STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1243 By: McDaniel (Randy)

AS INTRODUCED

An Act relating to licenses issued by the Insurance Department; amending 36 O.S. 2001, Sections 1435.6, as last amended by Section 24, Chapter 176, O.S.L. 2009, and 1435.29, as last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2010, Sections 1435.6 and 1435.29), which relate to the Oklahoma Producer Licensing Act; modifying reexamination requirements; modifying educational requirements; amending 36 O.S. 2001, Sections 6209, as amended by Section 45, Chapter 176, O.S.L. 2009, 6210, as last amended by Section 46, Chapter 176, O.S.L. 2009, and 6217, as last amended by Section 2, Chapter 355, O.S.L. 2010 (36 O.S. Supp. 2010, Sections 6209, 6210 and 6217), which relate to the Insurance Adjusters Licensing Act; modifying classes of business covered by insurance adjuster licenses; modifying reexamination requirements; modifying certain continuing education requirements; amending 59 O.S. 2001, Sections 1304, 1305, as last amended by Section 55, Chapter 222, O.S.L. 2010, 1308, 1308.1, 1309 and 1314, as last amended by Section 58, Chapter 222, O.S.L. 2010 (59 O.S. Supp. 2010, Sections 1305 and 1314), which relate to bail bondsmen; modifying duration of licenses; changing expiration date; requiring applications to be submitted electronically; requiring approval of certain forms by the Insurance Commissioner; authorizing Commissioner to require certain fingerprint submissions; requiring payment of certain fee; specifying Commissioner shall require certain record checks; specifying criminal history record check requirements; authorizing Commissioner to contract for the collection and transmission of fingerprints; authorizing Commissioner to receive certain criminal record information; requiring Commissioner to treat

certain information as confidential; specifying certain information shall not be subject to certain subpoena; authorizing Commissioner to promulgate certain rules; modifying application procedure and eligibility requirements; eliminating requirement that examination results be mailed; modifying reexamination waiting period; modifying continuing education requirements for bail bondsmen; modifying fee payment requirements; modifying time-period for license reinstatement; requiring certain reports to be submitted electronically; eliminating reporting by mail; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 36 O.S. 2001, Section 1435.6, as last amended by Section 24, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2010, Section 1435.6), is amended to read as follows:

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

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

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

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

D. After completion and filing of the application with the Insurance Commissioner, except as provided in Section 1435.10 of this title, the Commissioner shall subject each applicant for license as an insurance agent, insurance consultant, limited insurance representative, or customer service representative to an examination approved by the Commissioner as to competence to act as a licensee, which each applicant shall personally take and pass to the satisfaction of the Commissioner. The Commissioner may accept examinations administered by a testing service as satisfying the examination requirements of persons seeking license as agents, solicitors, counselors, or adjusters under the Oklahoma Insurance Code. The Commissioner may negotiate agreements with such testing services to include performance of examination development, test scheduling, examination site arrangements, test administration, grading, reporting, and analysis. The Commissioner may require such testing services to correspond directly with the applicants with regard to the administration of such examinations and that such testing services collect fees for administering such examinations directly from the applicants. The Commissioner may stipulate that

any agreements with such testing services provide for the administration of examinations in specific locales and at specified frequencies. The Commissioner shall retain the authority to establish the scope and type of all examinations.

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

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

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

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

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

applicant has passed. Formal evidence of licensing shall be issued by the Commissioner to the licensee within a reasonable time.

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

K. An applicant who has failed to pass the first two examinations for the license applied for shall not be permitted to take a subsequent examination until the expiration of thirty (30) days after the last previous examination. ~~An applicant shall take and pass the examination within one hundred eighty (180) days of the date of the initial application. If applicant fails to pass the examination within the specified time period, the applicant shall submit a new application accompanied by any applicable fees.~~ Examination fees for subsequent examinations shall not be waived.

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

SECTION 2. AMENDATORY 36 O.S. 2001, Section 1435.29, as last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp. 2010, Section 1435.29), is amended to read as follows:

Section 1435.29 A. 1. Each insurance producer, with the exception of title producers and aircraft title producers or any

other producer exempt by rule, shall, biennially, complete not less than twenty-one (21) clock hours of continuing insurance education ~~which shall cover subjects in the lines for which the insurance producer is licensed~~. Such education may include a written or oral examination.

