

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1618

6 By: Brown

7 COMMITTEE SUBSTITUTE

8 An Act relating to insurance; amending 36 O.S. 2011,  
9 Sections 924.4 and 924.5, which relate to affidavit  
10 of exempt status; updating statutory cites; amending  
11 36 O.S. 2011, Section 1435.6, which relates to the  
12 Oklahoma Producer Licensing Act; modifying time  
13 period to take certain examination; placing time  
14 limit for making an application for a producer's  
15 license; modifying requirements relating to  
16 subsequent examinations; amending 36 O.S. 2011,  
17 Sections 1473 and 1477, which relate to the Managing  
18 General Agents Act; correcting statutory cite;  
19 clarifying language; amending 36 O.S. 2011, Sections  
20 1608, 1609 and 1620, which relate to investments;  
21 clarifying types of investments; specifying types of  
22 investments that are not acceptable; providing that  
23 certificates of deposits or other time deposit  
24 instruments shall be classified as negotiable and  
transferrable; amending 36 O.S. 2011, Sections 1703  
and 1707, which relate to administration of deposits;  
adding time deposits to definition of cash;  
specifying when a deposit can be released; amending  
36 O.S. 2011, Section 3639.1, which relates to  
homeowner's insurance policies; prohibiting insurer  
from canceling or renewing policy or increasing  
premium of other personal residential insurance  
coverage because of the filing of claims after  
certain time period; exempting insurer from  
providing certain notice for certain policies;  
amending 36 O.S. 2011, Sections 6206 and 6217, which  
relate to the Insurance Adjusters Licensing Act;  
specifying that the exam for an adjusters license  
must be passed within certain specified time;  
eliminating continuing education requirement relating

1 to workers' compensation for certain adjusters;  
2 requiring an adjuster to report certain actions or  
3 prosecutions to the Insurance Commissioner; amending  
4 36 O.S. 2011, Section 6475.13, which relates to the  
5 Uniform Health Carrier External Review Act; requiring  
6 an independent review organization to possess any  
7 additional qualifications promulgated by the  
8 Insurance Commissioner; allowing the Insurance  
9 Commissioner to accept certain accreditation  
10 standards; amending 36 O.S. 2011, Section 6608, which  
11 relates to the Service Warranty Insurance Act;  
12 specifying that certain reporting date is an annual  
13 requirement; providing for codification; and  
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 36 O.S. 2011, Section 924.4, is  
17 amended to read as follows:

18 Section 924.4. A. Any person who is not required to be covered  
19 under a workers' compensation insurance policy or other plan for the  
20 payment of workers' compensation may execute an Affidavit of Exempt  
21 Status under the Workers' Compensation Act. The affidavit shall be a  
22 form prescribed by the Insurance Commissioner. The affidavit shall  
23 be available on the web site of the Insurance Department.

24 B. Execution of the affidavit shall establish a rebuttable  
presumption that the executor is not an employee for purposes of the  
Workers' Compensation Act and that an individual or company  
possessing the affidavit is in compliance and therefore shall not be  
responsible for workers' compensation claims made by the executor.

1 C. Except as otherwise provided in Section ~~44~~ 314 of Title 85 of  
2 the Oklahoma Statutes, the execution of an affidavit shall not affect  
3 the rights or coverage of any employee of the individual executing  
4 the affidavit.

5 D. 1. Knowingly providing false information on a notarized  
6 Affidavit of Exempt Status Under the Workers' Compensation Act shall  
7 constitute a misdemeanor punishable by a fine not to exceed One  
8 Thousand Dollars (\$1,000.00).

9 2. Affidavits shall conspicuously state on the front thereof in  
10 at least ten-point, bold-faced print that it is a crime to falsify  
11 information on the form.

12 3. The Insurance Commissioner shall immediately notify the  
13 Workers' Compensation Fraud Unit in the Office of the Attorney  
14 General of any violations or suspected violations of this section.  
15 The Commissioner shall cooperate with the Fraud Unit in any  
16 investigation involving affidavits executed pursuant to this section.

17 E. Application fees collected pursuant to this section shall be  
18 deposited in the State Treasury to the credit of the State Insurance  
19 Commissioner's Revolving Fund.

