

1 ENGROSSED HOUSE  
2 BILL NO. 2072

By: Key of the House

and

Brown of the Senate

3  
4  
5  
6 ( insurance - amending various sections in Title 36 -  
7 repealing various sections in Title 36 -  
8 codification - noncodification - effective date -  
9 emergency )

10

11

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

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

15 The Oklahoma Legislature recognizes that the Insurance  
16 Department of the State of Oklahoma is charged with regulating a  
17 variety of entities. Each of these entities is a part of the  
18 financial services industry in some way. It is the intent of this  
19 bill to modify the law as it relates to entities regulated by the  
20 Insurance Department.

21 SECTION 2. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 615.3 of Title 36, unless there  
23 is created a duplication in numbering, reads as follows:

24 A. As used in this section:

1           1. "Certificate" or "certificate of insurance" means any  
2 document or instrument, no matter how titled or described, which is  
3 prepared or issued by an insurer or insurance producer as evidence  
4 of property or casualty insurance coverage. "Certificate" or  
5 "certificate of insurance" shall not include a policy of insurance  
6 or insurance binder;

7           2. "Certificate holder" means any person, other than a  
8 policyholder, that requests, obtains, or possesses a certificate of  
9 insurance;

10          3. "Insurance producer" shall be defined as provided in Section  
11 1435.2 of Title 36 of the Oklahoma Statutes;

12          4. "Insurer" means any individual, partnership, corporation,  
13 association, or other legal entity, including any government or  
14 governmental subdivision or agency; and

15          5. "Policyholder" means a person who has contracted with a  
16 property or casualty insurer for insurance coverage.

17          B. No person may prepare, issue, or request the issuance of a  
18 certificate of insurance unless the form has been filed with and  
19 approved by the Insurance Commissioner, except as provided in  
20 subsection E of this section. No person may alter or modify an  
21 approved certificate of insurance form.

22          C. The Commissioner shall disapprove a form filed pursuant to  
23 this section, or withdraw approval of a form, if the form:  
24

1 1. Is unjust, unfair, misleading, or deceptive, or violates  
2 public policy;

3 2. Fails to comply with the requirements of subsection D of  
4 this section; or

5 3. Violates any law, including any regulation adopted by the  
6 Insurance Commissioner.

7 D. Each certificate of insurance shall contain the following or  
8 similar statement: "This certificate of insurance is issued as a  
9 matter of information only and confers no rights upon the  
10 certificate holder. This certificate does not amend, extend, or  
11 alter the coverage, terms, exclusions, and conditions afforded by  
12 the policies referenced herein."

13 E. Standard certificate of insurance forms promulgated by the  
14 Association of Cooperative Operations Research and Development or  
15 the Insurance Services Office are deemed approved by the Insurance  
16 Commissioner and shall not be required to be filed if the forms  
17 otherwise comply with the requirements of this section.

18 F. No person, wherever located, shall demand or require the  
19 issuance of a certificate of insurance from an insurer, insurance  
20 producer, or policyholder which contains any false or misleading  
21 information concerning the policy of insurance to which the  
22 certificate makes reference.

23 G. No person, wherever located, may knowingly prepare or issue  
24 a certificate of insurance that contains any false or misleading

1 information or that purports to affirmatively or negatively alter,  
2 amend, or extend the coverage provided by the policy of insurance to  
3 which the certificate makes reference.

4 H. No person may prepare, issue, demand, or require, either in  
5 addition to or in lieu of a certificate of insurance, an opinion  
6 letter or other document or correspondence that is inconsistent with  
7 this section; provided, however, an insurer or insurance producer  
8 may prepare or issue an addendum to a certificate that clarifies and  
9 explains the coverages provided by a policy of insurance and  
10 otherwise complies with the requirements of this section.

11 I. The provisions of this section apply to all certificate  
12 holders, policyholders, insurers or insurance producers with regard  
13 to a certificate of insurance issued on property or casualty  
14 operations or a risk located in this state, regardless of where the  
15 certificate holder, policyholder, insurer or insurance producer is  
16 located. These provisions shall not be construed to apply to:

17 1. Evidence of insurance required by a lender in a lending  
18 transaction involving:

- 19 a. a mortgage,
- 20 b. a lien,
- 21 c. a deed or trust, or
- 22 d. any other security interest in real or personal  
23 property as security for a loan;

24 2. A certificate issued under:

1 a. a group or individual policy for:

2 (1) life insurance,

3 (2) credit insurance,

4 (3) accident and health insurance,

5 (4) long-term care benefit insurance, or

6 (5) Medicare supplement insurance, or

7 b. an annuity contract; or

8 3. Standard proof of motor vehicle liability insurance pursuant  
9 to the requirements of Section 3636 of Title 36 of the Oklahoma  
10 Statutes.

11 J. A certificate of insurance is not a policy of insurance and  
12 does not affirmatively or negatively amend, extend, or alter the  
13 coverage afforded by the policy to which the certificate of  
14 insurance makes reference. A certificate of insurance shall not  
15 confer to a certificate holder new or additional rights beyond what  
16 the referenced policy of insurance expressly provides.

17 K. No certificate of insurance shall contain references to  
18 contracts, including construction or service contracts, other than  
19 the referenced contract of insurance. Notwithstanding any  
20 requirements, term, or condition of any contract or other document  
21 with respect to which a certificate of insurance may be issued or  
22 may pertain, the insurance afforded by the referenced policy of  
23 insurance shall be subject to all the terms, exclusions and  
24 conditions of the policy itself.

1 L. A certificate holder shall only have a legal right to notice  
2 of cancelation, nonrenewal, or any material change, or any similar  
3 notice concerning a policy of insurance if the person is named  
4 within the policy or any endorsement as an additional insured and  
5 the policy or endorsement requires notice to be provided. The terms  
6 and conditions of the notice, including the required timing of the  
7 notice, are governed by the policy of insurance and cannot be  
8 altered by a certificate of insurance.

9 M. An insurance producer may charge a reasonable service fee  
10 for issuing a certificate to a policy holder or certificate holder.

11 N. Any certificate of insurance or any other document or  
12 correspondence prepared, issued, demanded, or required in violation  
13 of this section shall be null and void and of no force and effect.

