

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2453

By: Key

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6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 1435.6, which relates to the application
9 examination requirements for insurance producer
10 licenses; modifying requirements; amending 36 O.S.
11 2011, Section 1464, which relates to certain
12 insurance broker licensure requirements; restricting
13 licensure to existing licensees; modifying
14 requirements; amending 36 O.S. 2011, Sections 1473
15 and 1477, which relate to the Managing General Agents
16 Act; updating statutory language and reference;
17 amending 36 O.S. 2011, Sections 1608, 1609 and 1620,
18 which relate to the investment of certain funds by
19 insurers; allowing for investment in general
20 obligation bonds; specifying certain securities shall
21 not be considered acceptable investments; requiring
22 that certificates of deposit be classified as
23 negotiable and transferable; amending 36 O.S. 2011,
24 Sections 1651 and 1654, which relate to insurance
company subsidiary requirements; adding definitions;
requiring the filing of certain enterprise risk
report; providing that failure to file certain report
shall be a violation; amending 36 O.S. 2011, Sections
1703 and 1707, which relate to the administration of
certain deposits; modifying requirements; authorizing
the release and return of certain deposits upon
proper request and financial review of insurers;
amending 36 O.S. 2011, Section 3639.1, which relates
to the improper cancellation or refusal to renew
homeowner insurance policies; adding certain
insurance coverage to prohibited cancellations;
modifying notification requirement; amending 36 O.S.
2011, Section 4030.9, which relates to the
determination of the maturity date of certain
benefits; removing certain annuity contract

1 determinations; amending 36 O.S. 2011, Sections 6206
2 and 6217, which relate to the Insurance Adjusters
3 Licensing Act; requiring application for license
4 within certain period after applicant passes certain
5 examination; removing certain continuing education
6 requirement; requiring insurance adjusters notify
7 Insurance Commissioner of certain administrative
8 actions or criminal prosecutions taken against
9 adjuster; amending 36 O.S. 2011, Section 6475.13,
10 which relates to independent external review
11 organization requirements; authorizing Commissioner
12 to promulgate by rule additional minimum
13 qualifications for independent organizations;
14 authorizing Commissioner to rely upon certain
15 accreditation standards to determine compliance;
16 amending 36 O.S. 2011, Section 6608, which relates to
17 service warranty association licensure requirements;
18 requiring annual submission of verification an entity
19 is subject to certain exclusions; providing for
20 codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2011, 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

1 shall be developed and conducted under rules and regulations
2 prescribed by the Insurance Commissioner.

3 B. The Commissioner may make arrangements, including
4 contracting with an outside testing service, for administering
5 examinations and collecting the nonrefundable fee set forth in
6 Section 1435.23 of this title.

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

10 D. ~~After completion and filing of the application with~~ Prior to
11 the completion and filing of the application, the Insurance
12 ~~Commissioner, except as provided in Section 1435.10 of this title,~~
13 ~~the Commissioner~~ shall subject each applicant for license as an
14 insurance ~~agent~~ producer, insurance consultant, limited insurance
15 representative, or customer service representative to an examination
16 approved by the Commissioner as to competence to act as a licensee,
17 which each applicant shall personally take and pass to the
18 satisfaction of the Commissioner, except as provided in Section
19 1435.10 of this title. The Commissioner may accept examinations
20 administered by a testing service as satisfying the examination
21 requirements of persons seeking license as agents, solicitors,
22 counselors, or adjusters under the Oklahoma Insurance Code. The
23 Commissioner may negotiate agreements with such testing services to
24 include performance of examination development, test scheduling,

1 examination site arrangements, test administration, grading,
2 reporting, and analysis. The Commissioner may require such testing
3 services to correspond directly with the applicants with regard to
4 the administration of such examinations and that such testing
5 services collect fees for administering such examinations directly
6 from the applicants. The Commissioner may stipulate that any
7 agreements with such testing services provide for the administration
8 of examinations in specific locales and at specified frequencies.
9 The Commissioner shall retain the authority to establish the scope
10 and type of all examinations.