20 SECTION 2. AMENDATORY 36 O.S. 2011, Section 924.5, is  
21 amended to read as follows:

22 Section 924.5. In addition to any other penalty prescribed by  
23 law, any employer who knowingly and willfully requires an employee or  
24 subcontractor to execute an affidavit under Section ~~75 of this act~~

1 924.4 of this title when the employer knows that the employee or  
2 subcontractor is required to be covered under a workers' compensation  
3 insurance policy or other plan for the payment of workers'  
4 compensation shall be liable for a civil penalty, to be assessed by  
5 the Insurance Department, of not more than Five Hundred Dollars  
6 (\$500.00) for a first offense, and shall be liable for a civil  
7 penalty of not more than One Thousand Dollars (\$1,000.00) for a  
8 second or subsequent offense. All civil penalties collected pursuant  
9 to this section shall be deposited into the State Insurance  
10 Commissioner's Revolving Fund.

11 SECTION 3. AMENDATORY 36 O.S. 2011, Section 1435.6, is  
12 amended to read as follows:

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

22 B. The Commissioner may make arrangements, including  
23 contracting with an outside testing service, for administering  
24

1 examinations and collecting the nonrefundable fee set forth in  
2 Section 1435.23 of this title.

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

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

1 directly from the applicants. The Commissioner may stipulate that  
2 any agreements with such testing services provide for the  
3 administration of examinations in specific locales and at specified  
4 frequencies. The Commissioner shall retain the authority to  
5 establish the scope and type of all examinations.

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

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

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

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

19 I. The applicant shall pass the examination with a grade  
20 determined by the Commissioner to indicate satisfactory knowledge  
21 and understanding of the line or lines of insurance for which the  
22 applicant seeks qualification. Within ten (10) days after the  
23 examination, the Commissioner shall inform the applicant and the  
24 appointing insurer, when applicable, as to whether or not the

1 applicant has passed. ~~Formal evidence of licensing shall be issued~~  
2 ~~by the Commissioner to the licensee within a reasonable time~~ An  
3 application for licensure shall be made within two (2) years after  
4 passing the examination.

5 J. An applicant who has failed to pass the ~~first~~ examination  
6 for the license applied for may take ~~a second~~ the examination ~~within~~  
7 ~~thirty (30) days following the first examination~~ subsequent times.  
8 Examination fees for subsequent examinations shall not be waived.

9 K. ~~An applicant who has failed to pass the first two~~  
10 ~~examinations for the license applied for shall not be permitted to~~  
11 ~~take a subsequent examination until the expiration of thirty (30)~~  
12 ~~days after the last previous examination. Examination fees for~~  
13 ~~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 4. AMENDATORY 36 O.S. 2011, Section 1473, is  
19 amended to read as follows:

20 Section 1473. A. No person shall act in the capacity of a  
21 managing general agent with respect to risks located in this state  
22 for an insurer unless such person is licensed as ~~an agent or broker~~  
23 a producer pursuant to ~~Section 1421 et seq. of Title 36 of the~~  
24 ~~Oklahoma Statutes~~ the Oklahoma Producer Licensing Act.

1 B. No person shall act in the capacity of a managing general  
2 agent, representing an insurer domiciled in this state with respect  
3 to risks located outside this state, unless such person is licensed  
4 as ~~an agent or broker pursuant to Section 1421 et seq. of Title 36~~  
5 ~~of the Oklahoma Statutes~~ a producer pursuant to the Oklahoma  
6 Producer Licensing Act. Provided, such license may be a nonresident  
7 license.

8 C. The Insurance Commissioner may require a bond in the amount  
9 acceptable to ~~him~~ the Commissioner for the protection of the  
10 insurer.

11 D. The Insurance Commissioner may require the managing general  
12 agent to maintain an errors and omissions policy.

13 SECTION 5. AMENDATORY 36 O.S. 2011, Section 1477, is  
14 amended to read as follows:

15 Section 1477. A. If the Insurance Commissioner finds, after a  
16 hearing conducted in accordance with Article II of the  
17 Administrative Procedures Act, ~~Section 309 et seq. of Title 75 of~~  
18 ~~the Oklahoma Statutes,~~ that any person had violated any provision of  
19 ~~this act~~ the Managing General Agents Act or rules promulgated  
20 pursuant thereto, the Commissioner may order:

21 1. For each separate violation, a penalty in an amount of not  
22 less than One Hundred Dollars (\$100.00) nor more than Five Thousand  
23 Dollars (\$5,000.00) for each occurrence;

1        2. Revocation or suspension of the ~~agent's or broker's~~  
2 producer's license; and

3        3. The managing general agent to reimburse the insurer, the  
4 rehabilitator or the liquidator of the insurer for any losses  
5 incurred by the insurer which were caused by a violation of ~~this act~~  
6 the Managing General Agents Act committed by the managing general  
7 agent.

