

1 **SENATE FLOOR VERSION**

2 February 28, 2011

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 778

6 By: Aldridge of the Senate

7 and

8 Sullivan of the House

9 An Act relating to insurance adjusters; creating the  
10 Independent Insurance Adjusters Licensing Act;  
11 providing short title; defining terms; specifying who  
12 can act as an independent insurance adjuster;  
13 providing exceptions to licensure; allowing temporary  
14 emergency licensure or registration of an independent  
15 insurance adjuster under certain conditions;  
16 specifying length of emergency licensure or  
17 registration; authorizing Insurance Commissioner to  
18 determine amount of licensure or registration fee;  
19 requiring the Commissioner to make certain findings;  
20 allowing resident of Canada to be licensed if certain  
21 conditions are met; requiring certain entity applying  
22 for certain license to make application on certain  
23 form and in certain manner; requiring fingerprints  
24 and criminal history record checks; providing  
procedures related to the collection and transmission  
of such fingerprints; requiring certain information  
to be treated as confidential; specifying conditions  
for issuance of an independent insurance adjusters  
license; authorizing an independent adjuster to  
qualify for a license in certain lines of authority;  
allowing for renewal of such license; specifying  
license fees; authorizing waiver of license renewal  
requirement under certain circumstances; subjecting  
an independent adjuster to certain laws; specifying  
content of the license; authorizing the Commissioner  
to contract for the performance of certain functions;  
requiring written examination; providing exceptions;  
providing for nonrefundable examination fee;  
exempting persons licensed in another state from

1 completing certain prelicensing requirements;  
2 providing procedures for licensure of a person  
3 licensed in another state; stating conditions for  
4 receipt of a nonresident independent adjuster  
5 license; requiring nonresident independent adjuster  
6 licensee to maintain licensure in home state;  
7 allowing a resident of Canada to be licensed as a  
8 nonresident independent adjuster under certain  
9 conditions; providing for optional apprentice  
10 independent adjuster license; providing application  
11 process for such license; requiring the Commissioner  
12 to make certain findings; subjecting the apprentice  
13 independent adjuster license to certain terms and  
14 conditions; authorizing the Commissioner to take  
15 certain actions in response to certain causes;  
16 requiring notification in the case of denial of  
17 application or renewal of a license; authorizing  
18 certain hearing; allowing certain license to be  
19 denied under certain conditions; providing for civil  
20 penalty; authorizing the Commissioner to enforce  
21 certain provisions; requiring continuing education;  
22 providing exceptions; requiring an independent  
23 adjuster to maintain copies of certain contracts;  
24 specifying professional conduct of an independent  
adjuster; requiring the independent adjuster to  
report certain actions; authorizing the Commissioner  
to promulgate certain rules; providing for  
codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 6250 of Title 36, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Independent  
Insurance Adjusters Licensing Act".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6251 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4 As used in the Independent Insurance Adjusters Licensing Act:

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

8 2. "Automated claims adjudication system" means a preprogrammed  
9 computer system designed for the collection, data entry, calculation  
10 and final resolution of consumer electronic products insurance  
11 claims which:

- 12 a. may only be utilized by a licensed independent  
13 adjuster, licensed agent, or individuals supervised by  
14 a licensed independent adjuster or licensed agent,  
15 b. shall comply with all claims payment requirements of  
16 the Oklahoma Insurance Code, and  
17 c. shall be certified as compliant by a licensed  
18 independent adjuster.

19 3. "Business entity" means a corporation, association,  
20 partnership, limited liability company, limited liability  
21 partnership, or other legal entity;

22 4. "Catastrophe" means an event that:

- 23 a. results in large numbers of deaths or injuries,  
24

- 1           b. causes extensive damage or destruction of facilities  
2           that provide and sustain human needs,  
3           c. produces an overwhelming demand on state and local  
4           response resources and mechanisms,  
5           d. causes a severe long-term effect on general economic  
6           activity, or  
7           e. severely affects state, local and private sector  
8           capabilities to begin and sustain response activities.