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

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

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

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

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

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

15 ~~K. An applicant who has failed to pass the first two~~
16 ~~examinations for the license applied for shall not be permitted to~~
17 ~~take a subsequent examination until the expiration of thirty (30)~~
18 ~~days after the last previous examination. Examination fees for~~
19 ~~subsequent examinations shall not be waived.~~

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

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1 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1464, is
2 amended to read as follows:

3 Section 1464. A. 1. ~~To be licensed as a resident life or~~
4 ~~accident and health insurance broker, an individual or legal entity~~
5 The resident life or accident and health insurance broker license
6 shall only be offered to existing licensees. Licensees holding the
7 life or accident and health broker license shall have been a
8 licensed resident ~~agent or agency~~ producer in this state
9 continuously for at least two (2) years immediately prior to
10 application and such ~~agent's~~ producer's license shall remain in
11 effect in order to maintain the broker's license. ~~A nonresident~~
12 ~~life or accident and health insurance broker applicant may receive a~~
13 ~~license in this state if they are licensed and in good standing in~~
14 ~~their home state, and if the home state of the applicant awards~~
15 ~~nonresident licenses to residents of this state on the same basis.~~

16 2. ~~Any applicant for a broker's license shall have no Oklahoma~~
17 ~~Insurance Code violations or record with the Insurance Commissioner~~
18 ~~or an insurance regulatory body of another state and shall not have~~
19 ~~been convicted, or pleaded guilty or nolo contendere to any felony~~
20 ~~or to a misdemeanor involving moral turpitude or dishonesty.~~

21 ~~3.~~ The renewal fee for a life or accident and health insurance
22 broker's license shall be Fifty Dollars (\$50.00). The license may
23 be renewed each year for the same fee. Late application for renewal
24 of a license shall require a fee of double the amount of the

1 original current license fee. The fees shall be placed in the State
2 Insurance Commissioner Revolving Fund.

3 B. 1. Every ~~applicant for a~~ life or accident and health
4 insurance ~~broker's license~~ broker licensee shall file with the
5 Commissioner and, ~~upon approval of the application,~~ maintain in
6 force while licensed and for at least two (2) years following
7 termination of the license, evidence satisfactory to the
8 Commissioner of an errors and omissions policy covering the
9 individual ~~applicant~~ in an amount of not less than One Hundred
10 Thousand Dollars (\$100,000.00) annual aggregate for all claims made
11 during the policy period, or covering the ~~applicant~~ individual under
12 a blanket liability policy insuring other life or accident and
13 health insurance ~~agents or brokers~~ producers in an amount of not
14 less than Five Hundred Thousand Dollars (\$500,000.00) annual
15 aggregate for all claims made during the policy period.

16 2. Such policy shall be issued by an insurance company
17 authorized to do business in this state, shall be continuous in
18 form, and shall provide coverage acceptable to the Commissioner for
19 errors and omissions of the life or accident and health insurance
20 broker. The policy carrier shall notify the Commissioner of any
21 lapse or termination of errors and omissions coverage.

22 3. Failure to maintain a policy in force shall result in
23 automatic termination of licensure, and the license shall be
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1 returned by its lawful custodian to the Commissioner for further
2 cancellation.

3 C. 1. Every applicant shall also provide a bond in favor of
4 the people of Oklahoma executed by an authorized surety company and
5 payable to any party injured under the term of the bond.

6 2. The bond shall be continuous in form and in the amount of
7 Five Thousand Dollars (\$5,000.00) total aggregate liability, or more
8 if the Commissioner deems it necessary. The bond shall be
9 conditioned upon full accounting and due payments to the person or
10 company entitled thereto as an incident of life or accident and
11 health insurance transactions and funds brought into the life or
12 accident and health insurance broker's possession under his or her
13 license.

14 3. The bond shall remain in force and effect until the surety
15 is released from liability by the Commissioner or until the bond is
16 canceled by the surety. The surety may cancel the bond and be
17 released from further liability thereunder upon thirty (30) days of
18 written notice, in advance, to the Commissioner. Said cancellation
19 shall not affect any liability incurred or accrued thereunder before
20 the termination of the thirty-day period. Upon receipt of any
21 notice of cancellation, the Commissioner shall immediately notify
22 the licensee.

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1 4. The license shall automatically terminate upon there being
2 no bond in force, and the license shall be returned by its lawful
3 custodian to the Commissioner for further cancellation.

4 D. Life or accident and health insurance brokers shall be
5 subject to the same violations, fines, and penalties as stated in
6 Section ~~1428~~ 1435.13 of this title. Violations of the provisions of
7 the Oklahoma Life, Accident and Health Insurance Broker Act may
8 result, after notice and hearing, in censure, suspension, or
9 revocation of license or a civil penalty of not less than One
10 Hundred Dollars (\$100.00), nor more than One Thousand Dollars
11 (\$1,000.00), or a combination thereof for each occurrence.

12 SECTION 3. AMENDATORY 36 O.S. 2011, Section 1473, is
13 amended to read as follows:

14 Section 1473. A. No person shall act in the capacity of a
15 managing general agent with respect to risks located in this state
16 for an insurer unless such person is licensed as ~~an agent or broker~~
17 a producer pursuant to ~~Section 1421 et seq.~~ Sections 1435.1 through
18 1435.41 of ~~Title 36 of the Oklahoma Statutes~~ this title.