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

3. Licensees, with the exception of title producers and aircraft title producers or any other producer exempt by rule, shall complete, in addition to the foregoing, three (3) clock hours of ethics course work in this same period.

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

B. 1. The Insurance Commissioner shall approve courses and providers of resident provisional producer prelicensing education and continuing education. The Insurance Department may use one or more of the following to review and provide a nonbinding

recommendation to the Insurance Commissioner on approval or disapproval of courses and providers of resident provisional producer prelicensing education and continuing education:

a. employees of the Insurance Commissioner,

b. a continuing education advisory committee, or

c. an independent service whose normal business activities include the review and approval of continuing education courses and providers. The Commissioner may negotiate agreements with such independent service to review documents and other materials submitted for approval of courses and providers and provide the Commissioner with its nonbinding recommendation. The Commissioner may require such independent service to collect the fee charged by the independent service for reviewing materials provided for review directly from the course providers.

The Insurance Commissioner has sole authority to approve courses and providers of resident provisional producer prelicensing education and continuing education. If the Insurance Commissioner uses one of the entities listed above to provide a nonbinding recommendation, the Commissioner shall adopt or decline to adopt the recommendation within thirty (30) days of receipt of the recommendation. In the event the Insurance Commissioner takes no

action within said thirty-day period, the recommendation made to the Commissioner will be deemed to have been adopted by the Commissioner.

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

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

3. An insurance producer who, during the time period prior to renewal, participates in an approved professional designation program shall be deemed to have met the biennial requirement for continuing education.

Each course in the curriculum for the program shall total a minimum of twenty-four (24) hours. Each approved professional designation program included in this section shall be reviewed for quality and compliance every three (3) years in accordance with standardized criteria promulgated by rule. Continuation of approved status is contingent upon the findings of the review. The list of professional designation programs approved under this paragraph shall be made available to producers and providers annually.

4. The Insurance Department may promulgate rules providing that courses or programs offered by professional associations shall qualify for presumptive continuing education credit approval. The rules shall include standardized criteria for reviewing the professional associations' mission, membership, and other relevant information, and shall provide a procedure for the Department to disallow all or part of a presumptively approved course. Professional association courses approved in accordance with this paragraph shall be reviewed every three (3) years to determine whether they continue to qualify for continuing education credit.

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

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

C. Annual fees and course submission fees shall be set forth as a rule by the Commissioner. The fees are payable to the Insurance

Commissioner. Provided, public-funded educational institutions, federal agencies, nonprofit organizations, not-for-profit organizations, and Oklahoma state agencies shall be exempt from this subsection.

D. Failure of an insurance producer or customer service representative to comply with the requirements of the Oklahoma Producer Licensing Act may, after notice and opportunity for hearing, result in censure, suspension, nonrenewal of license or a civil penalty of up to Five Hundred Dollars ($500.00) or by both such penalty and civil penalty. Said civil penalty may be enforced in the same manner in which civil judgments may be enforced.

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

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

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

SECTION 3. AMENDATORY 36 O.S. 2001, Section 6209, as amended by Section 45, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2010, Section 6209), is amended to read as follows:

Section 6209. A. Each examination for a license as an adjuster shall be prescribed by the Commissioner and shall be of sufficient scope to reasonably test the knowledge of the applicant as to the

kinds of insurance contracts which may be dealt with in accordance with the license applied for, the duties and responsibilities of insurers pursuant to said contracts and pursuant to the laws of this state applicable to the adjusting claims of losses in accordance with the license applied for.

B. An applicant for a license as an adjuster may qualify in any one of the following classes of insurance or combinations thereof, and the license when issued may be limited to cover adjusting in any one of the following classes of insurance or combinations thereof. The application for a license shall specify which of the following classes of business the application and license are to cover:

1. ~~motor vehicle physical damage, meaning~~ Property, including but not limited to marine, inland marine, aircraft and damages to all land motor vehicles and trailers whether or not covered by first party physical damage coverages or property damage liability coverages; or

2. ~~fire and allied lines, including marine, inland marine, and aircraft; or~~

~~3. casualty~~ Casualty, meaning all lines of liability insurance coverages for bodily injuries, personal injury, and property damages; or

~~4. workers'~~ 3. Workers' compensation; or

~~5. crime~~ 4. Crime and fidelity bonds; or

~~6. crop/hail~~ 5. Crop/hail; or

6. Multi-peril crop.

C. The Commissioner shall prepare and make available to applicants a manual of instructions stating in general terms the subjects which may be covered in any examination for a license as an adjuster. The Commissioner may charge a reasonable amount not to exceed Forty Dollars ($40.00) for the study manual.

