

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2453

By: Key of the House

and

Brown of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to insurance; amending 36 O.S. 2011,  
12                   Sections 924.4 and 924.5, which relate to affidavit  
13                   of exempt status; updating statutory cites; amending  
14                   36 O.S. 2011, Section 1435.6, which relates to the  
15                   Oklahoma Producer Licensing Act; modifying time  
16                   period to take certain examination; placing time  
17                   limit for making an application for a producer's  
18                   license; modifying requirements relating to  
19                   subsequent examinations; amending 36 O.S. 2011,  
20                   Sections 1473 and 1477, which relate to the Managing  
21                   General Agents Act; correcting statutory cite;  
22                   clarifying language; amending 36 O.S. 2011, Sections  
23                   1608, 1609 and 1620, which relate to investments;  
24                   clarifying types of investments; specifying types of  
                  investments that are not acceptable; providing that  
                  certificates of deposits or other time deposit  
                  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

1 certain time period; exempting insurer from  
2 providing certain notice for certain policies;  
3 amending 36 O.S. 2011, Section 4509, which relates to  
4 the termination of certain employee insurance  
5 coverage; requiring an offer to continue certain  
6 coverage; specifying carrier notice requirements;  
7 requiring employee to request continuation in  
8 writing; specifying time limitation; authorizing the  
9 charging of premiums for coverage continuation;  
10 providing for the termination of coverage; specifying  
11 criteria for termination; modifying right to  
12 continuation of health insurance coverage in certain  
13 circumstances; amending 36 O.S. 2011, Sections 6206  
14 and 6217, which relate to the Insurance Adjusters  
15 Licensing Act; specifying that the exam for an  
16 adjusters license must be passed within certain  
17 specified time; eliminating continuing education  
18 requirement relating to workers' compensation for  
19 certain adjusters; requiring an adjuster to report  
20 certain actions or prosecutions to the Insurance  
21 Commissioner; amending 36 O.S. 2011, Section 6475.13,  
22 which relates to the Uniform Health Carrier External  
23 Review Act; requiring an independent review  
24 organization to possess any additional qualifications  
promulgated by the Insurance Commissioner; allowing  
the Insurance Commissioner to accept certain  
accreditation standards; amending 36 O.S. 2011,  
Section 6608, which relates to the Service Warranty  
Insurance Act; specifying that certain reporting date  
is an annual requirement; providing for codification;  
and providing an effective date.

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

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

Section 924.4 A. Any person who is not required to be covered  
under a workers' compensation insurance policy or other plan for the

1 payment of workers' compensation may execute an Affidavit of Exempt  
2 Status under the Workers' Compensation Act. The affidavit shall be  
3 a form prescribed by the Insurance Commissioner. The affidavit  
4 shall be available on the web site of the Insurance Department.

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

10 C. Except as otherwise provided in Section ~~11~~ 314 of Title 85  
11 of the Oklahoma Statutes, the execution of an affidavit shall not  
12 affect the rights or coverage of any employee of the individual  
13 executing the affidavit.

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

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

21 3. The Insurance Commissioner shall immediately notify the  
22 Workers' Compensation Fraud Unit in the Office of the Attorney  
23 General of any violations or suspected violations of this section.

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1 The Commissioner shall cooperate with the Fraud Unit in any  
2 investigation involving affidavits executed pursuant to this  
3 section.

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

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

9 Section 924.5 In addition to any other penalty prescribed by  
10 law, any employer who knowingly and willfully requires an employee  
11 or subcontractor to execute an affidavit under Section ~~75~~ 924.4 of  
12 this ~~act~~ title when the employer knows that the employee or  
13 subcontractor is required to be covered under a workers'  
14 compensation insurance policy or other plan for the payment of  
15 workers' compensation shall be liable for a civil penalty, to be  
16 assessed by the Insurance Department, of not more than Five Hundred  
17 Dollars (\$500.00) for a first offense, and shall be liable for a  
18 civil penalty of not more than One Thousand Dollars (\$1,000.00) for  
19 a second or subsequent offense. All civil penalties collected  
20 pursuant to this section shall be deposited into the State Insurance  
21 Commissioner's Revolving Fund.

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

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

10 B. The Commissioner may make arrangements, including  
11 contracting with an outside testing service, for administering  
12 examinations and collecting the nonrefundable fee set forth in  
13 Section 1435.23 of this title.