14 O. Any person who violates this section may be fined up to One  
15 Thousand Dollars (\$1,000.00) per violation.

16 P. The Commissioner shall have the authority to examine and  
17 investigate the activities of any person that the Commissioner  
18 reasonably believes has been or is engaged in an act or practice  
19 prohibited by this section. The Commissioner shall have the  
20 authority to enforce the provisions of this section and impose any  
21 authorized penalty or remedy against any person who violates this  
22 section.

23

24

1 Q. The Commissioner may adopt reasonable rules and regulations  
2 as are necessary or proper to carry out the provisions of this  
3 section.

4 SECTION 3. AMENDATORY 36 O.S. 2001, Section 628, as  
5 amended by Section 6, Chapter 222, O.S.L. 2010 (36 O.S. Supp. 2010,  
6 Section 628), is amended to read as follows:

7 Section 628. When by or pursuant to the laws of any other state  
8 or foreign country any premium or income or other taxes, or any  
9 fees, fines, penalties, licenses, deposit requirements or other  
10 material obligations, prohibitions or restrictions are imposed upon  
11 Oklahoma insurers doing business, or that might seek to do business  
12 in such other state or country, or upon the agents of such insurers,  
13 which in the aggregate are in excess of such taxes, fees, fines,  
14 penalties, licenses, deposit requirements or other obligations,  
15 prohibitions or restrictions directly imposed upon similar insurers  
16 or agents of such other state or foreign country under the statutes  
17 of this state, so long as such laws continue in force or are so  
18 applied, the same obligations, prohibitions and restrictions of  
19 whatever kind ~~shall~~ may be imposed upon similar insurers or agents  
20 of such other state or foreign country doing business in Oklahoma.  
21 All insurance companies of other nations shall be held to the same  
22 obligations and prohibitions that are imposed by the state where  
23 they have elected to make their deposit and establish their  
24 principal agency in the United States. Any tax, license or other

1 obligation imposed by any city, county or other political  
2 subdivision of a state or foreign country on Oklahoma insurers or  
3 their agents shall be deemed to be imposed by such state or foreign  
4 country within the meaning of this section. The provisions of this  
5 section shall not apply to ad valorem taxes on real or personal  
6 property or to personal income taxes.

7 SECTION 4. AMENDATORY 36 O.S. 2001, Section 1435.29, as  
8 last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp.  
9 2010, Section 1435.29), is amended to read as follows:

10 Section 1435.29 A. 1. Each insurance producer, with the  
11 exception of title producers and aircraft title producers or any  
12 other producer exempt by rule, shall, biennially, complete not less  
13 than twenty-one (21) clock hours of continuing insurance education  
14 which shall cover subjects in the lines for which the insurance  
15 producer is licensed. Such education may include a written or oral  
16 examination.

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

22 3. Licensees, with the exception of title producers and  
23 aircraft title producers or any other producer exempt by rule, shall  
24



1 complete, in addition to the foregoing, three (3) clock hours of  
2 ethics course work in this same period.

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

9 B. 1. The Insurance Commissioner shall approve courses and  
10 providers of resident provisional producer prelicensing education  
11 and continuing education. The Insurance Department may use one or  
12 more of the following to review and provide a nonbinding  
13 recommendation to the Insurance Commissioner on approval or  
14 disapproval of courses and providers of resident provisional  
15 producer prelicensing education and continuing education:

- 16 a. employees of the Insurance Commissioner,
- 17 b. a continuing education advisory committee, or
- 18 c. an independent service whose normal business  
19 activities include the review and approval of  
20 continuing education courses and providers. The  
21 Commissioner may negotiate agreements with such  
22 independent service to review documents and other  
23 materials submitted for approval of courses and  
24 providers and provide the Commissioner with its

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

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

16 The Insurance Commissioner may certify providers and courses  
17 offered for license examination study. The Insurance Department  
18 shall use employees of the Insurance Commissioner to review and  
19 certify license examination study program providers and courses.

20 2. Each insurance company shall be allowed to provide  
21 continuing education to insurance producers and customer service  
22 representatives as required by this section; provided that such  
23 continuing education meets the general standards for education  
24 otherwise established by the Insurance Commissioner.

1           3. An insurance producer who, during the time period prior to  
2 renewal, participates in ~~an approved~~ a professional designation  
3 program, approved by the Insurance Commissioner, shall be deemed to  
4 have met the biennial requirement for continuing education.

5           ~~Each course in the~~ The curriculum for the program shall total a  
6 minimum of twenty-four (24) hours within a twenty-four-month period.

7 Each approved professional designation program included in this  
8 section shall be reviewed for quality and compliance every three (3)  
9 years in accordance with standardized criteria promulgated by rule.  
10 Continuation of approved status is contingent upon the findings of  
11 the review. The list of professional designation programs approved  
12 under this paragraph shall be made available to producers and  
13 providers annually.

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

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

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

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

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

19           D. Failure of an insurance producer or customer service  
20 representative to comply with the requirements of the Oklahoma  
21 Producer Licensing Act may, after notice and opportunity for  
22 hearing, result in censure, suspension, nonrenewal of license or a  
23 civil penalty of up to Five Hundred Dollars (\$500.00) or by both  
24

1 such penalty and civil penalty. Said civil penalty may be enforced  
2 in the same manner in which civil judgments may be enforced.

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

6 F. Members of the Legislature shall be exempt from this  
7 section.

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

10 SECTION 5. AMENDATORY 36 O.S. 2001, Section 3639.1, is  
11 amended to read as follows:

12 Section 3639.1 A. No insurer shall cancel, refuse to renew or  
13 increase the premium of a homeowner's insurance policy, which has  
14 been in effect more than forty-five (45) days, solely because the  
15 insured filed a first claim against the policy. The provisions of  
16 this section shall not be construed to prevent the cancellation,  
17 nonrenewal or increase in premium of a homeowner's insurance policy  
18 for the following reasons:

19 1. Nonpayment of premium;

20 2. Discovery of fraud or material misrepresentation in the  
21 procurement of the insurance or with respect to any claims submitted  
22 thereunder;

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

1 4. A change in the risk which substantially increases any  
2 hazard insured against after insurance coverage has been issued or  
3 renewed;

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

8 6. A determination by the Commissioner that the continuation of  
9 the policy would place the insurer in violation of the insurance  
10 laws of this state; or

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

13 B. An insurer shall give to the named insured at the mailing  
14 address shown on the policy, written notice of premium increase,  
15 change in deductible, reduction in limits or coverage at least sixty  
16 (60) days prior to the expiration date of the policy. If the  
17 insurer fails to provide such notice, the premium, deductible,  
18 limits and coverage provided to the named insured prior to the  
19 change shall remain in effect until notice is given or until the  
20 effective date of replacement coverage obtained by the named  
21 insured, whichever first occurs. If notice is given by mail, said  
22 notice shall be deemed to have been given on the day said notice is  
23 mailed. If the insured elects not to renew, any earned premium for  
24 the period of extension of the terminated policy shall be calculated

1 pro rata at the lower of the current or previous year's rate. If  
2 the insured accepts the renewal, the premium increase, if any, and  
3 other changes shall be effective the day following the prior  
4 policy's expiration or anniversary date.