SECTION 4. AMENDATORY 36 O.S. 2001, Section 6210, as last amended by Section 46, Chapter 176, O.S.L. 2009 (36 O.S. Supp. 2010, Section 6210), is amended to read as follows:

Section 6210. A. The answers of the applicant to any examination for licensing as an adjuster shall be written by the applicant under supervision of the Insurance Commissioner or an administrator approved by the Insurance Commissioner.

B. Examination for licensing shall be at such reasonable times and places as are designated by the Insurance Commissioner.

C. An applicant who has failed to pass the first ~~examination~~ two examinations for the license ~~for which~~ applied ~~may take a second examination within~~ for shall not be permitted to take a subsequent examination until the expiration of thirty (30) days ~~following the first~~ after the last examination. ~~An applicant who has failed to pass the first two examinations for the license for which applied shall not be permitted to take a subsequent examination until the expiration of thirty (30) days after the last previous examination. An applicant shall take and pass the examination within one hundred~~

~~eighty (180) days of the date of the initial application. If the applicant fails to pass an examination within the specified time period, the applicant shall submit a new application accompanied by any applicable fees.~~ Examination fees for subsequent examinations shall not be waived.

SECTION 5. AMENDATORY 36 O.S. 2001, Section 6217, as last amended by Section 2, Chapter 355, O.S.L. 2010 (36 O.S. Supp. 2010, Section 6217), is amended to read as follows:

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

B. Any licensee applying for renewal of a license as an adjuster shall have completed not less than twenty-four (24) clock hours of continuing insurance education, of which three (3) hours ~~must~~ shall be in ethics, within the previous twenty-four (24) months prior to renewal of the license. ~~Such continuing education shall cover subjects in the classes of insurance for which the adjuster is licensed.~~ The Insurance Commissioner shall approve courses and providers of continuing education for insurance adjusters as required by this section.

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

1. Employees of the Insurance Commissioner;

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

3. An independent service whose normal business activities include the review and approval of continuing education courses and providers. The Commissioner may negotiate agreements with such independent service to review documents and other materials submitted for approval of courses and providers and present the Commissioner with its nonbinding recommendation. The Commissioner may require such independent service to collect the fee charged by the independent service for reviewing materials provided for review directly from the course providers.

C. An adjuster who, during the time period prior to renewal, participates in an approved professional designation program shall be deemed to have met the biennial requirement for continuing education. Each course in the curriculum for the program shall total a minimum of twenty (20) hours. Each approved professional designation program included in this section shall be reviewed for quality and compliance every three (3) years in accordance with

standardized criteria promulgated by rule. Continuation of approved status is contingent upon the findings of the review. The list of professional designation programs approved under this subsection shall be made available to producers and providers annually.

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

E. The Insurance Department may promulgate rules providing that courses or programs offered by professional associations shall qualify for presumptive continuing education credit approval. The rules shall include standardized criteria for reviewing the professional associations' mission, membership, and other relevant information, and shall provide a procedure for the Department to disallow a presumptively approved course. Professional association courses approved in accordance with this subsection shall be reviewed every three (3) years to determine whether they continue to qualify for continuing education credit.

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

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

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

I. If the request, proof of compliance with the continuing education requirement and fee for renewal of a license as an adjuster are filed with the Commissioner prior to the expiration of

the existing license, the licensee may continue to act pursuant to said license, unless revoked or suspended prior to the expiration date, until the issuance of a renewal license or until the expiration of ten (10) days after the Commissioner has refused to renew the license and has mailed notice of said refusal to the licensee. Any request for renewal filed after the date of expiration may be considered by the Commissioner as an application for a new license.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 1304, is amended to read as follows:

Section 1304. ~~All licenses of bail bondsmen~~ Each bail bondsman license issued shall expire ~~annually~~ biennially at 12:00 o'clock midnight on the last day of ~~September~~ the birth month of the bondsman, unless revoked or suspended prior thereto by the Insurance Commissioner, or upon notice served upon the Commissioner that the insurer or employer of any bail bondsman has canceled the licensee's authority to act for such insurer or employer.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 1305, as last amended by Section 55, Chapter 222, O.S.L. 2010 (59 O.S. Supp. 2010, Section 1305), is amended to read as follows:

