

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 1243

By: McDaniel (Randy) of the
House

4 and

5 Brown of the Senate

6
7
8 (Insurance Department - amending various sections
in Title 36 - Oklahoma Producer Licensing Act -
9 Insurance Adjusters Licensing Act - amending various
sections in Title 59 - bail bondsmen - repealing 36
10 O.S., Section 1435.7A - effective date -
emergency)

11 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause
12 and entire bill and insert

13 "[licenses issued by the Insurance Department -
legislative intent - reexamination requirements -
14 reinstatement requirements - exemption - bail
bondsmen - prohibiting certain actions - certain
15 reports - repealer - noncodification - codification -
effective dates -
16 emergency]

17
18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

21 The Oklahoma Legislature recognizes that the Insurance
22 Department of the State of Oklahoma is charged with regulating a
23 variety of entities. Each of these entities is a part of the
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1 financial services industry in some way. It is the intent of this
2 bill to modify the law as it relates to entities regulated by the
3 Insurance Department.

4 SECTION 2. AMENDATORY 36 O.S. 2001, Section 1435.6, as
5 last amended by Section 24, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
6 2010, Section 1435.6), is amended to read as follows:

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

16 B. The Commissioner may make arrangements, including
17 contracting with an outside testing service, for administering
18 examinations and collecting the nonrefundable fee set forth in
19 Section 1435.23 of this title.

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

23 D. After completion and filing of the application with the
24 Insurance Commissioner, except as provided in Section 1435.10 of

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

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

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

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

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

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

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

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

10 L. An applicant for a license as a resident surplus lines
11 broker shall have passed the property and casualty insurance
12 examination on the line or lines of insurance to be written to
13 qualify for a surplus lines broker license.

14 SECTION 3. AMENDATORY 36 O.S. 2001, Section 1435.7, as
15 last amended by Section 25, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
16 2010, Section 1435.7), is amended to read as follows:

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

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

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

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

10 ~~4.~~ Has paid the fees set forth in Section 1435.23 of this
11 title; and

12 ~~5.~~ 4. Has successfully passed the examinations for the lines of
13 authority for which the person has applied.

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

19 1. The business entity has paid the fees set forth in Section
20 1435.23 of this title;

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

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

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

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

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

17 SECTION 4. AMENDATORY 36 O.S. 2001, Section 1435.8, as
18 last amended by Section 26, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
19 2010, Section 1435.8), is amended to read as follows:

20 Section 1435.8 A. Unless denied licensure pursuant to Section
21 1435.13 of this title, persons who have met the requirements of
22 Sections 1435.6 and 1435.7 of this title shall be issued an
23 insurance producer license. An insurance producer may receive
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1 qualification for a license in one or more of the following lines of
2 authority:

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

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

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

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

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

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

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

23 8. Credit - limited line credit insurance;

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

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

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

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

14 C. An individual insurance producer who allows the license to
15 lapse may, within ~~twenty-four (24)~~ twelve (12) months from the due
16 date of the renewal fee, reinstate the same license without the
17 necessity of passing a written examination unless the license was
18 revoked, suspended, or continuation thereof was refused by the
19 Commissioner. However, a penalty in the amount of double the unpaid
20 renewal fee shall be required for any renewal fee received after the
21 due date. Continuing education requirements must be kept current.

22 D. A licensed insurance producer who is unable to comply with
23 license renewal procedures due to military service or some other
24 extenuating circumstance, such as a long-term medical disability,

1 may request a waiver of those procedures. The producer may also
2 request a waiver of any examination requirement or any other fine or
3 sanction imposed for failure to comply with renewal procedures.

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

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

19 G. In order to assist in the performance of the Insurance
20 Commissioner's duties, the Insurance Commissioner may contract with
21 nongovernmental entities, including the National Association of
22 Insurance Commissioners (NAIC) or any affiliates or subsidiaries
23 that the NAIC oversees, to perform any ministerial functions,
24 including the collection of fees, related to producer licensing that

1 the Insurance Commissioner and the nongovernmental entity may deem
2 appropriate.