5 SECTION 6. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 4250 of Title 36, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. On or after November 1, 2011, pursuant to the provisions of  
9 this section and any other applicable section of Title 36 of the  
10 Oklahoma Statutes, every health carrier shall file all initial rates  
11 and all rate adjustments for approval with the Insurance  
12 Commissioner. If the Commissioner determines that the initial rate  
13 or the rate adjustment is unreasonable or not justified or that the  
14 initial rate or rate adjustment renders the policy form unjust,  
15 unfair, or inequitable to the insured, the initial rate adjustment  
16 shall be disapproved. If the Commissioner disapproves the initial  
17 rate or rate adjustment, the Commissioner shall make a written  
18 decision stating the reason or reasons for the disapproval, and  
19 shall deliver a copy of the decision to the company. Any insurer  
20 that receives a disapproval shall have twenty (20) days from the  
21 date of receipt of the notice of disapproval in which to request a  
22 hearing on the disapproval.

23 B. For purposes of this section, "health carrier" means an  
24 entity subject to the insurance laws and regulations of this state,

1 or subject to the jurisdiction of the Insurance Commissioner, that  
2 contracts or offers to contract to provide, deliver, arrange for,  
3 pay for, or reimburse any of the costs of health care services,  
4 including a sickness and accident insurance company, a health  
5 maintenance organization, a nonprofit hospital and health service  
6 corporation, or any other entity providing a plan of health  
7 insurance, health benefits or health care services.

8 SECTION 7. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 6250 of Title 36, unless there  
10 is created a duplication in numbering, reads as follows:

11 Sections 7 through 23 of this act shall be known and may be  
12 cited as the "Independent Insurance Adjusters Licensing Act".

13 SECTION 8. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 6251 of Title 36, unless there  
15 is created a duplication in numbering, reads as follows:

16 As used in the Independent Insurance Adjusters Licensing Act:

17 1. "Apprentice independent adjuster" means one who is qualified  
18 in all respects as an independent adjuster except as to experience,  
19 education and/or training;

20 2. "Automated claims adjudication system" means a preprogrammed  
21 computer system designed for the collection, data entry, calculation  
22 and final resolution of consumer electronic products insurance  
23 claims which:

24



- 1 a. may only be utilized by a licensed independent  
2 adjuster, licensed agent, or individuals supervised by  
3 a licensed independent adjuster or licensed agent,  
4 b. shall comply with all claims payment requirements of  
5 the Oklahoma Insurance Code, and  
6 c. shall be certified as compliant by a licensed  
7 independent adjuster;

8 3. "Business entity" means a corporation, association,  
9 partnership, limited liability company, limited liability  
10 partnership, or other legal entity;

11 4. "Catastrophe" means an event that:

- 12 a. results in large numbers of deaths or injuries,  
13 b. causes extensive damage or destruction of facilities  
14 that provide and sustain human needs,  
15 c. produces an overwhelming demand on state and local  
16 response resources and mechanisms,  
17 d. causes a severe long-term effect on general economic  
18 activity, or  
19 e. severely affects state, local and private sector  
20 capabilities to begin and sustain response activities.

21 A catastrophe shall be declared by the Governor of the state,  
22 district, or territory in which the catastrophe occurred;

23 5. "Commissioner" means the Insurance Commissioner;  
24

1       6. "Fingerprints" means an impression of the lines on the  
2 finger taken for the purpose of identification;

3       7. "Home state" means the District of Columbia and any state or  
4 territory of the United States in which an independent adjuster  
5 maintains his, her, or its principal place of residence or business  
6 and is licensed to act as a resident independent adjuster. If the  
7 resident state does not license independent adjusters for the line  
8 of authority sought, the independent adjuster shall designate as  
9 his, her, or its home state any state in which the independent  
10 adjuster is licensed and in good standing;

11       8. "Independent adjuster" means a person who:

12           a. is an individual, a business entity, an independent  
13 contractor, or an employee of a contractor, who  
14 contracts for compensation with insurers or self-  
15 insurers,

16           b. is an individual whom the insurer's or self-insurer's  
17 tax treatment of the individual is consistent with  
18 that of an independent contractor rather than as an  
19 employee, as defined in the Internal Revenue Code,  
20 United States Code, Title 26, Subtitle C, and

21           c. investigates, negotiates or settles property, casualty  
22 or workers' compensation claims for insurers or for  
23 self-insurers;

24       9. "Individual" means a natural person;

1        10. "Insurer" means any authorized insurance company,  
2 corporation, reciprocal group, mutual group, underwriting  
3 association or bureau, or any combination thereof, writing or  
4 underwriting any insurance contracts;

5        11. "Person" means an individual or business entity;

6        12. "Uniform Individual Application" means the current version  
7 of the National Association of Insurance Commissioners (NAIC)  
8 Uniform Individual Application for resident and nonresident  
9 individuals; and

10       13. "Uniform Business Entity Application" means the current  
11 version of the National Association of Insurance Commissioners  
12 (NAIC) Uniform Business Entity Application for resident and  
13 nonresident business entities.

14       SECTION 9.       NEW LAW       A new section of law to be codified  
15 in the Oklahoma Statutes as Section 6252 of Title 36, unless there  
16 is created a duplication in numbering, reads as follows:

17       No person shall act or hold himself or herself out as an  
18 independent adjuster in this state unless the person is licensed as  
19 an independent adjuster pursuant to the Independent Insurance  
20 Adjusters Licensing Act, or is exempt from licensure as an  
21 independent adjuster pursuant to the provisions of the Independent  
22 Insurance Adjusters Licensing Act.