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

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

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

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

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

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

8 I. The applicant shall pass the examination with a grade  
9 determined by the Commissioner to indicate satisfactory knowledge  
10 and understanding of the line or lines of insurance for which the  
11 applicant seeks qualification. Within ten (10) days after the  
12 examination, the Commissioner shall inform the applicant and the  
13 appointing insurer, when applicable, as to whether or not the  
14 applicant has passed. ~~Formal evidence of licensing shall be issued~~  
15 ~~by the Commissioner to the licensee within a reasonable time~~ An  
16 application for licensure shall be made within two (2) years after  
17 passing the examination.

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

22 K. ~~An applicant who has failed to pass the first two~~  
23 ~~examinations for the license applied for shall not be permitted to~~

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1 ~~take a subsequent examination until the expiration of thirty (30)~~  
2 ~~days after the last previous examination. Examination fees for~~  
3 ~~subsequent examinations shall not be waived.~~

4 ~~L.~~ An applicant for a license as a resident surplus lines  
5 broker shall have passed the property and casualty insurance  
6 examination on the line or lines of insurance to be written to  
7 qualify for a surplus lines broker license.

8 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1473, is  
9 amended to read as follows:

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

15 B. No person shall act in the capacity of a managing general  
16 agent, representing an insurer domiciled in this state with respect  
17 to risks located outside this state, unless such person is licensed  
18 as ~~an agent or broker pursuant to Section 1421 et seq. of Title 36~~  
19 ~~of the Oklahoma Statutes~~ a producer pursuant to the Oklahoma  
20 Producer Licensing Act. Provided, such license may be a nonresident  
21 license.

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1 C. The Insurance Commissioner may require a bond in the amount  
2 acceptable to ~~him~~ the Commissioner for the protection of the  
3 insurer.

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

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

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

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

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

19 3. The managing general agent to reimburse the insurer, the  
20 rehabilitator or the liquidator of the insurer for any losses  
21 incurred by the insurer which were caused by a violation of ~~this act~~  
22 the Managing General Agents Act committed by the managing general  
23 agent.

1 B. The decision, determination or order of the Commissioner  
2 pursuant to subsection A of this section shall be subject to  
3 judicial review pursuant to the Administrative Procedures Act and  
4 any applicable insurance laws and regulations.

5 C. Nothing contained in this section shall affect the right of  
6 the Commissioner to impose any other penalties provided for in the  
7 Oklahoma Insurance Code.

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

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

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

17 Section 1608. An insurer may invest in bonds, notes, warrants  
18 and other securities not in default which are the direct obligations  
19 of any state of the United States or of the District of Columbia, or  
20 of the government of Canada or any province thereof, or for which  
21 the full faith and credit of such state, district, government or  
22 province has been pledged for the payment of principal and interest.  
23 Bonds, notes, warrants and other securities classified as revenue,

1 prerefunded or declining balances are not considered acceptable  
2 investments for this purpose.

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

5 Section 1609. An insurer may invest in bonds, notes, warrants  
6 and other securities not in default of any county, district,  
7 incorporated city, or school district in any state of the United  
8 States, or the District of Columbia, or in any province of Canada,  
9 which are the direct obligations of such county, district, city or  
10 school district and for payment of the principal and interest of  
11 which the county, district, city, or school district has lawful  
12 authority to levy taxes or make assessments. Bonds, notes, warrants  
13 and other securities classified as revenue, prerefunded or declining  
14 balances are not considered acceptable investments for this purpose.

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

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

22 B. An insurer may invest or deposit any of its funds in  
23 checking, share or saving accounts under certificates of deposit or

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1 time deposits in solvent savings and loan associations which are  
2 insured by the Federal ~~Savings and Loan~~ Deposit Insurance  
3 Corporation.

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

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

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

13 Section 1703. A. All such deposits required for authority to  
14 transact insurance business in Oklahoma shall consist of cash, under  
15 negotiable, and transferable certificates of deposit or other time  
16 deposit instruments issued by solvent insured banks, savings and  
17 loan associations, and trust companies in Oklahoma, or a combination  
18 of the foregoing and the securities described in ~~the following~~  
19 ~~sections of Article 16 of this Code:~~ Sections 1607, 1608, 1609 and  
20 1620 of this title.