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

16 SECTION 5. AMENDATORY 36 O.S. 2001, Section 1435.23, as
17 last amended by Section 12, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
18 2010, Section 1435.23), is amended to read as follows:

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

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

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

5 2. Miscellaneous:

6 a. Certificate and Clearance of
7 Commissioner..... \$ 3.00

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

11 Property and Casualty..... not to exceed
12 \$ 40.00

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

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

20 4. Licenses:

21 a. Insurance producer's biennial license,
22 regardless of number of companies
23 represented..... \$ 60.00

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

17 5. Biennial fee for each appointed insurance
18 producer, managing general agent, or limited
19 lines producer by insurer, each license of
20 each insurance producer or representative \$55.00

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

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

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

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

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

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

15 SECTION 6. AMENDATORY 36 O.S. 2001, Section 1435.29, as
16 last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
17 2010, Section 1435.29), is amended to read as follows:

18 Section 1435.29 A. 1. Each insurance producer, with the
19 exception of title producers and aircraft title producers or any
20 other producer exempt by rule, shall, biennially, complete not less
21 than twenty-one (21) clock hours of continuing insurance education
22 ~~which shall cover subjects in the lines for which the insurance~~
23 ~~producer is licensed.~~ Such education may include a written or oral
24 examination.

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

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

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

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

- 23 a. employees of the Insurance Commissioner,
- 24 b. a continuing education advisory committee, or

1 c. an independent service whose normal business
2 activities include the review and approval of
3 continuing education courses and providers. The
4 Commissioner may negotiate agreements with such
5 independent service to review documents and other
6 materials submitted for approval of courses and
7 providers and provide the Commissioner with its
8 nonbinding recommendation. The Commissioner may
9 require such independent service to collect the fee
10 charged by the independent service for reviewing
11 materials provided for review directly from the course
12 providers.

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

23 The Insurance Commissioner may certify providers and courses
24 offered for license examination study. The Insurance Department

1 shall use employees of the Insurance Commissioner to review and
2 certify license examination study program providers and courses.

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

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

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

20 4. The Insurance Department may promulgate rules providing that
21 courses or programs offered by professional associations shall
22 qualify for presumptive continuing education credit approval. The
23 rules shall include standardized criteria for reviewing the
24 professional associations' mission, membership, and other relevant

1 information, and shall provide a procedure for the Department to
2 disallow all or part of a presumptively approved course.

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

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

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

18 C. Annual fees and course submission fees shall be set forth as
19 a rule by the Commissioner. The fees are payable to the Insurance
20 Commissioner. Provided, public-funded educational institutions,
21 federal agencies, nonprofit organizations, not-for-profit
22 organizations, and Oklahoma state agencies shall be exempt from this
23 subsection.

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1 D. Failure of an insurance producer or customer service
2 representative to comply with the requirements of the Oklahoma
3 Producer Licensing Act may, after notice and opportunity for
4 hearing, result in censure, suspension, nonrenewal of license or a
5 civil penalty of up to Five Hundred Dollars (\$500.00) or by both
6 such penalty and civil penalty. Said civil penalty may be enforced
7 in the same manner in which civil judgments may be enforced.

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

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

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

15 SECTION 7. AMENDATORY 36 O.S. 2001, Section 6208, as
16 last amended by Section 44, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
17 2010, Section 6208), is amended to read as follows:

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

23 B. The requirement of an examination shall not apply to the
24 following:

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

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

6 3. Any applicant for a license covering the same class or
7 classes of insurance for which the applicant was licensed in this
8 state pursuant to a similar license during the ~~twenty-four-month~~
9 twelve-month period immediately preceding the date of application,
10 unless said previous license was revoked or suspended, or

11 continuation of the license was refused by the Commissioner; or

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

18 SECTION 8. AMENDATORY 36 O.S. 2001, Section 6209, as
19 amended by Section 45, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2010,
20 Section 6209), is amended to read as follows:

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

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

5 B. An applicant for a license as an adjuster may qualify in any
6 one of the following classes of insurance or combinations thereof,
7 and the license when issued may be limited to cover adjusting in any
8 one of the following classes of insurance or combinations thereof.

9 The application for a license shall specify which of the following
10 classes of business the application and license are to cover:

11 1. ~~motor vehicle physical damage, meaning~~ Property, including
12 but not limited to marine, inland marine, aircraft and damages to
13 all land motor vehicles and trailers whether or not covered by first
14 party physical damage coverages or property damage liability
15 coverages; or

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

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

21 4. ~~workers'~~ 3. Workers' compensation; or

22 5. ~~crime~~ 4. Crime and fidelity bonds; or

23 6. ~~crop/hail~~ 5. Crop/hail; or

24 6. Multi-peril crop.

1 C. The Commissioner shall prepare and make available to
2 applicants a manual of instructions stating in general terms the
3 subjects which may be covered in any examination for a license as an
4 adjuster. The Commissioner may charge a reasonable amount not to
5 exceed Forty Dollars (\$40.00) for the study manual.

6 SECTION 9. AMENDATORY 36 O.S. 2001, Section 6210, as
7 last amended by Section 46, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
8 2010, Section 6210), is amended to read as follows:

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

13 B. Examination for licensing shall be at such reasonable times
14 and places as are designated by the Insurance Commissioner.