19 B. No person shall act in the capacity of a managing general
20 agent, representing an insurer domiciled in this state with respect
21 to risks located outside this state, unless such person is licensed
22 as ~~an agent or broker~~ pursuant to ~~Section 1421 et seq.~~ a producer
23 pursuant to Sections 1435.1 through 1435.41 of ~~Title 36 of the~~

1 ~~Oklahoma Statutes~~ this title. Provided, such license may be a
2 nonresident license.

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

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

7 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1477, is
8 amended to read as follows:

9 Section 1477. A. If the Insurance Commissioner finds, after a
10 hearing conducted in accordance with Article II of the
11 Administrative Procedures Act, ~~Section 309 et seq.~~ Sections 250
12 through 323 of Title 75 of the Oklahoma Statutes, that any person
13 had violated any provision of this act or rules promulgated pursuant
14 thereto, the Commissioner may order:

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

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

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

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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 is intended to or shall, in
9 any manner, limit or restrict the rights of policyholders, claimants
10 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.

14 SECTION 5. AMENDATORY 36 O.S. 2011, Section 1608, is
15 amended to read as follows:

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

1 SECTION 6. AMENDATORY 36 O.S. 2011, Section 1609, is
2 amended to read as follows:

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

14 SECTION 7. AMENDATORY 36 O.S. 2011, Section 1620, is
15 amended to read as follows:

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

21 B. An insurer may invest or deposit any of its funds in
22 checking, share or saving accounts under certificates of deposit or
23 time deposits in solvent savings and loan associations which are
24 insured by the Federal Savings and Loan Insurance Corporation.

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

5 D. All certificates of deposits or other time deposit
6 instruments shall be classified as negotiable and transferable as
7 required by Section 1703 of this title.

8 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1651, is
9 amended to read as follows:

10 Section 1651. As used in this act, the following terms shall
11 have the respective meanings hereinafter set forth, unless the
12 context shall otherwise require:

13 ~~(a) Affiliate.~~ 1. An "affiliate" of, or person "affiliated"
14 with, the specific person, is a person that directly or indirectly
15 through one or more intermediaries, controls, or is controlled by,
16 or is under common control with, the person specified;i

17 ~~(b) Commissioner.~~ 2. The term "Commissioner" shall mean the
18 Insurance Commissioner, ~~his~~ deputies of the Commissioner, or the
19 Insurance Department, as appropriate;i

20 ~~(c) Control.~~ 3. The term "control" (including the terms
21 "controlling", "controlled by" and "under common control with")
22 means the possession, direct or indirect, of the power to direct or
23 cause the direction of the management and policies of a person,
24 whether through the ownership of voting securities, by contract or

1 otherwise, unless the power is the result of an official position
2 with or corporate office held by the person. Control shall be
3 presumed to exist if any person, directly or indirectly, owns,
4 controls, holds with the power to vote, or holds proxies
5 representing ten percent (10%) or more of the voting securities of
6 any other person. This presumption may be rebutted by a showing
7 that control does not exist in fact in the manner provided in
8 subsection I of Section 4(i) 1654 of this title. The Commissioner
9 may determine, after furnishing all persons in interest notice and
10 opportunity to be heard and making specific findings of fact to
11 support such determination, that control exists in fact,
12 notwithstanding the absence of a presumption to that effect-;

13 ~~(d) Insurance Holding Company System.~~ 4. "Enterprise risk"
14 shall mean any activity, circumstance, event or series of events
15 involving one or more affiliates of an insurer that, if not remedied
16 promptly, is likely to have a material adverse effect upon the
17 financial condition or liquidity of the insurer or its insurance
18 holding company system as a whole, including, but not limited to,
19 anything that would cause the insurer's risk-based capital to fall
20 into company action level as set forth in Section 1524 of this title
21 or would cause the insurer to be in a hazardous financial condition;

22 5. "Hazardous financial condition" shall mean that, based on
23 its present or reasonably anticipated financial condition, an
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1 insurer, although not yet financially impaired or insolvent, is
2 unlikely to be able:

- 3 a. to meet obligations to policyholders with respect to
4 known claims and reasonably anticipated claims, or
5 b. to pay other obligations in the normal course of
6 business;

7 6. An "insurance holding company system" consists of two or
8 more affiliated persons, one or more of which is an insurer-;

9 ~~(e) Insurer. The term "insurer"~~ 7. "Insurer" shall have the
10 same meaning as set forth in ~~36 Oklahoma Statutes,~~ Section 103 of
11 Title 36 of the Oklahoma Statutes, except that it shall not include
12 agencies, authorities or instrumentalities of the United States, its
13 possessions and territories, the Commonwealth of Puerto Rico, the
14 District of Columbia, or a state or political subdivision of a
15 state-;