23

24

1 SECTION 10. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6253 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4 For the purposes of the Independent Insurance Adjusters  
5 Licensing Act, no person or individual shall be deemed to be an  
6 adjuster or be required to obtain a license as an adjuster who is:

7 1. A licensed attorney in the State of Oklahoma, when acting in  
8 his or her professional capacity as an attorney;

9 2. A person employed solely to obtain facts surrounding a claim  
10 or to furnish technical assistance to a licensed independent  
11 adjuster;

12 3. An individual who is employed to investigate suspected  
13 fraudulent insurance claims but who does not adjust losses or  
14 determine claims payments;

15 4. A person who solely performs executive, administrative,  
16 managerial or clerical duties or any combination thereof and who  
17 does not investigate, negotiate or settle claims with policyholders,  
18 claimants or their legal representative;

19 5. A licensed health care provider or its employee who provides  
20 managed care services so long as the services do not include the  
21 determination of compensability;

22 6. A managed care organization or any of its employees or an  
23 employee of any organization providing managed care services so long  
24 as the services do not include the determination of compensability;

- 1        7. A person who settles only reinsurance or subrogation claims;
- 2        8. An officer, director, manager or employee of an authorized
- 3 insurer, surplus lines insurer, a risk retention group, or an
- 4 attorney-in-fact of a reciprocal insurer;
- 5        9. A U.S. Manager of the United States branch of an alien
- 6 insurer;
- 7        10. A person who investigates, negotiates or settles life,
- 8 accident and health, annuity, or disability insurance claims;
- 9        11. An individual employee, under a self-insured arrangement,
- 10 who adjusts claims on behalf of his or her employer;
- 11        12. A licensed insurance producer, attorney-in-fact of a
- 12 reciprocal insurer or managing general agent of the insurer to whom
- 13 claim authority has been granted by the insurer;
- 14        13. A person authorized to adjust workers' compensation or
- 15 disability claims pursuant to the provisions of the Third-party
- 16 Administrator Act; or
- 17        14. An individual who collects claim information from, or
- 18 furnishes claim information to insureds or claimants, and who
- 19 conducts data entry including entering data into an automated claims
- 20 adjudication system, provided that the individual is an employee of
- 21 a licensed independent adjuster or an affiliate where no more than
- 22 twenty-five persons are under the supervision of one licensed
- 23 independent adjuster or licensed agent who is exempt from licensure
- 24

1 pursuant to the requirements of the Independent Insurance Adjusters  
2 Licensing Act.

3 SECTION 11. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6254 of Title 36, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. In the event of a declared catastrophe, an insurer shall  
7 notify the Insurance Commissioner via an application for temporary  
8 emergency licensure, or registration if temporary emergency  
9 licensure is not statutorily required, of each individual not  
10 already licensed in the state where the catastrophe has been  
11 declared, that will act as an emergency independent adjuster on  
12 behalf of the insurer. The Commissioner shall establish standards  
13 and procedures to allow for the temporary emergency licensure or  
14 registration of an emergency independent adjuster in this state.

15 B. A person who is otherwise qualified to adjust claims, but  
16 not already licensed in this state where the catastrophe has been  
17 declared, may act as an emergency independent adjuster and adjust  
18 claims, if, within five (5) days of deployment to adjust claims  
19 arising from the declared catastrophe, the insurer notifies the  
20 Commissioner by providing the following information in a format  
21 prescribed by the Commissioner:

- 22 1. Name of the individual;
- 23 2. Social Security number of the individual;

24

1           3. Name of the insurer which the independent adjuster will  
2 represent;

3           4. Effective date of the contract between the insurer and  
4 independent adjuster;

5           5. Catastrophe or loss control number;

6           6. Catastrophe event name; and

7           7. Other information the Commissioner deems necessary.

8           C. An emergency independent adjuster's license or registration  
9 shall remain in force for a period not to exceed ninety (90) days,  
10 unless extended by the Commissioner.

11           D. The fee for emergency independent adjuster application for  
12 licensure or registration shall be in the amount specified in  
13 subsection C of Section 13 of this act and shall be due and payable  
14 at the time of application for licensure or registration.

15           SECTION 12.       NEW LAW       A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6255 of Title 36, unless there  
17 is created a duplication in numbering, reads as follows:

18           A. An individual applying for a resident independent adjuster  
19 license shall make application to the Insurance Commissioner on the  
20 appropriate NAIC Uniform Individual Application in a format  
21 prescribed by the Commissioner and declare under penalty of  
22 suspension, revocation or refusal of the license that the statements  
23 made in the application are true, correct and complete to the best  
24

1 of the individual's knowledge and belief. Before approving the  
2 application, the Commissioner shall find that the individual:

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

4 2. Is eligible to designate this state as his or her home  
5 state;

6 3. Is trustworthy, reliable and of good reputation, evidence of  
7 which shall be determined by the Commissioner;

8 4. Has not committed any act that is a ground for probation,  
9 suspension, revocation or refusal of an independent adjuster's  
10 license as provided for in Section 18 of this act;

11 5. Has completed a prelicensing course of study for the line(s)  
12 of authority for which the individual has applied, where required by  
13 the Commissioner;

14 6. Has successfully passed the examination for the line(s) of  
15 authority for which the individual has applied; and

16 7. Has paid the fees set forth in Section 13 of this act.

17 B. An individual who is a resident of Canada shall not be  
18 licensed pursuant to the Independent Insurance Adjusters Licensing  
19 Act nor designate this state as the individual's home state, unless  
20 the individual has successfully passed the independent adjuster  
21 examination and has complied with the other applicable requirements  
22 of the Independent Insurance Adjusters Licensing Act. The  
23 individual shall not be required to comply with the provisions of  
24 paragraph 2 of subsection A of this section.