15 C. An applicant who has failed to pass the first ~~examination~~
16 two examinations for the license ~~for which applied may take a second~~
17 ~~examination within~~ for shall not be permitted to take a subsequent
18 examination until the expiration of thirty (30) days following the
19 first after the last examination. ~~An applicant who has failed to~~
20 ~~pass the first two examinations for the license for which applied~~
21 ~~shall not be permitted to take a subsequent examination until the~~
22 ~~expiration of thirty (30) days after the last previous examination.~~
23 ~~An applicant shall take and pass the examination within one hundred~~
24 ~~eighty (180) days of the date of the initial application. If the~~

1 ~~applicant fails to pass an examination within the specified time~~
2 ~~period, the applicant shall submit a new application accompanied by~~
3 ~~any applicable fees.~~ Examination fees for subsequent examinations
4 shall not be waived.

5 SECTION 10. AMENDATORY 36 O.S. 2001, Section 6217, as
6 last amended by Section 2, Chapter 355, O.S.L. 2010 (36 O.S. Supp.
7 2010, Section 6217), is amended to read as follows:

8 Section 6217. A. All licenses issued pursuant to the
9 provisions of the Insurance Adjusters Licensing Act shall continue
10 in force not longer than twenty-four (24) months. The renewal dates
11 for the licenses may be staggered throughout the year by notifying
12 licensees in writing of the expiration and renewal date being
13 assigned to the licensees by the Insurance Commissioner and by
14 making appropriate adjustments in the biennial licensing fee.

15 B. Any licensee applying for renewal of a license as an
16 adjuster shall have completed not less than twenty-four (24) clock
17 hours of continuing insurance education, of which three (3) hours
18 ~~must~~ shall be in ethics, within the previous twenty-four (24) months
19 prior to renewal of the license. ~~Such continuing education shall~~
20 ~~cover subjects in the classes of insurance for which the adjuster is~~
21 ~~licensed.~~ The Insurance Commissioner shall approve courses and
22 providers of continuing education for insurance adjusters as
23 required by this section.

24

1 The Insurance Department may use one or more of the following to
2 review and provide a nonbinding recommendation to the Insurance
3 Commissioner on approval or disapproval of courses and providers of
4 continuing education:

5 1. Employees of the Insurance Commissioner;

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

9 3. An independent service whose normal business activities
10 include the review and approval of continuing education courses and
11 providers. The Commissioner may negotiate agreements with such
12 independent service to review documents and other materials
13 submitted for approval of courses and providers and present the
14 Commissioner with its nonbinding recommendation. The Commissioner
15 may require such independent service to collect the fee charged by
16 the independent service for reviewing materials provided for review
17 directly from the course providers.

18 C. An adjuster who, during the time period prior to renewal,
19 participates in an approved professional designation program shall
20 be deemed to have met the biennial requirement for continuing
21 education. Each course in the curriculum for the program shall
22 total a minimum of twenty (20) hours. Each approved professional
23 designation program included in this section shall be reviewed for
24 quality and compliance every three (3) years in accordance with

1 standardized criteria promulgated by rule. Continuation of approved
2 status is contingent upon the findings of the review. The list of
3 professional designation programs approved under this subsection
4 shall be made available to producers and providers annually.

5 D. A claims adjuster for any insurer duly authorized to
6 transact workers' compensation insurance shall complete six (6)
7 hours of continuing education relating to the Workers' Compensation
8 Act as part of the twenty-four (24) clock hours of continuing
9 insurance education.

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

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

24

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

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

22 I. If the request, proof of compliance with the continuing
23 education requirement and fee for renewal of a license as an
24 adjuster are filed with the Commissioner prior to the expiration of

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

9 SECTION 11. AMENDATORY 59 O.S. 2001, Section 1304, is
10 amended to read as follows:

11 Section 1304. ~~All licenses of bail bondsmen~~ Each bail bondsman
12 license issued shall expire ~~annually~~ biennially at 12:00 o'clock
13 midnight on the last day of ~~September~~ the birth month of the
14 bondsman, unless revoked or suspended prior thereto by the Insurance
15 Commissioner, or upon notice served upon the Commissioner that the
16 insurer or employer of any bail bondsman has canceled the licensee's
17 authority to act for such insurer or employer.