Section 1305. A. The application for license to serve as a bail bondsman shall affirmatively show that the applicant:

1. Is a person who has reached the age of twenty-one (21) years;

2. Is of good character and reputation;

3. Has not been previously convicted of, or pled guilty or nolo contendere to, any felony, or to a misdemeanor involving moral turpitude or dishonesty;

4. Is a citizen of the United States;

5. Has been a bona fide resident of the state for at least one (1) year;

6. Will actively engage in the bail bond business;

7. Has knowledge or experience, or has received instruction in the bail bond business; and

8. Has a high school diploma or its equivalent; provided, however, the provisions of this paragraph shall apply only to initial applications for license submitted on or after November 1, 1997, and shall not apply to renewal applications for license.

B. The applicant shall apply ~~in writing~~ electronically on forms ~~prepared and supplied~~ approved by the Insurance Commissioner, and the Commissioner may propound any reasonable interrogatories to an applicant for a license pursuant to Sections 1301 through 1340 of this title, or on any renewal thereof, relating to qualifications, residence, prospective place of business and any other matters which, in the opinion of the Commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation relative to the

determination of the fitness of the applicant to be licensed or to continue to be licensed including, but not limited to, requiring a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

C. An applicant shall furnish to the Commissioner a license fee of Two Hundred Fifty Dollars ($250.00) with the application~~, a complete set of the fingerprints of the applicant~~ and two recent credential-size full-face photographs of the applicant. ~~The fingerprints of the applicant shall be certified by an authorized law enforcement officer.~~ In order to make a determination of license eligibility, the Commissioner is authorized to require fingerprints of applicants and submit such fingerprints and the fee required to perform the criminal history record checks to the Oklahoma State Bureau of Investigation, the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive this information for state and national criminal history record checks. The applicant shall provide with the application an investigative fee of One Hundred Dollars ($100.00) ~~with which the Commissioner will conduct an investigation of the applicant. All fees shall be nonrefundable~~ to be paid to the Commissioner or to a contractor chosen by the Commissioner for purposes of collection and transmission of fingerprints authorized by this section.

D. The Commissioner shall require a criminal history record check on each applicant in accordance with this section. The

Commissioner shall require each applicant to submit a full set of fingerprints, including a scanned file from a hard copy, in order for the Commissioner to obtain and receive National Criminal History Records from the Federal Bureau of Investigation Criminal Justice Information Services Division.

E. The Commissioner may contract for the collection and transmission of fingerprints authorized under this section. If the Commissioner does so, the Commissioner may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant.

F. The Commissioner shall be authorized to receive criminal history record information in lieu of the Oklahoma State Bureau of Investigation or any governmental agency or entity authorized to receive this information that submitted the fingerprints to the Federal Bureau of Investigation.

G. The Commissioner shall treat and maintain the fingerprints of an applicant and any criminal history record information obtained pursuant to this section as confidential and shall apply security measures consistent with the Criminal Justice Information Services Division of the Federal Bureau of Investigation standards for the electronic storage of fingerprints and necessary identifying information and limit the use of records solely to the purposes authorized by this section. The fingerprints and any criminal history record information shall not be subject to subpoena, other

than one issued in a criminal action or investigation and shall be confidential by law and privileged, and shall not be subject to discovery or admissible in evidence in any private civil action.

H. Failure of the applicant to secure approval of the Commissioner shall not preclude the applicant from reapplying, but a second application shall not be considered by the Commissioner within three (3) months after denial of the last application.

~~E.~~ I. The fee for a duplicate pocket license shall be Twenty-five Dollars ($25.00).

J. The Commissioner may promulgate rules as are necessary for the implementation and administration of this section.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 1308, is amended to read as follows:

Section 1308. A. The applicant for bail bondsman shall be required to appear in person and take ~~a written~~ an examination prepared by the Insurance Commissioner, testing the applicant's ability and qualifications to be a bail bondsman. Applications are valid for six (6) months after submission. If an applicant has not acted upon the application within that period, a new application and fees shall be submitted for the applicant to be considered for licensure.