1 C. A business entity applying for a resident independent  
2 adjuster license shall make application to the Commissioner on the  
3 appropriate NAIC Uniform Business Entity Application in a format  
4 prescribed by the Commissioner and declare under penalty of  
5 suspension, revocation or refusal of the license that the statements  
6 made in the application are true, correct and complete to the best  
7 of the business entity's knowledge and belief. Before approving the  
8 application, the Commissioner shall find that the business entity:

- 9 1. Is eligible to designate this state as its home state;
- 10 2. Has designated a licensed independent adjuster responsible  
11 for the business entity's compliance with the insurance laws, rules  
12 and regulations of this state;
- 13 3. Has not committed an act that is a ground for probation,  
14 suspension, revocation or refusal of an independent adjuster's  
15 license as set forth in Section 18 of this act;
- 16 4. Has paid the fees set forth in Section 13 of this act; and
- 17 5. Has submitted the names, addresses, Social Security numbers,  
18 criminal and administrative history, background checks, biographical  
19 statements, and fingerprints, of all executive officers and  
20 directors of the applicant and of all executive officers and  
21 directors of entities owning and any individuals owning, directly or  
22 indirectly, fifty-one percent (51%) or more of the outstanding  
23 voting securities of the applicant.

24

1 D. In order to make a determination of license eligibility, the  
2 Commissioner is authorized to require fingerprints of applicants and  
3 to submit the fingerprints and the fee required to perform the  
4 criminal history record checks to the Oklahoma State Bureau of  
5 Investigation (OSBI) and the Federal Bureau of Investigation (FBI)  
6 for state and national criminal history record checks.

7 E. The Commissioner shall require a criminal history record  
8 check on each applicant in accordance with the Independent Insurance  
9 Adjusters Licensing Act. The Commissioner shall require each  
10 applicant to submit a full set of fingerprints including a scanned  
11 file from a hard copy fingerprint in order for the Commissioner to  
12 obtain and receive national criminal history records from the FBI  
13 Criminal Justice Information Services Division.

14 F. The Commissioner may contract for the collection and  
15 transmission of fingerprints authorized under the Independent  
16 Insurance Adjusters Licensing Act. If the Commissioner does  
17 contract, the Commissioner may order the fee for collecting and  
18 transmitting fingerprints to be payable directly to the contractor  
19 by the applicant. The Commissioner may agree to a reasonable  
20 fingerprinting fee to be charged by the contractor.

21 G. The Commissioner shall treat and maintain an applicant's  
22 fingerprints and any criminal history record information obtained  
23 pursuant to the Independent Insurance Adjusters Licensing Act as  
24 confidential and shall apply security measures consistent with the

1 Criminal Justice Information Services Division of the Federal Bureau  
2 of Investigation standards for the electronic storage of  
3 fingerprints and necessary identifying information and limit the use  
4 of records solely to the purposes authorized in the Independent  
5 Insurance Adjusters Licensing Act. The fingerprints and any  
6 criminal history record information shall not be subject to  
7 subpoena, other than one issued in a criminal action or  
8 investigation, and shall be confidential.

9 H. The Commissioner is authorized to receive criminal history  
10 record information from another government agency, in lieu of the  
11 OSBI, that submitted the fingerprints to the FBI.

12 I. The Commissioner may require any documents reasonably  
13 necessary to verify the information contained in the application.

14 SECTION 13. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 6256 of Title 36, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. Unless denied licensure pursuant to Section 18 of this act,  
18 persons who have met the requirements of Sections 10 and 12 of this  
19 act shall be issued an independent adjuster license. An independent  
20 adjuster may qualify for a license in one or more of the following  
21 lines of authority:

- 22 1. Property and casualty; or
- 23 2. Workers compensation; or
- 24 3. Crop.

1 B. Any person holding a license pursuant to this section shall  
2 not be required to hold any other independent adjuster, insurance or  
3 self-insurance administrator license in this state pursuant to the  
4 Third-party Administrator Act or any other provision, provided the  
5 licensee does not act as an independent adjuster with respect to  
6 life, health or annuity insurance, other than disability insurance.

7 C. The Insurance Commissioner shall collect the following fees  
8 for an independent adjuster's license:

9 1. For a license in any single class of business, every two (2)  
10 years, Thirty Dollars (\$30.00);

11 2. For a license in any combination of two or more classes of  
12 business, every two (2) years, Fifty Dollars (\$50.00); and

13 3. Emergency adjuster, as provided for in Section 11 of this  
14 act, each year, Fifteen Dollars (\$15.00).

15 D. The fee for the original license or renewal license shall be  
16 collected in advance of issuance.

17 E. An independent adjuster license shall remain in effect  
18 unless probated, suspended, revoked or refused, as long as the  
19 request for renewal and fee set forth in subsection C of this  
20 section is paid and all other requirements for license renewal are  
21 met by the due date; otherwise, the license expires.

22 F. An independent adjuster whose license expires may, within  
23 twelve (12) months of the renewal date, be reissued an independent  
24 adjuster license upon receipt of the renewal request, as prescribed

1 by the Commissioner. However, a penalty in the amount of double the  
2 unpaid renewal fee shall be required to reissue the expired license.

3 G. An independent adjuster who is unable to comply with license  
4 renewal procedures and requirements due to military service, long-  
5 term medical disability or some other extenuating circumstance may  
6 request a waiver of same and a waiver of any examination  
7 requirement, fine or other sanction imposed for failure to comply  
8 with renewal procedures.

9 H. An independent adjuster shall be subject to the Unfair  
10 Claims Settlement Practices Act and Sections 1201 through 1213 of  
11 Title 36 of the Oklahoma Statutes.

12 I. The independent adjuster shall inform the Commissioner by  
13 any means acceptable of any change in resident or business  
14 address(es) for the home state or in legal name, within thirty (30)  
15 days of the change.

16 J. The license shall contain the licensee's name, address,  
17 personal identification number, the date of issuance and expiration  
18 and any other information the Commissioner deems necessary.

19 K. In order to assist in the performance of the Commissioner's  
20 duties, the Commissioner may contract with nongovernmental entities,  
21 including the NAIC, its affiliates or subsidiaries, to perform any  
22 ministerial functions, including the collection of fees and data,  
23 related to licensing that the Commissioner may deem appropriate.

24

1 SECTION 14. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6257 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. An individual applying for an independent adjuster license  
5 pursuant to the Independent Insurance Adjusters Licensing Act shall  
6 pass a written examination unless exempt pursuant to Section 13 of  
7 this act. The examination shall test the knowledge of the  
8 individual concerning the lines of authority for which application  
9 is made, the duties and responsibilities of an independent adjuster  
10 and the insurance laws and regulations of this state. Examinations  
11 required by this section shall be developed and conducted under  
12 rules promulgated by the Insurance Commissioner.