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

11          5. "Commissioner" means the Insurance Commissioner;

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

14          7. "Home state" means the District of Columbia and any state or  
15          territory of the United States in which an independent adjuster  
16          maintains his, her or its principal place of residence or business  
17          and is licensed to act as a resident independent adjuster. If the  
18          resident state does not license independent adjusters for the line  
19          of authority sought, the independent adjuster shall designate as  
20          his, her or its home state any state in which the independent  
21          adjuster is licensed and in good standing;

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

- 23           a. is an individual, a business entity, an independent  
24           contractor, or an employee of a contractor, who

1 contracts for compensation with insurers or self-  
2 insurers,

3 b. is an individual whom the insurer's or self-insurer's  
4 tax treatment of the individual is consistent with  
5 that of an independent contractor rather than as an  
6 employee, as defined in the Internal Revenue Code,  
7 United States Code, Title 26, Subtitle C, and

8 c. investigates, negotiates or settles property, casualty  
9 or workers' compensation claims for insurers or for  
10 self-insurers;

11 9. "Individual" means a natural person;

12 10. "Insurer" means any authorized insurance company,  
13 corporation, reciprocal group, mutual group, underwriting  
14 association or bureau, or any combination thereof, writing or  
15 underwriting any insurance contracts;

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

17 12. "Uniform Individual Application" means the current version  
18 of the National Association of Insurance Commissioners (NAIC)  
19 Uniform Individual Application for resident and nonresident  
20 individuals; and

21 13. "Uniform Business Entity Application" means the current  
22 version of the National Association of Insurance Commissioners  
23 (NAIC) Uniform Business Entity Application for resident and  
24 nonresident business entities.

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6252 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4 No person shall act or hold himself or herself out as an  
5 independent adjuster in this state unless the person is licensed as  
6 an independent adjuster pursuant to the Independent Insurance  
7 Adjusters Licensing Act, or is exempt from licensure as an  
8 independent adjuster pursuant to the provisions of the Independent  
9 Insurance Adjusters Licensing Act.

10 SECTION 4. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6253 of Title 36, unless there  
12 is created a duplication in numbering, reads as follows:

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

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

18 2. A person employed solely to obtain facts surrounding a claim  
19 or to furnish technical assistance to a licensed independent  
20 adjuster;

21 3. An individual who is employed to investigate suspected  
22 fraudulent insurance claims but who does not adjust losses or  
23 determine claims payments;

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

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

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

11           7. A person who settles only reinsurance or subrogation claims;

12           8. An officer, director, manager or employee of an authorized  
13 insurer, surplus lines insurer, a risk retention group, or an  
14 attorney-in-fact of a reciprocal insurer;

15           9. A U.S. Manager of the United States branch of an alien  
16 insurer;

17           10. A person who investigates, negotiates or settles life,  
18 accident and health, annuity, or disability insurance claims;

19           11. An individual employee, under a self-insured arrangement,  
20 who adjusts claims on behalf of his or her employer;

21           12. A licensed insurance producer, attorney-in-fact of a  
22 reciprocal insurer or managing general agent of the insurer to whom  
23 claim authority has been granted by the insurer;

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1 13. A person authorized to adjust workers' compensation or  
2 disability claims pursuant to the provisions of the Third-party  
3 Administrator Act; or

4 14. An individual who collects claim information from, or  
5 furnishes claim information to insureds or claimants, and who  
6 conducts data entry including entering data into an automated claims  
7 adjudication system, provided that the individual is an employee of  
8 a licensed independent adjuster or an affiliate where no more than  
9 twenty-five persons are under the supervision of one licensed  
10 independent adjuster or licensed agent who is exempt from licensure  
11 pursuant to the requirements of the Independent Insurance Adjuster's  
12 Licensing Act.

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

16 A. In the event of a declared catastrophe, an insurer shall  
17 notify the Insurance Commissioner via an application for temporary  
18 emergency licensure, or registration if temporary emergency  
19 licensure is not statutorily required, of each individual not  
20 already licensed in the state where the catastrophe has been  
21 declared, that will act as an emergency independent adjuster on  
22 behalf of the insurer. The Commissioner shall establish standards  
23 and procedures to allow for the temporary emergency licensure or  
24 registration of an emergency independent adjuster in this state.

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

- 8 1. Name of the individual;
- 9 2. Social Security number of the individual;
- 10 3. Name of the insurer which the independent adjuster will  
11 represent;
- 12 4. Effective date of the contract between the insurer and  
13 independent adjuster;
- 14 5. Catastrophe or loss control number;
- 15 6. Catastrophe event name; and
- 16 7. Other information the Commissioner deems necessary.