8        B. The decision, determination or order of the Commissioner  
9 pursuant to subsection A of this section shall be subject to  
10 judicial review pursuant to the Administrative Procedures Act and  
11 any applicable insurance laws and regulations.

12        C. Nothing contained in this section shall affect the right of  
13 the Commissioner to impose any other penalties provided for in the  
14 Oklahoma Insurance Code.

15        D. Nothing contained in ~~this act~~ the Managing General Agents  
16 Act is intended to or shall, in any manner, limit or restrict the  
17 rights of policyholders, claimants and auditors.

18        E. No insurer may continue to utilize the services of a  
19 managing general agent on or after July 1, 1991, unless such  
20 utilization is in compliance with ~~this act~~ the Managing General  
21 Agents Act.

22        SECTION 6.        AMENDATORY        36 O.S. 2011, Section 1608, is  
23 amended to read as follows:

1 Section 1608. An insurer may invest in general obligation  
2 bonds, notes, warrants and other securities not in default which are  
3 the direct obligations of any state of the United States or of the  
4 District of Columbia, or of the government of Canada or any province  
5 thereof, or for which the full faith and credit of such state,  
6 district, government or province has been pledged for the payment of  
7 principal and interest. Bonds, notes, warrants and other securities  
8 classified as revenue, prerefunded or declining balances are not  
9 considered acceptable investments for this purpose.

10 SECTION 7. AMENDATORY 36 O.S. 2011, Section 1609, is  
11 amended to read as follows:

12 Section 1609. An insurer may invest in general obligation  
13 bonds, notes, warrants and other securities not in default of any  
14 county, district, incorporated city, or school district in any state  
15 of the United States, or the District of Columbia, or in any  
16 province of Canada, which are the direct obligations of such county,  
17 district, city or school district and for payment of the principal  
18 and interest of which the county, district, city, or school district  
19 has lawful authority to levy taxes or make assessments. Bonds,  
20 notes, warrants and other securities classified as revenue,  
21 prerefunded or declining balances are not considered acceptable  
22 investments for this purpose.

23 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1620, is  
24 amended to read as follows:

1 Section 1620. A. An insurer may ~~have~~ invest or deposit any of  
2 its cash funds on deposit in checking or savings accounts, under  
3 certificates of deposit, or ~~in any other form~~ in solvent banks or  
4 trust companies, which are insured by the Federal Deposit Insurance  
5 Corporation.

6 B. An insurer may invest or deposit any of its funds in  
7 checking, share or saving accounts under certificates of deposit or  
8 time deposits in solvent savings and loan associations which are  
9 insured by the Federal Savings and Loan Insurance Corporation.

10 C. An insurer may invest or deposit any of its cash funds in  
11 share, share draft, under certificates of deposit or ~~in any other~~  
12 ~~form~~ time deposits in solvent credit unions which are insured by the  
13 National Credit Union Administration.

14 D. All certificates of deposits or other time deposit  
15 instruments shall be classified as negotiable and transferrable as  
16 required by Section 1703 of this title.

17 SECTION 9. AMENDATORY 36 O.S. 2011, Section 1703, is  
18 amended to read as follows:

19 Section 1703. A. All such deposits required for authority to  
20 transact insurance business in Oklahoma shall consist of cash, under  
21 negotiable, and transferable certificates of deposit or other time  
22 deposit instruments issued by solvent insured banks, savings and  
23 loan associations, and trust companies in Oklahoma, or a combination  
24 of the foregoing and the securities described in ~~the following~~

1 ~~sections of Article 16 of this Code:~~ Sections 1607, 1608, 1609 and  
2 1620 of this title.

3 B. All such deposits required pursuant to the laws of another  
4 state, province, or country, or pursuant to the retaliatory  
5 provision of Section 628 of this title, shall consist of such assets  
6 as are required or permitted by such laws, or as required pursuant  
7 to such retaliatory provision.