21 B. All such deposits required pursuant to the laws of another  
22 state, province, or country, or pursuant to the retaliatory  
23 provision of Section 628 of this title, shall consist of such assets

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1 as are required or permitted by such laws, or as required pursuant  
2 to such retaliatory provision.

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

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

7 1. To the insurer upon extinguishment by reinsurance or  
8 otherwise of substantially all liability of the insurer for the  
9 security of which the deposit is held upon proper request by the  
10 insurer and after financial review of the insurer proving generally  
11 acceptable financial conditions;

12 2. To the insurer to the extent such deposit is in excess of  
13 the amount required upon proper request by the insurer and after  
14 financial review of the insurer proving generally acceptable  
15 financial conditions; or

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

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

22 Section 3639.1 A. No insurer shall cancel, refuse to renew or  
23 increase the premium of a homeowner's insurance policy or any other

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1 personal residential insurance coverage, which has been in effect  
2 more than forty-five (45) days, solely because the insured filed a  
3 first claim against the policy. The provisions of this section  
4 shall not be construed to prevent the cancellation, nonrenewal or  
5 increase in premium of a homeowner's insurance policy for the  
6 following reasons:

7 1. Nonpayment of premium;

8 2. Discovery of fraud or material misrepresentation in the  
9 procurement of the insurance or with respect to any claims submitted  
10 thereunder;

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

13 4. A change in the risk which substantially increases any  
14 hazard insured against after insurance coverage has been issued or  
15 renewed;

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

20 6. A determination by the Insurance Commissioner that the  
21 continuation of the policy would place the insurer in violation of  
22 the insurance laws of this state; or

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

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

20 SECTION 12. AMENDATORY 36 O.S. 2011, Section 4509, is  
21 amended to read as follows:

22 Section 4509. A. When an insured employee or a dependent whose  
23 group insurance coverage is terminated and the coverage is subject  
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1 to the provisions of the Consolidated Omnibus Budget Reconciliation  
2 Act of 1985 (COBRA), Pub. L. 99-272, April 7, 1986, 100 Stat. 82,  
3 neither subsection B, or C, ~~or D~~ of this section applies.

4 B. In the case of an employee whose insurance is terminated for  
5 any reason other than termination of the group plan or termination  
6 for gross misconduct under a group policy providing hospital,  
7 medical or surgical, or Christian Science care and treatment expense  
8 benefits; or contract of hospital or medical service or indemnity;  
9 or prepaid health plan or health maintenance organization subscriber  
10 contract, such employee and the dependents of the employee shall  
11 ~~remain insured~~ be offered continuation of coverage under the group  
12 policy or contract for a period of at least sixty-three (63) days  
13 ~~after such termination, unless during such period the employee and~~  
14 ~~his dependents shall otherwise become entitled to similar insurance~~  
15 ~~from some other source. Premiums may be charged for this period.~~  
16 ~~The premiums charged shall be the premiums which would have been~~  
17 ~~charged for the coverage provided under the group policy or contract~~  
18 ~~had termination not occurred. The carrier shall notify the~~  
19 terminated employee of the availability of this continuation of  
20 coverage option in writing within thirty (30) days of receiving  
21 notice from the plan sponsor of the employee's termination of  
22 coverage. The terminated employee shall request in writing the  
23 continuation of group coverage not later than the thirty-first day

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1 after the date the terminated employee is given notification of the  
2 availability of this continuation of coverage option. Premiums may  
3 be charged for the continuation of coverage period. The premiums  
4 charged shall be the premiums which would have been charged for the  
5 coverage provided under the group policy or contract had termination  
6 not occurred. Continuation of coverage pursuant to this section may  
7 be terminated:

8 1. For employee's failure to make timely premium payments;

9 2. On the date the group coverage terminates in its entirety if  
10 the group coverage terminates in its entirety during the  
11 continuation of coverage period; or

12 3. If the employee and the dependents of the employee otherwise  
13 become entitled to similar insurance from some other source during  
14 the continuation of the coverage period.