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

20 D. The fee for emergency independent adjuster application for  
21 licensure or registration shall be in the amount specified in  
22 subsection C of Section 7 of this act and shall be due and payable  
23 at the time of application for licensure or registration.

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1           SECTION 6.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6255 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. An individual applying for a resident independent adjuster  
5 license shall make application to the Insurance Commissioner on the  
6 appropriate NAIC Uniform Individual Application in a format  
7 prescribed by the Commissioner and declare under penalty of  
8 suspension, revocation or refusal of the license that the statements  
9 made in the application are true, correct and complete to the best  
10 of the individual's knowledge and belief. Before approving the  
11 application, the Commissioner shall find that the individual:

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

13           2. Is eligible to designate this state as his or her home  
14 state;

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

17           4. Has not committed any act that is a ground for probation,  
18 suspension, revocation or refusal of an independent adjuster's  
19 license as provided for in Section 12 of this act;

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

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

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

2       B. An individual who is a resident of Canada shall not be  
3 licensed pursuant to the Independent Insurance Adjuster's Licensing  
4 Act nor designate this state as the individual's home state, unless  
5 the individual has successfully passed the independent adjuster  
6 examination and has complied with the other applicable requirements  
7 of the Independent Insurance Adjuster's Licensing Act. The  
8 individual shall not be required to comply with the provisions of  
9 paragraph 2 of subsection A of this section.

10       C. A business entity applying for a resident independent  
11 adjuster license shall make application to the Commissioner on the  
12 appropriate NAIC Uniform Business Entity Application in a format  
13 prescribed by the Commissioner and declare under penalty of  
14 suspension, revocation or refusal of the license that the statements  
15 made in the application are true, correct and complete to the best  
16 of the business entity's knowledge and belief. Before approving the  
17 application, the Commissioner shall find that the business entity:

18       1. Is eligible to designate this state as its home state;

19       2. Has designated a licensed independent adjuster responsible  
20 for the business entity's compliance with the insurance laws, rules  
21 and regulations of this state;

22       3. Has not committed an act that is a ground for probation,  
23 suspension, revocation or refusal of an independent adjuster's  
24 license as set forth in Section 12 of this act;

1 4. Has paid the fees set forth in Section 7 of this act;

2 5. Has submitted the names, addresses, social security numbers,  
3 criminal and administrative history, background checks, biographical  
4 statements, and fingerprints, of all executive officers and  
5 directors of the applicant and of all executive officers and  
6 directors of entities owning and any individuals owning, directly or  
7 indirectly, fifty-one percent (51%) or more of the outstanding  
8 voting securities of the applicant.

9 D. In order to make a determination of license eligibility, the  
10 Commissioner is authorized to require fingerprints of applicants and  
11 to submit the fingerprints and the fee required to perform the  
12 criminal history record checks to the Oklahoma State Bureau of  
13 Investigation (OSBI) and the Federal Bureau of Investigation (FBI)  
14 for state and national criminal history record checks.

15 E. The Commissioner shall require a criminal history record  
16 check on each applicant in accordance with the Independent Insurance  
17 Adjusters Licensing Act. The Commissioner shall require each  
18 applicant to submit a full set of fingerprints including a scanned  
19 file from a hard copy fingerprint in order for the Commissioner to  
20 obtain and receive national criminal history records from the FBI  
21 Criminal Justice Information Services Division.

22 F. The Commissioner may contract for the collection and  
23 transmission of fingerprints authorized under the Independent  
24 Insurance Adjusters Licensing Act. If the Commissioner does

1 contract, the Commissioner may order the fee for collecting and  
2 transmitting fingerprints to be payable directly to the contractor  
3 by the applicant. The Commissioner may agree to a reasonable  
4 fingerprinting fee to be charged by the contractor.

5 G. The Commissioner shall treat and maintain an applicant's  
6 fingerprints and any criminal history record information obtained  
7 pursuant to the Independent Insurance Adjusters Licensing Act as  
8 confidential and shall apply security measures consistent with the  
9 Criminal Justice Information Services Division of the Federal Bureau  
10 of Investigation standards for the electronic storage of  
11 fingerprints and necessary identifying information and limit the use  
12 of records solely to the purposes authorized in the Independent  
13 Insurance Adjusters Licensing Act. The fingerprints and any  
14 criminal history record information shall not be subject to  
15 subpoena, other than one issued in a criminal action or  
16 investigation, and shall be confidential.