B. Each applicant shall become eligible for examination ~~ninety (90) days after the date the application is received by the Commissioner,~~ if the applicant has completed sixteen (16) hours of

education as required by Section 1308.1 of this title ~~and the Commissioner is otherwise satisfied as to the applicant's fitness to take~~ prior to the examination. Examinations shall be held at times and places as designated by the Commissioner~~, and the applicant shall be given notice of the time and place not less than fifteen (15) days prior to taking the examination~~.

C. The fee for the examination shall be One Hundred Dollars ($100.00) ~~in addition to the license fee heretofore provided and shall be submitted after approval of the application but prior to taking the examination~~. Results will be ~~mailed to the applicant within thirty (30) days~~ provided after the applicant is examined.

D. The failure of an applicant to pass an examination shall not preclude the applicant from taking subsequent examinations; provided, however, that at least ~~three (3) months must~~ thirty (30) days shall intervene between examinations; and provided further, after a third or subsequent examination failure, an applicant may not ~~apply and~~ be examined for at least one (1) year after the last examination failure.

SECTION 9. AMENDATORY 59 O.S. 2001, Section 1308.1, is amended to read as follows:

Section 1308.1 A. In order to be eligible to take the examination required to be licensed as a bail bondsman, each person shall complete not less than sixteen (16) clock hours of education in subjects pertinent to the duties and responsibilities of a bail

bondsman, including all laws and regulations related thereto. Further, each licensee shall complete ~~annually~~ biennially not less than ~~eight (8)~~ sixteen (16) clock hours of continuing education in said subjects prior to renewal of the license. Such continuing education shall not include a written or oral examination.

Provided, any person licensed as a bail bondsman prior to November 1, 1989, shall not be required to complete sixteen (16) clock hours of education prior to licensure but shall be subject to the ~~eight-hours~~ sixteen-hour continuing education requirement in order to renew said license, except that a licensed bail bondsman who is sixty-five (65) years of age or older and who has been licensed as a bail bondsman for fifteen (15) years or more shall be exempt from both the education and continuing education requirements of this section.

B. The Oklahoma Bondsman Association shall provide education for bail bondsman licensure as required by this section; provided that the Insurance Commissioner shall approve the courses offered and provided further such education meets the general standards for education otherwise established by the Insurance Commissioner.

C. The Oklahoma Bondsman Association shall submit ~~an annual~~ biennially a fee of ~~One Hundred Dollars ($100.00)~~ Two Hundred Dollars ($200.00), payable to the Insurance Commissioner which shall be deposited ~~in the Bail Bondsmen Revolving Fund~~ with the State

Treasurer for the purposes of fulfilling and accomplishing the conditions and purposes of this section.

D. Any person who falsely represents to the Insurance Commissioner that compliance with this section has been met shall be subject, after notice and hearing, to the penalties and fines set out in Section 1310 of this title.

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

SECTION 10. AMENDATORY 59 O.S. 2001, Section 1309, is amended to read as follows:

Section 1309. A. A renewal license shall be issued by the Insurance Commissioner to a licensee who has continuously maintained same in effect, without further examination, upon payment of a renewal fee of ~~One Hundred Dollars ($100.00)~~ Two Hundred Dollars ($200.00) for a bail bondsman and proof of completion of ~~eight (8)~~ sixteen (16) hours of continuing education as required by Section 1308.1 of this title. The renewal fee shall be submitted ~~by September 15 of each year~~ biennially on the last day of the birth month of the bondsman. Such licensee shall in all other respects be required to comply with and be subject to the provisions of ~~Section~~ Sections 1301 ~~et seq.~~ through 1340 of this title.

B. In case of renewal of a professional bondsman license, the application shall also provide a financial statement prepared by an accounting firm or individual holding a permit to practice public

accounting in this state in accordance with generally accepted principles of accounting procedures showing assets, liabilities, and net worth, said statement to be as of a date not earlier than ninety (90) days prior to submission of the license renewal application. The statements shall be attested to by an unqualified opinion of the accounting firm or individual holding a permit to practice public accounting in this state that prepared the statement or statements. The statement shall be submitted ~~by September 15 of each year~~ annually on the last day of the birth month of the bondsman.

C. In case of renewal of a property bondsman license, the application shall also provide a county assessor's written statement stating the property's assessed value for each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds. The written statements shall be submitted ~~by September 15 of each year~~ annually on the last day of the birth month of the bondsman.