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

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

14 ~~D. When an insured employee or a dependent whose group health~~  
15 ~~insurance coverage is terminated due to the employee's involuntary~~  
16 ~~termination from employment, the employee or his or her dependents~~  
17 ~~shall have a right to continue the group health insurance coverage~~  
18 ~~for four (4) months following the employee's termination from~~  
19 ~~employment subject to all of the following conditions:~~

20 ~~1. The group health insurance is provided pursuant to a group~~  
21 ~~policy providing hospital, medical or surgical, or Christian Science~~  
22 ~~care and treatment expense benefits; or contract of hospital or~~  
23 ~~medical service or indemnity; or prepaid health plan or health~~

1 ~~maintenance organization subscriber contract; or a self-insured~~  
2 ~~employer plan;~~

3 ~~2. The coverage shall be the same coverage as was provided~~  
4 ~~prior to the employee's termination;~~

5 ~~3. Premiums shall be paid for the period of coverage. The~~  
6 ~~premiums charged shall be the premiums which would have been charged~~  
7 ~~for the coverage provided under the group policy or contract had~~  
8 ~~termination not occurred;~~

9 ~~4. The employee was not terminated for misconduct; and~~

10 ~~5. This subsection shall remain in force only until the end of~~  
11 ~~the period for which a premium subsidy is available pursuant to the~~  
12 ~~American Recovery and Reinvestment Act of 2009 (ARRA) or its~~  
13 ~~successor.~~

14 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6206, is  
15 amended to read as follows:

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

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

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

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

7 4. Is a trustworthy person;

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

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

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

18 B. Residence addresses and telephone listings, birth dates, and  
19 social security numbers for insurance adjusters and public adjusters  
20 on file with the Insurance Department are exempt from disclosure as  
21 public records. A separate business or mailing address as provided  
22 by the adjuster shall be considered a public record and upon request  
23 shall be disclosed. If an adjuster's residence and business address

1 or residence and business telephone number are the same, such  
2 address or telephone number shall be considered a public record.

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

13 SECTION 14. AMENDATORY 36 O.S. 2011, Section 6217, is  
14 amended to read as follows:

15 Section 6217. A. All licenses issued pursuant to the  
16 provisions of the Insurance Adjusters Licensing Act shall continue  
17 in force not longer than twenty-four (24) months. The renewal dates  
18 for the licenses may be staggered throughout the year by notifying  
19 licensees in writing of the expiration and renewal date being  
20 assigned to the licensees by the Insurance Commissioner and by  
21 making appropriate adjustments in the biennial licensing fee.

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

6 The Insurance Department may use one or more of the following to  
7 review and provide a nonbinding recommendation to the Insurance  
8 Commissioner on approval or disapproval of courses and providers of  
9 continuing education:

- 10 1. Employees of the Insurance Commissioner;
- 11 2. A continuing education advisory committee. The continuing  
12 education advisory committee is separate and distinct from the  
13 Advisory Board established by Section 6221 of this title;
- 14 3. An independent service whose normal business activities  
15 include the review and approval of continuing education courses and  
16 providers. The Commissioner may negotiate agreements with such  
17 independent service to review documents and other materials  
18 submitted for approval of courses and providers and present the  
19 Commissioner with its nonbinding recommendation. The Commissioner  
20 may require such independent service to collect the fee charged by  
21 the independent service for reviewing materials provided for review  
22 directly from the course providers.

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

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

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

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1 courses approved in accordance with this subsection shall be  
2 reviewed every three (3) years to determine whether they continue to  
3 qualify for continuing education credit.

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

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

22 ~~H.~~ G. Subject to the right of the Commissioner to suspend,  
23 revoke, or refuse to renew a license of an adjuster, any such

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1 license may be renewed by filing on the form prescribed by the  
2 Commissioner on or before the expiration date a written request by  
3 or on behalf of the licensee for such renewal and proof of  
4 completion of the continuing education requirement set forth in  
5 subsection B of this section, accompanied by payment of the renewal  
6 fee.

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

18 SECTION 15. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 6222 of Title 36, unless there  
20 is created a duplication in numbering, reads as follows:

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

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

10 SECTION 16. AMENDATORY 36 O.S. 2011, Section 6475.13, is  
11 amended to read as follows:

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

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

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

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

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

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

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

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1 D. 1. In addition to the requirements set forth in subsections  
2 A, B and C of this section, to be approved pursuant to Section ~~36~~  
3 6475.12 of this ~~act~~ title to conduct an external review of a  
4 specified case, neither the independent review organization selected  
5 to conduct the external review nor any clinical reviewer assigned by  
6 the independent organization to conduct the external review may have  
7 a material professional, familial or financial conflict of interest  
8 with any of the following:

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

1 f. the developer or manufacturer of the principal drug,  
2 device, procedure or other therapy being recommended  
3 for the covered person whose treatment is the subject  
4 of the external review.