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

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

22 SECTION 7. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 6256 of Title 36, unless there  
24 is created a duplication in numbering, reads as follows:

1 A. Unless denied licensure pursuant to Section 13 of this act,  
2 persons who have met the requirements of Sections 6 and 8 of this  
3 act shall be issued an independent adjuster license. An independent  
4 adjuster may qualify for a license in one or more of the following  
5 lines of authority:

- 6 1. Property and Casualty; or
- 7 2. Workers Compensation; or
- 8 3. Crop.

9 B. Any person holding a license pursuant to this section shall  
10 not be required to hold any other independent adjuster, insurance or  
11 self-insurance administrator license in this state pursuant to the  
12 Third-party Administrator Act or any other provision, provided the  
13 licensee does not act as an independent adjuster with respect to  
14 life, health or annuity insurance, other than disability insurance.

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

- 17 1. For a license in any single class of business, every two (2)  
18 years, Thirty Dollars (\$30.00);
- 19 2. For a license in any combination of two or more classes of  
20 business, every two (2) years, Fifty Dollars (\$50.00); and
- 21 3. Emergency adjuster, as provided for in Section 5 of this  
22 act, each year, Fifteen Dollars (\$15.00).

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

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

6 F. An independent adjuster whose license expires may, within  
7 twelve (12) months of the renewal date, be reissued an independent  
8 adjuster license upon receipt of the renewal request, as prescribed  
9 by the Commissioner. However, a penalty in the amount of double the  
10 unpaid renewal fee shall be required to reissue the expired license.

11 G. An independent adjuster who is unable to comply with license  
12 renewal procedures and requirements due to military service, long-  
13 term medical disability or some other extenuating circumstance may  
14 request a waiver of same and a waiver of any examination  
15 requirement, fine or other sanction imposed for failure to comply  
16 with renewal procedures.

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

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

24

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

4 K. In order to assist in the performance of the Commissioner's  
5 duties, the Commissioner may contract with nongovernmental entities,  
6 including the NAIC, its affiliates or subsidiaries, to perform any  
7 ministerial functions, including the collection of fees and data,  
8 related to licensing that the Commissioner may deem appropriate.

9 SECTION 8. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 6257 of Title 36, unless there  
11 is created a duplication in numbering, reads as follows:

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

21 B. The Commissioner may make arrangements, including  
22 contracting with an outside testing service, for administering  
23 examinations and collecting the nonrefundable fee set forth in  
24 subsection C of this section.

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

3 D. An individual who fails to appear for the examination as  
4 scheduled or fails to pass the examination shall reapply for an  
5 examination and remit all required fees and forms before being  
6 rescheduled for another examination.

7 SECTION 9. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 6258 of Title 36, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. An individual who applies for an independent adjuster  
11 license in this state who is or was licensed in another state for  
12 the same line(s) of authority based on an independent adjuster  
13 examination shall not be required to complete any prelicensing  
14 education or examination. This exemption is only available if the  
15 individual is currently licensed in another state or if that state  
16 license has expired and the application is received by this state  
17 within ninety (90) days of expiration. The applicant must provide  
18 certification from the other state that the applicant's license is  
19 currently in good standing or was in good standing at the time of  
20 expiration or certification from the other state that its Producer  
21 Database records, maintained by the NAIC, its affiliates or  
22 subsidiaries, indicate that the applicant or the applicant's company  
23 is or was licensed in good standing. The certification must be of a  
24

1 license with the same line of authority for which the individual has  
2 applied.

3 B. A person licensed as an independent adjuster in another  
4 state based on an independent adjuster examination, who establishes  
5 legal residency in this state, shall make application within ninety  
6 (90) days to become a resident independent adjuster licensee  
7 pursuant to Section 6 of this act, with the exception that no  
8 prelicensing education or examination shall be required of this  
9 person.

10 C. An individual who applies for an apprentice independent  
11 adjuster license, pursuant to Section 11 of this act, and who  
12 adjusts claims in that capacity, shall not be required to take and  
13 successfully complete the independent adjuster examination.