8 SECTION 10. AMENDATORY 36 O.S. 2011, Section 1707, is  
9 amended to read as follows:

10 Section 1707. Any deposit made in this state under ~~this the~~ the  
11 Insurance Code shall be released and returned:

12 1. To the insurer upon extinguishment by reinsurance or  
13 otherwise of substantially all liability of the insurer for the  
14 security of which the deposit is held upon proper request by the  
15 insurer and after financial review of the insurer proving generally  
16 acceptable financial conditions;

17 2. To the insurer to the extent such deposit is in excess of  
18 the amount required upon proper request by the insurer and after  
19 financial review of the insurer proving generally acceptable  
20 financial conditions; or

21 3. Upon proper order of a court of competent jurisdiction to  
22 the receiver, conservator, rehabilitator or liquidator of the  
23 insurer, or to any other properly designated official or officials  
24 who succeed to the management and control of the insurer's assets.

1 SECTION 11. AMENDATORY 36 O.S. 2011, Section 3639.1, is  
2 amended to read as follows:

3 Section 3639.1. A. No insurer shall cancel, refuse to renew or  
4 increase the premium of a homeowner's insurance policy or any other  
5 personal residential insurance coverage, which has been in effect  
6 more than forty-five (45) days, solely because the insured filed a  
7 first claim against the policy. The provisions of this section  
8 shall not be construed to prevent the cancellation, nonrenewal or  
9 increase in premium of a homeowner's insurance policy for the  
10 following reasons:

11 1. Nonpayment of premium;

12 2. Discovery of fraud or material misrepresentation in the  
13 procurement of the insurance or with respect to any claims submitted  
14 thereunder;

15 3. Discovery of willful or reckless acts or omissions on the  
16 part of the named insured which increase any hazard insured against;

17 4. A change in the risk which substantially increases any  
18 hazard insured against after insurance coverage has been issued or  
19 renewed;

20 5. Violation of any local fire, health, safety, building, or  
21 construction regulation or ordinance with respect to any insured  
22 property or the occupancy thereof which substantially increases any  
23 hazard insured against;

24

1       6. A determination by the Insurance Commissioner that the  
2 continuation of the policy would place the insurer in violation of  
3 the insurance laws of this state; or

4       7. Conviction of the named insured of a crime having as one of  
5 its necessary elements an act increasing any hazard insured against.

6       B. An insurer shall give to the named insured at the mailing  
7 address shown on a ~~private passenger auto or~~ homeowner's policy, a  
8 written renewal notice that shall include new premium, new  
9 deductible, new limits or coverage at least thirty (30) days prior  
10 to the expiration date of the policy. If the insurer fails to  
11 provide such notice, the premium, deductible, limits and coverage  
12 provided to the named insurer prior to the change shall remain in  
13 effect until notice is given or until the effective date of  
14 replacement coverage obtained by the named insured, whichever occurs  
15 first. If notice is given by mail, the notice shall be deemed to  
16 have been given on the day the notice is mailed. If the insured  
17 elects not to renew, any earned premium for the period of extension  
18 of the terminated policy shall be calculated pro rata at the lower  
19 of the current or previous year's rate. If the insured accepts the  
20 renewal, the premium increase, if any, and other changes shall be  
21 effective the day following the prior policy's expiration or  
22 anniversary date.

23       SECTION 12.       AMENDATORY       36 O.S. 2011, Section 6206, is  
24 amended to read as follows:

1 Section 6206. A. The Insurance Commissioner shall license as  
2 an adjuster only an individual who has fully complied with the  
3 provisions of the Insurance Adjusters Licensing Act, including the  
4 furnishing of evidence satisfactory to the Commissioner that the  
5 applicant:

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

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

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

13 4. Is a trustworthy person;

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

18 6. Has successfully passed an examination as required by the  
19 Commissioner within two (2) years prior to date of application, or  
20 has been exempted from examination, in accordance with the  
21 provisions of Section 6208 of this title; and

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

24

1 B. Residence addresses and telephone listings, birth dates, and  
2 social security numbers for insurance adjusters and public adjusters  
3 on file with the Insurance Department are exempt from disclosure as  
4 public records. A separate business or mailing address as provided  
5 by the adjuster shall be considered a public record and upon request  
6 shall be disclosed. If an adjuster's residence and business address  
7 or residence and business telephone number are the same, such  
8 address or telephone number shall be considered a public record.

