. Supp.
13 2008, Section 1306), is amended to read as follows:

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

17 2. In addition to the requirements prescribed in Section 1305
18 of this title, an applicant for a professional bondsman license
19 shall submit to the Insurance Commissioner financial statements
20 prepared by an accounting firm or individual holding a permit to
21 practice public accounting in this state in accordance with
22 generally accepted principles of accounting procedures setting forth
23 the total assets of the bondsman less liabilities and debts as
24 follows: For all applications made prior to ~~the effective date of~~

1 ~~this act~~ November 1, 2006, and the subsequent renewals of a license
2 issued upon such application when continuously maintained in effect
3 as required by law, the statement shall show a net worth of at least
4 Fifty Thousand Dollars (\$50,000.00). For all applications made on
5 and after ~~the effective date of this act~~ November 1, 2006, and the
6 subsequent renewals of a license issued upon such application when
7 continuously maintained in effect as required by law, or for the
8 renewal or reinstatement of any license that is expired pursuant to
9 subsection D of Section 1309 of this title, suspended or revoked,
10 the statement shall show a net worth of at least One Hundred Fifty
11 Thousand Dollars (\$150,000.00), said statements to be current as of
12 a date not earlier than ninety (90) days prior to submission of the
13 application and the statement shall be attested to by an unqualified
14 opinion of the accountant.

15 3. Professional bondsman applicants shall make a deposit with
16 the Insurance Commissioner in the same manner as required of
17 domestic insurance companies of an amount to be determined by the
18 Commissioner. For all applications made prior to ~~the effective date~~
19 ~~of this act~~ November 1, 2006, and the subsequent renewals of a
20 license issued upon such application when continuously maintained in
21 effect as required by law, the deposit shall not be less than Twenty
22 Thousand Dollars (\$20,000.00). For all applications made on and
23 after ~~the effective date of this act~~ November 1, 2006, and the
24 subsequent renewals of a license issued upon such application when

1 continuously maintained in effect as required by law, or for the
2 renewal or reinstatement of any license that is expired pursuant to
3 subsection D of Section 1309 of this title, suspended or revoked,
4 the deposit shall not be less than Fifty Thousand Dollars
5 (\$50,000.00). Such deposits shall be subject to all laws, rules and
6 regulations as deposits by domestic insurance companies but in no
7 instance shall a professional bondsman write bonds which equal more
8 than ten times the amount of the deposit which such bondsman has
9 submitted to the Commissioner. Such deposit shall require the
10 review and approval of the Insurance Commissioner prior to exceeding
11 the maximum amount of Federal Deposit Insurance Corporation basic
12 deposit coverage for any one bank or financial institution. In
13 addition, a professional bondsman may make the deposit by purchasing
14 an annuity through a licensed domestic insurance company in the
15 State of Oklahoma. The annuity shall be in the name of the bondsman
16 as owner with legal assignment to the Insurance Commissioner. The
17 assignment form shall be approved by the Commissioner. If a
18 bondsman exceeds the above limitation, the bondsman shall be
19 notified by the Commissioner by mail with return receipt requested
20 that the excess shall be reduced or the deposit increased within ten
21 (10) days of notification, or the license of the bondsman shall be
22 suspended immediately after the ten-day period, pending a hearing on
23 the matter.

24

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

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

8 6. No release of deposits to a professional bondsman shall be
9 made by the Commissioner except upon written application and the
10 written order of the Commissioner. The Commissioner shall have no
11 liability for any such release to a professional bondsman provided
12 the release was made in good faith.

13 B. The deposit provided in this section shall be held in
14 safekeeping by the Insurance Commissioner and shall only be used if
15 a bondsman fails to pay an order and judgment of forfeiture after
16 being properly notified or shall be used if the license of a
17 professional bondsman has been revoked. The deposit shall be held
18 in the name of the Insurance Commissioner and the bondsman. The
19 bondsman shall execute an assignment of the deposit to the Insurance
20 Commissioner for the payment of unpaid bond forfeitures.

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

1 D. Notwithstanding any other provision of Section 1301 et seq.
2 of this title, the license of a professional bondsman is
3 transferable upon the death or legal or physical incapacitation of
4 the bondsman to the bondsman's spouse, or to such other transferee
5 as the professional bondsman may designate in writing, and the
6 transferee may elect to act as a professional bondsman until the
7 expiration of the license or for a period of one hundred eighty
8 (180) days, whichever is greater, if the following conditions are
9 met:

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

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

14 SECTION 57. AMENDATORY 59 O.S. 2001, Section 1316, as
15 last amended by Section 28, Chapter 184, O.S.L. 2008 (59 O.S. Supp.
16 2008, Section 1316), is amended to read as follows:

17 Section 1316. A. 1. A bail bondsman shall neither sign nor
18 countersign in blank any bond, nor shall the bondsman give a power
19 of attorney to, or otherwise authorize, anyone to countersign his or
20 her name to bonds unless the person so authorized is a licensed
21 surety bondsman or managing general agent directly employed by a
22 licensed professional bondsman giving such power of attorney. The
23 professional bondsman shall submit to the Insurance Commissioner the
24 agreement between the professional bondsman and the employed

1 bondsman. The agreement shall be submitted to the Commissioner
2 prior to the employed bondsman writing bonds on behalf of the
3 professional. The professional bondsman shall notify the
4 Commissioner whenever any agreement is canceled. If the bondsman
5 surrenders the professional qualification, or the professional
6 qualification is suspended or revoked, then the Commissioner shall
7 suspend the appointment of all of the professional bondsman's bail
8 agents. The Commissioner shall immediately notify any bail agent
9 whose license is affected and the court clerk of the agent's
10 resident county upon such suspension or revocation of the
11 professional bondsman's qualification. If the professional
12 qualification is reinstated within twenty-four (24) hours, the
13 Commissioner shall not be required to suspend the bail agent
14 appointments. If the Commissioner reinstates the professional
15 qualification within twenty-four (24) hours, the Commissioner shall
16 also reinstate the appointment of the professional bondsman's bail
17 agents. If more than twenty-four (24) hours elapse following the
18 suspension or revocation, then the professional bondsman shall
19 submit new agent appointments to the Commissioner.

20 2. Bail bondsmen shall not allow other licensed bondsmen to
21 present bonds that have previously been signed and completed by
22 ~~other licensed bondsmen unless a written authorization is on file~~
23 ~~with the court clerk where the bond is filed.~~ The individual that
24

1 presents the bond shall sign the form in the presence of the
2 official that receives the bond.

3 B. Premium charged must be indicated on the appearance bond
4 prior to the filing of the bond.

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

8 D. All surety bondsmen or managing general agents shall attach
9 a completed power of attorney to the appearance bond that is filed
10 with the court clerk on each bond written.

11 E. Any bond written in this state shall contain the name and
12 last-known mailing address of the bondsman and, if applicable, of
13 the insurer.

14 SECTION 58. REPEALER 36 O.S. 2001, Section 1425.5, is
15 hereby repealed.

16 SECTION 59. REPEALER 36 O.S. 2001, Section 6204, is
17 hereby repealed.

18 SECTION 60. REPEALER Section 13, Chapter 390, O.S.L.
19 2003, as amended by Section 71, Chapter 264, O.S.L. 2006 (36 O.S.
20 Supp. 2008, Section 6812), is hereby repealed.

21 SECTION 61. This act shall become effective November 1, 2009.

22

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