14 SECTION 10. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 6259 of Title 36, unless there  
16 is created a duplication in numbering, reads as follows:

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

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

22 2. The person has submitted the proper request for licensure,  
23 has paid the fees required by Section 7 of this act;

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1           3. The person has submitted or transmitted to the Insurance  
2 Commissioner the appropriate completed application for licensure;

3           4. The person's designated home state awards nonresident  
4 independent adjuster licenses to persons of this state on the same  
5 basis; and

6           5. As to nonresident business entities, the names, addresses,  
7 fingerprints, social security numbers, criminal and administrative  
8 history, background checks, and biographical statement, of all  
9 executive officers and directors of the applicant and of all  
10 executive officers and directors of entities owning and any  
11 individuals owning, directly or indirectly, fifty-one percent (51%)  
12 or more of the outstanding voting securities of the applicant. Any  
13 nonresident business entity applicant whose state of domicile  
14 complies with all of the provisions of this paragraph shall not be  
15 required to submit a criminal history, background check, and  
16 biographical statement for its executive officers, directors and  
17 owners of outstanding voting securities.

18           B. The Commissioner may verify the independent adjuster's  
19 licensing status through any appropriate database, including the  
20 Producer Database maintained by the NAIC, its affiliates or  
21 subsidiaries, or may request certification of good standing as  
22 described in Section 9 of this act.

23           C. As a condition to the continuation of a nonresident  
24 independent adjuster license, the licensee shall maintain a resident

1 independent adjuster license in his, her or its home state. The  
2 nonresident independent adjuster license issued under this section  
3 shall terminate and be surrendered immediately to the Commissioner  
4 if the resident independent adjuster license terminates for any  
5 reason, unless the termination is due to the independent adjuster  
6 being issued a new resident independent adjuster license in his, her  
7 or its new home state. The new state resident independent adjuster  
8 license must have reciprocity with the licensing nonresident  
9 state(s), otherwise the nonresident independent adjuster license(s)  
10 will terminate. Notice of resident independent adjuster license  
11 termination must be given to any state(s) that issued a nonresident  
12 independent adjuster license. Notice must be given within thirty  
13 (30) days of the termination date; if terminated for change in  
14 resident home state, then the notice must include both the previous  
15 and current address. Maintaining a resident independent adjuster  
16 license is required for the nonresident independent adjuster  
17 license(s) to remain valid.

18 D. A resident of Canada may be licensed as a nonresident  
19 independent adjuster if such person has obtained a resident or home  
20 state independent adjuster license.

21 SECTION 11. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 6260 of Title 36, unless there  
23 is created a duplication in numbering, reads as follows:

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1 A. The apprentice independent adjuster license is an optional  
2 license to facilitate the experience, education and/or training  
3 necessary to ensure reasonable competency of the responsibilities  
4 and duties of an independent adjuster as defined in the Independent  
5 Insurance Adjusters Licensing Act.

6 B. An individual applying for an apprentice independent  
7 adjuster license shall make application to the Insurance  
8 Commissioner on the appropriate NAIC Uniform Individual Application  
9 in a format prescribed by the Commissioner and declare under penalty  
10 of suspension, revocation or refusal of the license that the  
11 statements made in the application are true, correct and complete to  
12 the best of the individual's knowledge and belief. Before approving  
13 the application, the Commissioner shall find that the individual:

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

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

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

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

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

24 6. Has paid the fees set forth in Section 7 of this act.

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

3 1. Accompanying the apprentice independent adjuster application  
4 shall be an attestation, from a licensed independent adjuster with  
5 the same line(s) of authority for which the apprentice has applied,  
6 certifying that the apprentice will be subject to training,  
7 direction and control by the licensed independent adjuster and  
8 further certifying that the licensed independent adjuster assumes  
9 responsibility for the actions of the apprentice in the apprentice's  
10 capacity as an independent adjuster;

11 2. The apprentice independent adjuster is only authorized to  
12 adjust claims in the state that has issued the apprentice  
13 independent adjuster license;

14 3. The apprentice independent adjuster licensee is restricted  
15 to participation in the investigation, settlement and negotiation of  
16 claims subject to the review and final determination of the claim by  
17 the supervising licensed independent adjuster;

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

20 5. The apprentice independent adjuster shall not be required to  
21 take and successfully complete the independent adjuster examination  
22 pursuant to Section 9 of this act to adjust claims as an apprentice  
23 independent adjuster. However, at any time during the  
24 apprenticeship the apprentice independent adjuster may choose to

1 take the examination required by Section 8 of this act. If the  
2 individual takes and successfully completes the independent adjuster  
3 exam the apprentice independent adjuster license shall automatically  
4 terminate and an independent adjuster license shall be issued to  
5 that individual in place thereof;

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

8 7. The licensee shall be subject to probation, suspension,  
9 revocation, or refusal pursuant to Section 12 of this act.