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

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

1        F. 1. An independent review organization that is accredited by  
2 a nationally recognized private accrediting entity that has  
3 independent review accreditation standards that the Commissioner has  
4 determined are equivalent to or exceed the minimum qualifications of  
5 this section shall be presumed in compliance with this section to be  
6 eligible for approval under Section ~~36~~ 6475.12 of this ~~act~~ title.  
7 If a nationally recognized private accrediting entity has  
8 independent review accreditation standards that are substantially  
9 similar to but do not equal or exceed the minimum qualifications of  
10 this section, the Commissioner may accept the accreditation as an  
11 equivalent accreditation standard after reviewing for compliance any  
12 minimum qualifications required by this section that are not  
13 required by the national accreditation.

14        2. The Commissioner shall initially review and periodically  
15 review the independent review organization accreditation standards  
16 of a nationally recognized private accrediting entity to determine  
17 whether the entity's standards are, and continue to be, equivalent  
18 to or exceed the minimum qualifications established under this  
19 section. The Commissioner may accept a review conducted by the NAIC  
20 for the purpose of the determination under this paragraph.

21        3. Upon request, a nationally recognized private accrediting  
22 entity shall make its current independent review organization  
23 accreditation standards available to the Commissioner or the NAIC in  
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1 order for the Commissioner to determine if the entity's standards  
2 are equivalent to or exceed the minimum qualifications established  
3 under this section. The Commissioner may exclude any private  
4 accrediting entity that is not reviewed by the NAIC.

5 ~~F.~~ G. An independent review organization shall be unbiased. An  
6 independent review organization shall establish and maintain written  
7 procedures to ensure that it is unbiased in addition to any other  
8 procedures required under this section.

9 SECTION 17. AMENDATORY 36 O.S. 2011, Section 6608, is  
10 amended to read as follows:

11 Section 6608. A. An application for license as a service  
12 warranty association shall be made to, and filed with, the Insurance  
13 Commissioner on printed forms as prescribed and furnished by the  
14 Insurance Commissioner.

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

- 18 1. The location of the home office of the applicant;
- 19 2. The name and residence address of each director or officer  
20 of the applicant; and
- 21 3. Other pertinent information as may be required by the  
22 Commissioner.

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

3 1. A copy of the articles of incorporation of the applicant,  
4 certified by the public official having custody of the original, and  
5 a copy of the bylaws of the applicant, certified by the chief  
6 executive officer of the applicant;

7 2. A copy of the most recent financial statement of the  
8 applicant, verified under oath of at least two of its principal  
9 officers; and

10 3. A license fee as required pursuant to Section 6604 of this  
11 title.

12 D. Upon completion of the application for license, the  
13 Commissioner shall examine the application and make such further  
14 investigation of the applicant as the Commissioner deems advisable.  
15 If the Commissioner finds that the applicant is qualified, the  
16 Commissioner shall issue to the applicant a license as a service  
17 warranty association. If the Commissioner does not find the  
18 applicant to be qualified the Commissioner shall refuse to issue the  
19 license and shall give the applicant written notice of the refusal,  
20 setting forth the grounds of the refusal.

21 E. 1. Any entity that claims one or more of the exclusions  
22 from the definition of service warranty provided in paragraph 14 of  
23 Section 6602 of this title shall file audited financial statements  
24

1 and other information as requested by the Commissioner by May 1,  
2 2010, and each year thereafter, to document and verify that the  
3 contracts of the entity are not included within the definition of  
4 service warranty.

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

11 3. Any entity approved for an exclusion provided by paragraph  
12 14 of Section 6602 of this title may be required by the Commissioner  
13 to provide subsequent audited financial statements and other  
14 information ascertained by the Commissioner to be necessary to  
15 determine continued qualification for an exclusion provided by  
16 paragraph 14 of Section 6602 of this title.

17 4. Other information as requested by the Commissioner may  
18 include, but is not limited to, SEC filings, audited financial  
19 statements of affiliates, and organizational data and organizational  
20 charts.

21 SECTION 18. This act shall become effective November 1, 2012.

22  
23 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 03/05/2012 - DO  
24 PASS, As Amended and Coauthored.