D. If the license is not renewed or the renewal fee is not paid by ~~September 30 of each year~~ the last day of the birth month of the bondsman, such license shall expire automatically pursuant to Section 1304 of this title. ~~If after November 30 of each year~~ The license may be reinstated by payment of the renewal fee if payment is received within one (1) year of expiration. If after the one-year date, the license has not been renewed ~~or the renewal fee paid~~,

then ~~such~~ the licensee shall be required to apply for a license as a new applicant.

E. ~~Late renewal~~ Reinstatement fees shall be double the original fee.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 1314, as last amended by Section 58, Chapter 222, O.S.L. 2010 (59 O.S. Supp. 2010, Section 1314), is amended to read as follows:

Section 1314. A. When a bail bondsman or managing general agent accepts collateral, the bail bondsman or managing general agent shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received. A description of the collateral shall be listed on the undertaking by affidavit. All property taken as collateral, whether personal, intangible or real, shall be receipted for and deemed, for all purposes, to be in the name of, and for the use and benefit of, the surety company or licensed professional bondsman, as the case may be. Every receipt, encumbrance, mortgage or other evidence of the custody, possession or claim shall facially indicate that it has been taken or made on behalf of the surety company or professional bondsman through its authorized agent, the individual licensed bondsman or managing general agent who has transacted the undertaking with the bond principal. Any mortgage or other encumbrance against real property taken under the provisions of this section which does not indicate beneficial ownership of the claim to

be in favor of the surety company or professional bondsman shall be deemed to constitute a cloud on the title to real estate and shall subject the person filing, or causing same to be filed, in the real estate records of the county, to a penalty of treble damages or One Thousand Dollars ($1,000.00), whichever is greater, in an action brought by the person, organization or corporation injured thereby. For collateral taken, or liens or encumbrances taken or made pursuant to the provisions of this section, the individual bondsman or managing general agent taking possession of the property or making the lien, claim or encumbrance shall do so on behalf of the surety company or professional bondsman, as the case may be, and the individual licensed bondsman shall be deemed to act in the capacity of fiduciary in relation to both:

1. The principal or other person from whom the property is taken or claimed against; and

2. The surety company or professional bondsman whose agent is the licensed bondsman.

As fiduciary and bailee for hire, the individual bondsman shall be liable in criminal or civil actions at law for failure to properly receipt or account for, maintain or safeguard, release or deliver possession upon lawful demand, in addition to any other penalties set forth in this subsection. No person who takes possession of property as collateral pursuant to this section shall use or otherwise dissipate the asset, or do otherwise with the

property than to safeguard and maintain its condition pending its return to its lawful owner, or deliver to the surety company or professional bondsman, upon lawful demand pursuant to the terms of the bailment.

B. Every licensed bondsman shall file monthly ~~by mail with return receipt requested~~ electronically with the Insurance Commissioner and on forms ~~prescribed~~ approved by the Commissioner as follows:

1. A monthly report showing every bond written, amount of bond, whether released or revoked during each month, showing the court and county, and the style and number of the case, premiums charged and collateral received; and

2. Professional bondsmen shall submit ~~by mail with return receipt requested notarized~~ electronic monthly reports showing total current liabilities, all bonds written during the month by the professional bondsman and by any licensed bondsman who may countersign for the professional bondsman, all bonds terminated during the month, and the total liability and a list of all bondsmen currently employed by the professional bondsmen.

Monthly reports shall be p~~ostmarked or stamped "received" by~~ submitted electronically to the Insurance Commissioner by the fifteenth day of each month. The records shall be maintained by the Commissioner as public records.

C. Every licensee shall keep at the place of business of the licensee the usual and customary records pertaining to transactions authorized by the license. All of the records shall be available and open to the inspection of the Commissioner at any time during business hours during the three (3) years immediately following the date of the transaction. The Commissioner may require a financial examination or market conduct survey during any investigation of a licensee.

D. Each bail bondsman shall submit each month with the monthly report of the bondsman, a reviewal fee equal to two-tenths of one percent (2/10 of 1%) of the new liability written for that month. The fee shall be payable to the Insurance Commissioner who shall deposit same with the State Treasurer.

SECTION 12. This act shall become effective July 1, 2011.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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