10 SECTION 12. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6261 of Title 36, unless there  
12 is created a duplication in numbering, reads as follows:

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

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

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

21 3. Obtaining or attempting to obtain a license through  
22 misrepresentation or fraud;

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1 4. Improperly withholding, misappropriating, or converting any  
2 monies or properties received in the course of doing insurance  
3 business;

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

6 6. Having been convicted of a felony;

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

9 8. Using fraudulent, coercive or dishonest practices, or  
10 demonstrating incompetence, untrustworthiness or financial  
11 irresponsibility, in the conduct of insurance business in this state  
12 or elsewhere;

13 9. Having an insurance license, or its equivalent, probated,  
14 suspended, revoked or refused in any other state, province,  
15 district, or territory;

16 10. Forging another's name to any document related to an  
17 insurance transaction;

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

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

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1 13. Failing to pay state income tax or comply with any  
2 administrative or court order directing payment of state income tax  
3 which remains unpaid.

4 B. In the event that the action by the Commissioner is to  
5 refuse application for licensure or renewal of an existing license,  
6 the Commissioner shall notify the applicant or licensee in writing,  
7 advising of the reason for the refusal. The applicant or licensee  
8 may make written demand upon the Commissioner for a hearing before  
9 the Commissioner to determine the reasonableness of the refusal.  
10 The hearing shall be pursuant to the Administrative Procedures Act.

11 C. The license of a business entity may be probated, suspended,  
12 revoked, or refused if the Commissioner finds, after a hearing, that  
13 its designated individual licensee's violation occurred while acting  
14 on behalf of or representing the business entity and that the  
15 violation was known or should have been known by one or more of the  
16 business entity's partners, officers or managers and that the  
17 violation was neither reported to the Commissioner nor was  
18 corrective action taken.

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

22 E. The Commissioner shall retain the authority to enforce the  
23 provisions of and impose any penalty or remedy authorized by the  
24 Independent Insurance Adjusters Licensing Act and Title 36 of the

1 Oklahoma Statutes, against any person who is under investigation for  
2 or charged with a violation of the Independent Insurance Adjusters  
3 Licensing Act or Title 36 of the Oklahoma Statutes, even if the  
4 person's license or registration has been surrendered or has expired  
5 by operation of law.

6 SECTION 13. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 6262 of Title 36, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. An individual who holds an independent adjuster license and  
10 who is not exempt under subsection B of this section, shall  
11 satisfactorily complete a minimum of twenty-four (24) hours of  
12 continuing education courses, of which three (3) hours must be in  
13 ethics, reported to the Insurance Commissioner on a biennial basis  
14 in conjunction with his or her license renewal cycle.

15 B. The provisions of subsection A of this section shall not  
16 apply to:

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

19 2. Licensees holding nonresident independent adjuster licenses  
20 who have met the continuing education requirements of their  
21 designated home state.

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

1 An independent adjuster shall maintain a copy of each contract  
2 between the independent adjuster and the insurer or self-insurer and  
3 comply with the record retention policy as agreed to in that  
4 contract.

5 SECTION 15. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 6264 of Title 36, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. An independent adjuster shall:

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

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

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

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

18 B. An independent adjuster shall not:

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

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

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

4 A. The independent adjuster shall report to the Insurance  
5 Commissioner any administrative action taken against the independent  
6 adjuster in another jurisdiction or by another governmental agency  
7 in this state within thirty (30) days of the final disposition of  
8 the matter. This report shall include a copy of the order, consent  
9 order and any other relevant legal documents.

10 B. The independent adjuster shall report to the Commissioner  
11 any criminal action taken against the independent adjuster in this  
12 or any jurisdiction within thirty (30) days of the final disposition  
13 of the criminal matter. The report shall include a copy of the  
14 initial complaint filed, the final order issued by the court, and  
15 any other relevant legal documents.

16 SECTION 17. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 6266 of Title 36, unless there  
18 is created a duplication in numbering, reads as follows:

19 The Insurance Commissioner may promulgate rules as are necessary  
20 or proper to carry out the purposes of the Independent Insurance  
21 Adjusters Licensing Act.

22 SECTION 18. This act shall become effective January 1, 2012.

23 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT & INSURANCE, dated  
24 2-24-11 - DO PASS, As Amended and Coauthored.