13 B. The Commissioner may make arrangements, including  
14 contracting with an outside testing service, for administering  
15 examinations and collecting the nonrefundable fee set forth in  
16 subsection C of this section.

17 C. Each individual applying for an examination shall remit a  
18 nonrefundable fee of Twenty Dollars (\$20.00).

19 D. An individual who fails to appear for the examination as  
20 scheduled or fails to pass the examination shall reapply for an  
21 examination and remit all required fees and forms before being  
22 rescheduled for another examination.

23  
24

1           SECTION 15.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6258 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. An individual who applies for an independent adjuster  
5 license in this state who is or was licensed in another state for  
6 the same line(s) of authority based on an independent adjuster  
7 examination shall not be required to complete any prelicensing  
8 education or examination. This exemption is only available if the  
9 individual is currently licensed in another state or if that state  
10 license has expired and the application is received by this state  
11 within ninety (90) days of expiration. The applicant must provide  
12 certification from the other state that the applicant's license is  
13 currently in good standing or was in good standing at the time of  
14 expiration or certification from the other state that its Producer  
15 Database records, maintained by the NAIC, its affiliates or  
16 subsidiaries, indicate that the applicant or the applicant's company  
17 is or was licensed in good standing. The certification must be of a  
18 license with the same line of authority for which the individual has  
19 applied.

20           B. A person licensed as an independent adjuster in another  
21 state based on an independent adjuster examination, who establishes  
22 legal residency in this state, shall make application within ninety  
23 (90) days to become a resident independent adjuster licensee  
24 pursuant to Section 10 of this act, with the exception that no

1 prelicensing education or examination shall be required of this  
2 person.

3 C. An individual who applies for an apprentice independent  
4 adjuster license, pursuant to Section 17 of this act, and who  
5 adjusts claims in that capacity, shall not be required to take and  
6 successfully complete the independent adjuster examination.

7 SECTION 16. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 6259 of Title 36, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. Unless refused licensure pursuant to Section 18 of this act,  
11 a nonresident person shall receive a nonresident independent  
12 adjuster license if:

13 1. The person is currently licensed in good standing as an  
14 independent adjuster in his, her, or its resident or home state;

15 2. The person has submitted the proper request for licensure,  
16 and has paid the fees required by Section 13 of this act;

17 3. The person has submitted or transmitted to the Insurance  
18 Commissioner the appropriate completed application for licensure;  
19 and

20 4. The person's designated home state awards nonresident  
21 independent adjuster licenses to persons of this state on the same  
22 basis.

23 B. Unless refused licensure pursuant to Section 18 of this act,  
24 a nonresident business entity shall provide the names, addresses,



1 fingerprints, Social Security numbers, criminal and administrative  
2 history, background checks, and biographical statement, of all  
3 executive officers and directors of the applicant and of all  
4 executive officers and directors of entities owning and any  
5 individuals owning, directly or indirectly, fifty-one percent (51%)  
6 or more of the outstanding voting securities of the applicant. Any  
7 nonresident business entity applicant whose state of domicile  
8 complies with all of the provisions of this subsection shall not be  
9 required to submit a criminal history, background check, and  
10 biographical statement for its executive officers, directors and  
11 owners of outstanding voting securities.

12 C. The Commissioner may verify the independent adjuster's  
13 licensing status through any appropriate database, including the  
14 Producer Database maintained by the NAIC, its affiliates or  
15 subsidiaries, or may request certification of good standing as  
16 described in Section 15 of this act.

17 D. As a condition to the continuation of a nonresident  
18 independent adjuster license, the licensee shall maintain a resident  
19 independent adjuster license in his, her, or its home state. The  
20 nonresident independent adjuster license issued under this section  
21 shall terminate and be surrendered immediately to the Commissioner  
22 if the resident independent adjuster license terminates for any  
23 reason, unless the termination is due to the independent adjuster  
24 being issued a new resident independent adjuster license in his,

1 her, or its new home state. The new state resident independent  
2 adjuster license must have reciprocity with the licensing  
3 nonresident state(s), otherwise the nonresident independent adjuster  
4 license(s) will terminate. Notice of resident independent adjuster  
5 license termination must be given to any state(s) that issued a  
6 nonresident independent adjuster license. Notice must be given  
7 within thirty (30) days of the termination date; if terminated for  
8 change in resident home state, then the notice must include both the  
9 previous and current address. Maintaining a resident independent  
10 adjuster license is required for the nonresident independent  
11 adjuster license(s) to remain valid.

12 E. A resident of Canada may be licensed as a nonresident  
13 independent adjuster if such person has obtained a resident or home  
14 state independent adjuster license.

15 SECTION 17. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6260 of Title 36, unless there  
17 is created a duplication in numbering, reads as follows:

18 A. The apprentice independent adjuster license is an optional  
19 license to facilitate the experience, education and/or training  
20 necessary to ensure reasonable competency of the responsibilities  
21 and duties of an independent adjuster as defined in the Independent  
22 Insurance Adjusters Licensing Act.

23 B. An individual applying for an apprentice independent  
24 adjuster license shall make application to the Insurance

1 Commissioner on the appropriate NAIC Uniform Individual Application  
2 in a format prescribed by the Commissioner and declare under penalty  
3 of suspension, revocation or refusal of the license that the  
4 statements made in the application are true, correct and complete to  
5 the best of the individual's knowledge and belief. Before approving  
6 the application, the Commissioner shall find that the individual:

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

8 2. Is a resident of this state and has designated this state as  
9 his or her home state;

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

12 4. Has not committed any act that is a ground for probation,  
13 suspension, revocation or denial of licensure as set forth in  
14 Section 18 of this act;

15 5. Is trustworthy, reliable and of good reputation, evidence of  
16 which may be determined by the Commissioner; and

17 6. Has paid the fees set forth in Section 13 of this act.