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

19 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6217, is  
20 amended to read as follows:

21 Section 6217. A. All licenses issued pursuant to the  
22 provisions of the Insurance Adjusters Licensing Act shall continue  
23 in force not longer than twenty-four (24) months. The renewal dates  
24 for the licenses may be staggered throughout the year by notifying

1 licensees in writing of the expiration and renewal date being  
2 assigned to the licensees by the Insurance Commissioner and by  
3 making appropriate adjustments in the biennial licensing fee.

4 B. Any licensee applying for renewal of a license as an  
5 adjuster shall have completed not less than twenty-four (24) clock  
6 hours of continuing insurance education, of which three (3) hours  
7 shall be in ethics, within the previous twenty-four (24) months  
8 prior to renewal of the license. The Insurance Commissioner shall  
9 approve courses and providers of continuing education for insurance  
10 adjusters as required by this section.

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

15 1. Employees of the Insurance Commissioner;

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

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

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

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

15 ~~D. A claims adjuster for any insurer duly authorized to~~  
16 ~~transact workers' compensation insurance shall complete six (6)~~  
17 ~~hours of continuing education relating to the Workers' Compensation~~  
18 ~~Act as part of the twenty-four (24) clock hours of continuing~~  
19 ~~insurance education.~~

20 ~~E.~~ 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 a presumptively approved course. Professional association  
3 courses approved in accordance with this subsection shall be  
4 reviewed every three (3) years to determine whether they continue to  
5 qualify for continuing education credit.

6 ~~F.~~ E. The active service of a licensed adjuster as a member of  
7 a continuing education advisory committee, as described in paragraph  
8 2 of subsection B of this section, shall be deemed to qualify for  
9 continuing education credit on an hour-for-hour basis.

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

24

1       ~~H.~~ G. Subject to the right of the Commissioner to suspend,  
2 revoke, or refuse to renew a license of an adjuster, any such  
3 license may be renewed by filing on the form prescribed by the  
4 Commissioner on or before the expiration date a written request by  
5 or on behalf of the licensee for such renewal and proof of  
6 completion of the continuing education requirement set forth in  
7 subsection B of this section, accompanied by payment of the renewal  
8 fee.

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

20       SECTION 14.       NEW LAW       A new section of law to be codified  
21 in the Oklahoma Statutes as Section 6222 of Title 36, unless there  
22 is created a duplication in numbering, reads as follows:

23       A. An adjuster shall report to the Insurance Commissioner any  
24 administrative action taken against the adjuster in another

1 jurisdiction or by another governmental agency in this state within  
2 thirty (30) days of the final disposition of the matter. This  
3 report shall include a copy of the order, consent to order or other  
4 relevant legal documents.

5 B. Within thirty (30) days of the initial pretrial hearing  
6 date, an adjuster shall report to the Insurance Commissioner any  
7 criminal prosecution of the adjuster taken in any jurisdiction. The  
8 report shall include a copy of the initial complaint filed, the  
9 order resulting from the hearing and any other relevant legal  
10 documents.

11 SECTION 15. AMENDATORY 36 O.S. 2011, Section 6475.13, is  
12 amended to read as follows:

13 Section 6475.13. A. To be approved under Section ~~36~~ 6475.12 of  
14 this ~~act~~ title to conduct external reviews, an independent review  
15 organization shall have and maintain written policies and procedures  
16 that govern all aspects of both the standard external review process  
17 and the expedited external review process set forth in this act that  
18 include, at a minimum:

- 19 1. A quality assurance mechanism in place that:
- 20 a. ensures that external reviews are conducted within the  
21 specified time frames and required notices are  
22 provided in a timely manner,
  - 23 b. ensures the selection of qualified and impartial  
24 clinical reviewers to conduct external reviews on

1           behalf of the independent review organization and  
2           suitable matching of reviewers to specific cases and  
3           that the independent review organization employs or  
4           contracts with an adequate number of clinical  
5           reviewers to meet this objective,

6           c.   ensures the confidentiality of medical and treatment  
7           records and clinical review criteria, and

8           d.   ensures that any person employed by or under contract  
9           with the independent review organization adheres to  
10          the requirements of ~~this act~~ the Uniform Health  
11          Carrier External Review Act;

12          2.   A toll-free telephone service to receive information on a  
13          twenty-four-hour-a-day, seven-day-a-week basis related to external  
14          reviews that is capable of accepting, recording or providing  
15          appropriate instruction to incoming telephone callers during other  
16          than normal business hours; and

17          3.   Agree to maintain and provide to the Insurance Commissioner  
18          the information set out in Section ~~39~~ 6475.15 of this ~~act~~ title.