18 SECTION 12. AMENDATORY 59 O.S. 2001, Section 1305, as
19 last amended by Section 55, Chapter 222, O.S.L. 2010 (59 O.S. Supp.
20 2010, Section 1305), is amended to read as follows:

21 Section 1305. A. The application for license to serve as a
22 bail bondsman shall affirmatively show that the applicant:

23 1. Is a person who has reached the age of twenty-one (21)
24 years;

1 2. Is of good character and reputation;

2 3. Has not been previously convicted of, or pled guilty or nolo
3 contendere to, any felony, or to a misdemeanor involving moral
4 turpitude or dishonesty;

5 4. Is a citizen of the United States;

6 5. Has been a bona fide resident of the state for at least one
7 (1) year;

8 6. Will actively engage in the bail bond business;

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

11 8. Has a high school diploma or its equivalent; provided,
12 however, the provisions of this paragraph shall apply only to
13 initial applications for license submitted on or after November 1,
14 1997, and shall not apply to renewal applications for license.

15 B. The applicant shall apply ~~in writing~~ electronically on forms
16 ~~prepared and supplied~~ approved by the Insurance Commissioner, and
17 the Commissioner may propound any reasonable interrogatories to an
18 applicant for a license pursuant to Sections 1301 through 1340 of
19 this title, or on any renewal thereof, relating to qualifications,
20 residence, prospective place of business and any other matters
21 which, in the opinion of the Commissioner, are deemed necessary or
22 expedient in order to protect the public and ascertain the
23 qualifications of the applicant. The Commissioner may also conduct
24 any reasonable inquiry or investigation relative to the

1 determination of the fitness of the applicant to be licensed or to
2 continue to be licensed including, but not limited to, requiring a
3 national criminal history record check as defined by Section 150.9
4 of Title 74 of the Oklahoma Statutes.

5 C. An applicant shall furnish to the Commissioner a license fee
6 of Two Hundred Fifty Dollars (\$250.00) with the application, a
7 complete set of the fingerprints of the applicant and two recent
8 credential-size full face photographs of the applicant. The
9 fingerprints of the applicant shall be certified by an authorized
10 law enforcement officer. The applicant shall provide with the
11 application an investigative fee of One Hundred Dollars (\$100.00)
12 with which the Commissioner will conduct an investigation of the
13 applicant. All fees shall be nonrefundable.

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

18 E. The fee for a duplicate pocket license shall be Twenty-five
19 Dollars (\$25.00).

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

22 Section 1308. A. The applicant for bail bondsman shall be
23 required to appear in person and take ~~a written~~ an examination
24 prepared by the Insurance Commissioner, testing the applicant's

1 ability and qualifications to be a bail bondsman. Applications are
2 valid for six (6) months after submission. If an applicant has not
3 acted upon the application within that period, a new application and
4 fees shall be submitted for the applicant to be considered for
5 licensure.

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

15 C. The fee for the examination shall be One Hundred Dollars
16 (\$100.00) ~~in addition to the license fee heretofore provided and~~
17 ~~shall be submitted after approval of the application but prior to~~
18 ~~taking the examination.~~ Results will be ~~mailed to the applicant~~
19 ~~within thirty (30) days~~ provided after the applicant is examined.

20 D. The failure of an applicant to pass an examination shall not
21 preclude the applicant from taking subsequent examinations;
22 provided, however, that at least ~~three (3) months must~~ thirty (30)
23 days shall intervene between examinations; and provided further,
24 after a third or subsequent examination failure, an applicant may

1 not ~~apply and~~ be examined for at least one (1) year after the last
2 examination failure.

3 SECTION 14. AMENDATORY 59 O.S. 2001, Section 1308.1, is
4 amended to read as follows:

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

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

23 B. The Oklahoma Bondsman Association shall provide education
24 for bail bondsman licensure as required by this section; provided

1 that the Insurance Commissioner shall approve the courses offered
2 and provided further such education meets the general standards for
3 education otherwise established by the Insurance Commissioner.

4 C. The Oklahoma Bondsman Association shall submit ~~an annual~~
5 biennially a fee of One Hundred Dollars (\$100.00) Two Hundred
6 Dollars (\$200.00), payable to the Insurance Commissioner which shall
7 be deposited ~~in the Bail Bondsmen Revolving Fund~~ with the State
8 Treasurer for the purposes of fulfilling and accomplishing the
9 conditions and purposes of this section.

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

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

16 SECTION 15. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1311.3 of Title 59, unless there
18 is created a duplication in numbering, reads as follows:

19 A. It shall be unlawful for any person whose license to act as
20 a bail bondsman has been suspended, revoked, surrendered, or
21 refused, to do or perform any of the acts of a bail bondsman. Any
22 person convicted of violating the provisions of this subsection
23 shall be guilty of a felony and shall be punished by a fine in an
24 amount not exceeding Five Thousand Dollars (\$5,000.00).