18 C. The apprentice independent adjuster license shall be subject  
19 to the following terms and conditions:

20 1. Accompanying the apprentice independent adjuster application  
21 shall be an attestation, from a licensed independent adjuster with  
22 the same line(s) of authority for which the apprentice has applied,  
23 certifying that the apprentice will be subject to training,  
24 direction and control by the licensed independent adjuster and

1 further certifying that the licensed independent adjuster assumes  
2 responsibility for the actions of the apprentice in the apprentice's  
3 capacity as an independent adjuster;

4 2. The apprentice independent adjuster is only authorized to  
5 adjust claims in the state that has issued the apprentice  
6 independent adjuster license;

7 3. The apprentice independent adjuster licensee is restricted  
8 to participation in the investigation, settlement and negotiation of  
9 claims subject to the review and final determination of the claim by  
10 the supervising licensed independent adjuster;

11 4. Compensation of an apprentice independent adjuster shall be  
12 on a salaried or hourly basis only;

13 5. The apprentice independent adjuster shall not be required to  
14 take and successfully complete the independent adjuster examination  
15 pursuant to Section 14 of this act to adjust claims as an apprentice  
16 independent adjuster. However, at any time during the  
17 apprenticeship the apprentice independent adjuster may choose to  
18 take the examination required by Section 12 of this act. If the  
19 individual takes and successfully completes the independent adjuster  
20 exam the apprentice independent adjuster license shall automatically  
21 terminate and an independent adjuster license shall be issued to  
22 that individual in place thereof;

23 6. The apprentice independent adjuster license is for a period  
24 not to exceed twelve (12) months and is nonrenewable; and

1       7. The licensee shall be subject to probation, suspension,  
2 revocation, or refusal pursuant to Section 18 of this act.

3       SECTION 18.       NEW LAW       A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6261 of Title 36, unless there  
5 is created a duplication in numbering, reads as follows:

6       A. The Insurance Commissioner may place on probation, suspend,  
7 revoke, or refuse to issue or renew an independent adjuster's  
8 license or may levy a civil penalty or any combination of the above  
9 actions for any one or more of the following causes:

10       1. Providing incorrect, misleading, incomplete or materially  
11 untrue information in the license application;

12       2. Violating any insurance laws, regulations, subpoena or order  
13 of the Commissioner or of another state's Insurance Commissioner;

14       3. Obtaining or attempting to obtain a license through  
15 misrepresentation or fraud;

16       4. Improperly withholding, misappropriating, or converting any  
17 monies or properties received in the course of doing insurance  
18 business;

19       5. Intentionally misrepresenting the terms of an actual or  
20 proposed insurance contract or application for insurance;

21       6. Having been convicted of a felony;

22       7. Having admitted or been found to have committed any  
23 insurance unfair trade practice or fraud;

24

1 8. Using fraudulent, coercive or dishonest practices, or  
2 demonstrating incompetence, untrustworthiness or financial  
3 irresponsibility, in the conduct of insurance business in this state  
4 or elsewhere;

5 9. Having an insurance license, or its equivalent, probated,  
6 suspended, revoked or refused in any other state, province,  
7 district, or territory;

8 10. Forging another's name to any document related to an  
9 insurance transaction;

10 11. Cheating, including improperly using notes or any other  
11 reference material, to complete an examination for an insurance  
12 license;

13 12. Failing to comply with an administrative or court order  
14 imposing a child support obligation; or

15 13. Failing to pay state income tax or comply with any  
16 administrative or court order directing payment of state income tax  
17 which remains unpaid.

18 B. In the event that the action by the Commissioner is to  
19 refuse application for licensure or renewal of an existing license,  
20 the Commissioner shall notify the applicant or licensee in writing,  
21 advising of the reason for the refusal. The applicant or licensee  
22 may make written demand upon the Commissioner for a hearing before  
23 the Commissioner to determine the reasonableness of the refusal.  
24 The hearing shall be pursuant to the Administrative Procedures Act.

1 C. The license of a business entity may be probated, suspended,  
2 revoked, or refused if the Commissioner finds, after a hearing, that  
3 its designated individual licensee's violation occurred while acting  
4 on behalf of or representing the business entity and that the  
5 violation was known or should have been known by one or more of the  
6 business entity's partners, officers or managers and that the  
7 violation was neither reported to the Commissioner nor was  
8 corrective action taken.

9 D. In addition to or in lieu of any applicable probation,  
10 suspension, revocation or refusal, a person may, after a hearing,  
11 additionally be subject to a civil fine.

12 E. The Commissioner shall retain the authority to enforce the  
13 provisions of and impose any penalty or remedy authorized by the  
14 Independent Insurance Adjusters Licensing Act or Title 36 of the  
15 Oklahoma Statutes, against any person who is under investigation for  
16 or charged with a violation of the Independent Insurance Adjusters  
17 Licensing Act or Title 36 of the Oklahoma Statutes, even if the  
18 person's license or registration has been surrendered or has expired  
19 by operation of law.

20 SECTION 19. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 6262 of Title 36, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. An individual who holds an independent adjuster license and  
24 who is not exempt under subsection B of this section, shall

1 satisfactorily complete a minimum of twenty-four (24) hours of  
2 continuing education courses, of which three (3) hours must be in  
3 ethics, reported to the Insurance Commissioner on a biennial basis  
4 in conjunction with his or her license renewal cycle.

5 B. The provisions of subsection A of this section shall not  
6 apply to:

7 1. Licensees not licensed for one (1) full year prior to the  
8 end of the applicable continuing education biennium; or

9 2. Licensees holding nonresident independent adjuster licenses  
10 who have met the continuing education requirements of their  
11 designated home state.

12 SECTION 20. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 6263 of Title 36, unless there  
14 is created a duplication in numbering, reads as follows:

15 An independent adjuster shall maintain a copy of each contract  
16 between the independent adjuster and the insurer or self-insurer and  
17 comply with the record retention policy as agreed to in that  
18 contract.

19 SECTION 21. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 6264 of Title 36, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. An independent adjuster shall:

23 1. Be honest and fair in all communications with the insured,  
24 the insurer and the public;



1           2. Give policyholders and claimants prompt, knowledgeable  
2 service and courteous, fair and objective treatment at all times;

3           3. Comply with all local, state and federal privacy and  
4 information security laws, if applicable; and

5           4. Identify himself or herself as an independent adjuster and,  
6 if applicable, identify his or her employer when dealing with any  
7 policyholder or claimant.