19          B.   All clinical reviewers assigned by an independent review  
20          organization to conduct external reviews shall be physicians or  
21          other appropriate health care providers who meet the following  
22          minimum qualifications:

23               1.   Be an expert in the treatment of the covered person's  
24          medical condition that is the subject of the external review;

1           2. Be knowledgeable about the recommended health care service  
2 or treatment through recent or current actual clinical experience  
3 treating patients with the same or similar medical condition of the  
4 covered person;

5           3. Hold a nonrestricted license in a state of the United States  
6 and, for physicians, a current certification by a recognized  
7 American medical specialty board in the area or areas appropriate to  
8 the subject of the external review; and

9           4. Have no history of disciplinary actions or sanctions,  
10 including loss of staff privileges or participation restrictions,  
11 that have been taken or are pending by any hospital, governmental  
12 agency or unit, or regulatory body that raise a substantial question  
13 as to the clinical reviewer's physical, mental or professional  
14 competence or moral character.

15           C. In addition to the requirements set forth in subsection A of  
16 this section, an independent review organization may not own or  
17 control, be a subsidiary of or in any way be owned or controlled by,  
18 or exercise control with a health benefit plan, a national, state or  
19 local trade association of health benefit plans, or a national,  
20 state or local trade association of health care providers.

21           D. 1. In addition to the requirements set forth in subsections  
22 A, B and C of this section, to be approved pursuant to Section ~~36~~  
23 6475.12 of this ~~act~~ title to conduct an external review of a  
24 specified case, neither the independent review organization selected

1 to conduct the external review nor any clinical reviewer assigned by  
2 the independent organization to conduct the external review may have  
3 a material professional, familial or financial conflict of interest  
4 with any of the following:

- 5 a. the health carrier that is the subject of the external  
6 review,
- 7 b. the covered person whose treatment is the subject of  
8 the external review or the covered person's authorized  
9 representative,
- 10 c. any officer, director or management employee of the  
11 health carrier that is the subject of the external  
12 review,
- 13 d. the health care provider, the health care provider's  
14 medical group or independent practice association  
15 recommending the health care service or treatment that  
16 is the subject of the external review,
- 17 e. the facility at which the recommended health care  
18 service or treatment would be provided, or
- 19 f. the developer or manufacturer of the principal drug,  
20 device, procedure or other therapy being recommended  
21 for the covered person whose treatment is the subject  
22 of the external review.

23 2. In determining whether an independent review organization or  
24 a clinical reviewer of the independent review organization has a

1 material professional, familial or financial conflict of interest  
2 for purposes of paragraph 1 of this subsection, the Commissioner  
3 shall take into consideration situations where the independent  
4 review organization to be assigned to conduct an external review of  
5 a specified case or a clinical reviewer to be assigned by the  
6 independent review organization to conduct an external review of a  
7 specified case may have an apparent professional, familial or  
8 financial relationship or connection with a person described in  
9 paragraph 1 of this subsection, but that the characteristics of that  
10 relationship or connection are such that they are not a material  
11 professional, familial or financial conflict of interest that  
12 results in the disapproval of the independent review organization or  
13 the clinical reviewer from conducting the external review.

14 E. In addition to the requirements set forth in subsections A,  
15 B, C and D of this section, an independent review organization shall  
16 possess any additional minimum qualifications that the Insurance  
17 Commissioner may promulgate by rule.

18 F. 1. An independent review organization that is accredited by  
19 a nationally recognized private accrediting entity that has  
20 independent review accreditation standards that the Commissioner has  
21 determined are equivalent to or exceed the minimum qualifications of  
22 this section shall be presumed in compliance with this section to be  
23 eligible for approval under Section ~~36~~ 6475.12 of this ~~act~~ title.  
24 If a nationally recognized private accrediting entity has

1 independent review accreditation standards that are substantially  
2 similar to but do not equal or exceed the minimum qualifications of  
3 this section, the Commissioner may accept the accreditation as an  
4 equivalent accreditation standard after reviewing for compliance any  
5 minimum qualifications required by this section that are not  
6 required by the national accreditation.