1 B. It shall be unlawful for any bail bondsman to assist, aid,
2 or conspire with a person whose license as a bail bondsman has been
3 suspended, revoked, surrendered, or refused, to engage in any acts
4 as a bail bondsman. Any person convicted of violating the
5 provisions of this subsection shall be guilty of a felony and shall
6 be punished by a fine in an amount not to exceed Five Thousand
7 Dollars (\$5,000.00).

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

10 Section 1309. A. A renewal license shall be issued by the
11 Insurance Commissioner to a licensee who has continuously maintained
12 same in effect, without further examination, upon payment of a
13 renewal fee of ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars
14 (\$200.00) for a bail bondsman and proof of completion of ~~eight (8)~~
15 sixteen (16) hours of continuing education as required by Section
16 1308.1 of this title. The renewal fee for licenses expiring
17 September 15, 2012, shall be prorated to the birth month of the
18 bondsman. Thereafter the renewal fee shall be submitted by
19 September 15 of each year biennially by the last day of the birth
20 month of the bondsman. Such licensee shall in all other respects be
21 required to comply with and be subject to the provisions of Section
22 1301 et seq. of this title.

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

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

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

20 D. If the license is not renewed or the renewal fee is not paid
21 ~~by September 30 of each year~~ the last day of the birth month of the
22 bondsman, ~~such~~ the license shall expire automatically pursuant to
23 Section 1304 of this title. ~~If after November 30 of each year the~~
24 ~~license has not been renewed or the renewal fee paid, then such~~

1 ~~licensee shall be required to apply for a license as a new applicant~~
2 After expiration, the license may be reinstated for up to one (1)
3 year following the expiration date. If after the one-year date the
4 license has not been renewed, the licensee shall be required to
5 apply for a license as a new applicant.

6 E. ~~Late renewal~~ Reinstatement fees shall be double the original
7 fee.

8 SECTION 17. AMENDATORY 59 O.S. 2001, Section 1314, as
9 last amended by Section 58, Chapter 222, O.S.L. 2010 (59 O.S. Supp.
10 2010, Section 1314), is amended to read as follows:

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

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

17 1. The principal or other person from whom the property is
18 taken or claimed against; and

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

21 As fiduciary and bailee for hire, the individual bondsman shall
22 be liable in criminal or civil actions at law for failure to
23 properly receipt or account for, maintain or safeguard, release or
24 deliver possession upon lawful demand, in addition to any other

1 penalties set forth in this subsection. No person who takes
2 possession of property as collateral pursuant to this section shall
3 use or otherwise dissipate the asset, or do otherwise with the
4 property than to safeguard and maintain its condition pending its
5 return to its lawful owner, or deliver to the surety company or
6 professional bondsman, upon lawful demand pursuant to the terms of
7 the bailment.

8 B. Every licensed bondsman shall file monthly ~~by mail with~~
9 ~~return receipt requested~~ electronically with the Insurance
10 Commissioner and on forms ~~prescribed~~ approved by the Commissioner as
11 follows:

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

16 2. Professional bondsmen shall submit ~~by mail with return~~
17 ~~receipt requested notarized~~ electronic monthly reports showing total
18 current liabilities, all bonds written during the month by the
19 professional bondsman and by any licensed bondsman who may
20 countersign for the professional bondsman, all bonds terminated
21 during the month, and the total liability and a list of all bondsmen
22 currently employed by the professional bondsmen.

23 Monthly reports shall be ~~postmarked or stamped "received"~~ by
24 submitted electronically to the Insurance Commissioner by the

1 fifteenth day of each month. The records shall be maintained by the
2 Commissioner as public records.

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

11 D. Each bail bondsman shall submit each month with the monthly
12 report of the bondsman, a renewal fee equal to two-tenths of one
13 percent (2/10 of 1%) of the new liability written for that month.
14 The fee shall be payable to the Insurance Commissioner who shall
15 deposit same with the State Treasurer.

16 SECTION 18. REPEALER Section 11, Chapter 125, O.S.L.
17 2007 (36 O.S. Supp. 2010, Section 1435.7A), is hereby repealed.

18 SECTION 19. Sections 1 through 14, 16 through 17, and 19 of
19 this act shall become effective upon order of the Insurance
20 Commissioner.

21 SECTION 20. Sections 15 and 18 of this act shall become
22 effective July 1, 2011.

23 SECTION 21. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval."

3 and when the title is restored, amend the title to
4 conform

5 Passed the Senate the 19th day of April, 2011.

6

7

Presiding Officer of the Senate

8

9 Passed the House of Representatives the ____ day of _____,

10 2011.

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Presiding Officer of the House
of Representatives

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