

1 **SENATE FLOOR VERSION**

2 February 21, 2011

3 As Amended

4 SENATE BILL NO. 289

By: David of the Senate

and

Kirby of the House

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8 **[ examinations by professionals - Insurance**  
9 **Commissioner - eliminating requirement that certain**  
10 **cost be paid -**  
11 **emergency ]**

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

13 SECTION 1. AMENDATORY 36 O.S. 2001, Section 309.3, is  
14 amended to read as follows:

15 Section 309.3. A. Upon determining that an examination should  
16 be conducted, the Insurance Commissioner shall issue an examination  
17 warrant appointing one or more examiners to perform the examination  
18 and instructing them as to the scope of the examination. In  
19 conducting the examination, the examiner shall observe those  
20 guidelines and procedures set forth in the Examiners' Handbook  
21 adopted by the National Association of Insurance Commissioners as  
22 supplemented by rules of the Commissioner. The Commissioner may  
23 also employ such other guidelines or procedures as the Commissioner  
24 may deem appropriate.

1 B. Every company or person from whom information is sought,  
2 including all of its officers, directors, employees and agents,  
3 shall provide to the Commissioner and examiners timely, convenient,  
4 and free access at all reasonable hours at its offices to all books,  
5 records, accounts, papers, documents, and any or all computer or  
6 other recordings relating to the property, assets, business and  
7 affairs of the company being examined. The officers, directors,  
8 employees and agents of the company or person shall facilitate such  
9 examination and aid in such examination so far as it is in their  
10 power to do so. The refusal of any company, by its officers,  
11 directors, employees or agents, to submit to examination or to  
12 comply with any reasonable written request of the examiners shall be  
13 grounds for suspension or refusal of, or nonrenewal of any license  
14 or authority held by the company to engage in an insurance or other  
15 business subject to the Commissioner's jurisdiction. Any such  
16 proceedings for suspension, revocation or refusal of any license or  
17 authority shall be conducted pursuant to Section 619 of this title.

18 C. The Commissioner or examiners shall have the power to issue  
19 subpoenas, to administer oaths and to examine under oath any person  
20 as to any matter pertinent to the examination. Upon the failure or  
21 refusal of any person to obey a subpoena, the Commissioner may  
22 petition a court of competent jurisdiction, and upon proper showing,  
23 the Court may enter any order compelling the witness to appear and  
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1 testify or produce documentary evidence. Failure to obey the court  
2 order shall be punishable as contempt of court.

3 D. When making an examination under Sections 309.1 through  
4 309.7 of this title, the Commissioner may retain attorneys,  
5 appraisers, independent actuaries, independent certified public  
6 accountants or an accounting firm or individual holding a permit to  
7 practice public accounting, certified financial examiners or other  
8 professionals and specialists as examiners, ~~the cost of which shall~~  
9 ~~be borne by the company which is the subject of the examination.~~

10 E. Nothing contained in Sections 309.1 through 309.7 of this  
11 title shall be construed to limit the Commissioner's authority to  
12 terminate or suspend any examination in order to pursue other legal  
13 or regulatory action pursuant to the insurance laws of this state.  
14 Findings of fact and conclusions made in any examination report  
15 shall be prima facie evidence in any legal or regulatory action.

16 F. Nothing contained in Sections 309.1 through 309.7 of this  
17 title shall be construed to limit the Commissioner's authority to  
18 use and, if appropriate, to make public any final or preliminary  
19 examination report, any examiner or company workpapers or other  
20 documents, or any other information discovered or developed during  
21 the course of any examination in the furtherance of any legal or  
22 regulatory action which the Commissioner may deem appropriate.

23 SECTION 2. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

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

3 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated  
4 2-17-11 - DO PASS, As Amended and Coauthored.

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