8           B. An independent adjuster shall not:

9           1. Give legal advice, and shall not deal directly with any  
10 policyholder or claimant who is represented by legal counsel without  
11 the consent of the legal counsel involved; and

12           2. Have any financial interest in any adjustment or acquire for  
13 himself or herself or any person any interest or title in salvage,  
14 without first receiving written authority from the principal.

15           SECTION 22.           NEW LAW           A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6265 of Title 36, unless there  
17 is created a duplication in numbering, reads as follows:

18           A. The independent adjuster shall report to the Insurance  
19 Commissioner any administrative action taken against the independent  
20 adjuster in another jurisdiction or by another governmental agency  
21 in this state within thirty (30) days of the final disposition of  
22 the matter. This report shall include a copy of the order, consent  
23 order and any other relevant legal documents.

24

1 B. The independent adjuster shall report to the Commissioner  
2 any criminal action taken against the independent adjuster in this  
3 or any jurisdiction within thirty (30) days of the final disposition  
4 of the criminal matter. The report shall include a copy of the  
5 initial complaint filed, the final order issued by the court, and  
6 any other relevant legal documents.

7 SECTION 23. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 6266 of Title 36, unless there  
9 is created a duplication in numbering, reads as follows:

10 The Insurance Commissioner may promulgate rules as are necessary  
11 or proper to carry out the purposes of the Independent Insurance  
12 Adjusters Licensing Act.

13 SECTION 24. AMENDATORY Section 12, Chapter 390, O.S.L.  
14 2003, as last amended by Section 52, Chapter 222, O.S.L. 2010 (36  
15 O.S. Supp. 2010, Section 6811), is amended to read as follows:

16 Section 6811. A. ~~When a claim for recovery under a medical~~  
17 ~~professional liability insurance policy is closed, the insurer shall~~  
18 ~~file with the Insurance Department a closed claim report not later~~  
19 ~~than April 1 of the same calendar year if the claim is closed prior~~  
20 ~~to April 1, and if the claim is closed after April 1, then the~~  
21 ~~closed claim report shall be filed by April 1 of the subsequent~~  
22 ~~calendar year~~ An insuring entity shall file, between January 1 and  
23 March 15 of each year, a closed claim report. These reports shall

24

1 include data for all claims closed in the preceding calendar year  
2 and any adjustments to data reported in prior years.

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

7 C. Every insuring entity or self-insurer that provides medical  
8 professional liability insurance to any facility or provider in this  
9 state shall report each medical professional liability closed claim  
10 to the Insurance Commissioner.

11 D. A closed claim that is covered under a primary policy and  
12 one or more excess policies shall be reported only by the insuring  
13 entity that issued the primary policy. The insuring entity that  
14 issued the primary policy shall report the total amount, if any,  
15 paid with respect to the closed claim, including any amount paid  
16 under an excess policy, any amount paid by the facility or provider,  
17 and any amount paid by any other person on behalf of the facility or  
18 provider.

19 E. If a claim is not covered by an insuring entity or self-  
20 insurer, the facility or provider named in the claim shall report it  
21 to the Commissioner after a final claim disposition has occurred due  
22 to a court proceeding or a settlement by the parties. Instances in  
23 which a claim may not be covered by an insuring entity or self-  
24 insurer include situations in which:

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

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

7           3. The annual aggregate coverage limits had been exhausted by  
8 other claim payments.

9           F. If a claim is covered by an insuring entity or self-insurer  
10 that fails to report the claim to the Commissioner, the facility or  
11 provider named in the claim shall report it to the Commissioner  
12 after a final claim disposition has occurred due to a court  
13 proceeding or a settlement by the parties.

14           1. If a facility or provider is insured by a risk retention  
15 group and the risk retention group refuses to report closed claims  
16 and asserts that the federal Liability Risk Retention Act (95 Stat.  
17 949; 15 U.S.C. Sec. 3901 et seq.) preempts state law, the facility  
18 or provider shall report all data required by the Medical  
19 Professional Liability Insurance Closed Claim Reports Act on behalf  
20 of the risk retention group.

21           2. If a facility or provider is insured by an unauthorized  
22 insurer and the unauthorized insurer refuses to report closed claims  
23 and asserts a federal exemption or other jurisdictional preemption,  
24 the facility or provider shall report all data required by the

1 Medical Professional Liability Insurance Closed Claim Reports Act on  
2 behalf of the unauthorized insurer.

3 3. If a facility or provider is insured by a captive insurer  
4 and the captive insurer refuses to report closed claims and asserts  
5 a federal exemption or other jurisdictional preemption, the facility  
6 or provider shall report all data required by the Medical  
7 Professional Liability Insurance Closed Claim Reports Act on behalf  
8 of the captive insurer.

9 SECTION 25. REPEALER 36 O.S. 2001, Sections 6201, 6202,  
10 as amended by Section 23, Chapter 125, O.S.L. 2007, 6203, as amended  
11 by Section 40, Chapter 176, O.S.L. 2009, Section 41, Chapter 176,  
12 O.S.L. 2009, 6205, as last amended by Section 42, Chapter 176,  
13 O.S.L. 2009, 6206, as last amended by Section 43, Chapter 176,  
14 O.S.L. 2009, 6207, 6208, as last amended by Section 44, Chapter 176,  
15 O.S.L. 2009, 6209, as amended by Section 45, Chapter 176, O.S.L.  
16 2009, 6210, as last amended by Section 46, Chapter 176, O.S.L. 2009,  
17 6211, 6212, as amended by Section 47, Chapter 176, O.S.L. 2009,  
18 6214, 6215, as amended by Section 28, Chapter 125, O.S.L. 2007,  
19 6216, 6216.1, 6216.2, 6217, as last amended by Section 2, Chapter  
20 355, O.S.L. 2010, 6218, 6219, 6220 and 6220.1 (36 O.S. Supp. 2010,  
21 Sections 6202, 6203, 6204.1, 6205, 6206, 6208, 6209, 6210, 6212,  
22 6215 and 6217), are hereby repealed.

23 SECTION 26. This act shall become effective June 1, 2011.

24

1       SECTION 27. It being immediately necessary for the preservation  
2 of the public peace, health and safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

5       Passed the House of Representatives the 17th day of March, 2011.

6

7

8

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

9

10       Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2011.

11

12

13

\_\_\_\_\_  
Presiding Officer of the Senate

14

15

16

17

18

19

20

21

22

23

24