7 2. The Commissioner shall initially review and periodically  
8 review the independent review organization accreditation standards  
9 of a nationally recognized private accrediting entity to determine  
10 whether the entity's standards are, and continue to be, equivalent  
11 to or exceed the minimum qualifications established under this  
12 section. The Commissioner may accept a review conducted by the NAIC  
13 for the purpose of the determination under this paragraph.

14 3. Upon request, a nationally recognized private accrediting  
15 entity shall make its current independent review organization  
16 accreditation standards available to the Commissioner or the NAIC in  
17 order for the Commissioner to determine if the entity's standards  
18 are equivalent to or exceed the minimum qualifications established  
19 under this section. The Commissioner may exclude any private  
20 accrediting entity that is not reviewed by the NAIC.

21 ~~F.~~ G. An independent review organization shall be unbiased. An  
22 independent review organization shall establish and maintain written  
23 procedures to ensure that it is unbiased in addition to any other  
24 procedures required under this section.

1 SECTION 16. AMENDATORY 36 O.S. 2011, Section 6608, is  
2 amended to read as follows:

3 Section 6608. A. An application for license as a service  
4 warranty association shall be made to, and filed with, the Insurance  
5 Commissioner on printed forms as prescribed and furnished by the  
6 Insurance Commissioner.

7 B. In addition to information relative to its qualifications as  
8 required under Section 6605 of this title, the Commissioner may  
9 require that the application show:

- 10 1. The location of the home office of the applicant;
- 11 2. The name and residence address of each director or officer  
12 of the applicant; and
- 13 3. Other pertinent information as may be required by the  
14 Commissioner.

15 C. The Commissioner may require that the application, when  
16 filed, be accompanied by:

- 17 1. A copy of the articles of incorporation of the applicant,  
18 certified by the public official having custody of the original, and  
19 a copy of the bylaws of the applicant, certified by the chief  
20 executive officer of the applicant;
- 21 2. A copy of the most recent financial statement of the  
22 applicant, verified under oath of at least two of its principal  
23 officers; and

24

1 3. A license fee as required pursuant to Section 6604 of this  
2 title.

3 D. Upon completion of the application for license, the  
4 Commissioner shall examine the application and make such further  
5 investigation of the applicant as the Commissioner deems advisable.  
6 If the Commissioner finds that the applicant is qualified, the  
7 Commissioner shall issue to the applicant a license as a service  
8 warranty association. If the Commissioner does not find the  
9 applicant to be qualified the Commissioner shall refuse to issue the  
10 license and shall give the applicant written notice of the refusal,  
11 setting forth the grounds of the refusal.

12 E. 1. Any entity that claims one or more of the exclusions  
13 from the definition of service warranty provided in paragraph 14 of  
14 Section 6602 of this title shall file audited financial statements  
15 and other information as requested by the Commissioner by May 1,  
16 2010, and each year thereafter, to document and verify that the  
17 contracts of the entity are not included within the definition of  
18 service warranty.

19 2. Any entity that fails to meet the May 1, ~~2010~~, deadline or  
20 that begins claiming an exclusion exemption provided by paragraph 14  
21 of Section 6602 of this title after May 1, ~~2010~~, shall file audited  
22 financial statements and other information as requested by the  
23 Commissioner prior to conducting or continuing business in this  
24 state.

1           3. Any entity approved for an exclusion provided by paragraph  
2 14 of Section 6602 of this title may be required by the Commissioner  
3 to provide subsequent audited financial statements and other  
4 information ascertained by the Commissioner to be necessary to  
5 determine continued qualification for an exclusion provided by  
6 paragraph 14 of Section 6602 of this title.

7           4. Other information as requested by the Commissioner may  
8 include, but is not limited to, SEC filings, audited financial  
9 statements of affiliates, and organizational data and organizational  
10 charts.

11           SECTION 17. This act shall become effective November 1, 2012.

12

13           53-2-3193           ARE           2/22/2012 10:50:28 AM

14

15

16

17

18

19

20

21

22

23

24