16 ~~(f) Person.~~ 8. A "person" is an individual, a corporation, a
17 partnership, an association, a joint stock company, a trust, an
18 unincorporated organization, any similar entity or any combination
19 of the foregoing acting in concert, but shall not include any
20 securities broker performing no more than the usual and customary
21 broker's function-;

22 ~~(g) Securityholder.~~ 9. A "securityholder" of a specified person
23 is one who owns any security of such person, including common stock,
24 preferred stock, debt obligations, and any other security

1 convertible into or evidencing the right to acquire any of the
2 foregoing;

3 ~~(h) Subsidiary.~~ 10. A "subsidiary" of a specified person is an
4 affiliate controlled by such person directly, or indirectly, through
5 one or more intermediaries; and

6 ~~(i) Voting Security.~~ 11. The term "voting security" shall
7 include any security convertible into or evidencing a right to
8 acquire a voting security.

9 SECTION 9. AMENDATORY 36 O.S. 2011, Section 1654, is
10 amended to read as follows:

11 Section 1654. ~~(a) Registration.~~ A. Every insurer which is
12 authorized to do business in this state and which is a member of an
13 insurance holding company system and every individual who controls
14 an insurer shall annually register with the Insurance Commissioner,
15 except a foreign insurer subject to disclosure requirements and
16 standards adopted by statute or regulation in the jurisdiction of
17 its domicile which are substantially similar to those contained in
18 this section. Any insurer which is subject to registration under
19 this section shall register thirty (30) days after it becomes
20 subject to registration, unless the Commissioner for good cause
21 shown extends the time for registration, and then within such
22 extended time. The Commissioner may require any authorized insurer
23 which is a member of a holding company system which is not subject
24 to registration under this section to furnish a copy to the

1 Commissioner of the registration statement or other information
2 filed by such insurance company with the insurance regulatory
3 authority of domiciliary jurisdiction.

4 ~~(b) Information and Form Required.~~ B. Every insurer subject to
5 registration shall file a registration statement on a form
6 prescribed by the National Association of Insurance Commissioners,
7 which shall contain current information about:

8 ~~(i) the~~

9 1. The capital structure, general financial condition,
10 ownership and management of the insurer and any person controlling
11 the insurer;

12 ~~(ii) the~~

13 2. The identity and relationship of every member of the
14 insurance holding company system;

15 ~~(iii) the~~

16 3. The following agreements in force, relationships subsisting,
17 and transactions currently outstanding or which have occurred during
18 the previous calendar year between such insurer and its affiliates:

19 ~~(1)~~ a. loans, other investments or purchases, sales or
20 exchanges of securities of the affiliates by the
21 insurer or of the insurer by its affiliates[†]1

22 ~~(2)~~ b. purchases, sales or exchanges of assets[†]1

23 ~~(3)~~ c. transactions not in the ordinary course of business[†]1

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1 ~~(4)~~ d. guarantees or undertakings for the benefit of an
2 affiliate which result in an actual contingent
3 exposure of the insurer's assets to liability, other
4 than insurance contracts entered into in the ordinary
5 course of the insurer's business~~†~~l

6 ~~(5)~~ e. all management and service contracts and all
7 cost-sharing arrangements~~†~~l

8 ~~(6)~~ f. reinsurance agreements covering all or substantially
9 all of one or more lines of insurance of the ceding
10 company~~†~~l

11 ~~(7)~~ g. dividends and other distributions to shareholders~~†~~l
12 and

13 ~~(8)~~ h. consolidated tax allocation agreements~~†~~i

14 ~~(iv)~~ ~~other~~

15 4. Other matters concerning transactions between registered
16 insurers and any affiliates as may be included from time to time in
17 any registration forms adopted or approved by the Commissioner; and

18 ~~(v)~~ ~~any~~

19 5. Any pledge of the insurer's stock, including stock of any
20 subsidiary or controlling affiliate, for a loan made to any member
21 of the insurance holding company system.

22 ~~(c) Materiality.~~ C. No information need be disclosed on the
23 registration statement filed pursuant to subsection ~~(b)~~ B of this
24 section if such information is not material for the purposes of this

1 section. Unless the Commissioner by rule, regulation or order
2 provides otherwise, sales purchases, exchanges, loans or extensions
3 of credit, or investments, involving one-half of one percent (1/2 of
4 1%) or less of an insurer's admitted assets as of ~~the 31st day of~~
5 December 31 next preceding shall not be deemed material for purposes
6 of this section.

7 ~~(d) Amendments to Registration Statements.~~ D. Each registered
8 insurer shall keep current the information required to be disclosed
9 in its registration statement by reporting all material changes or
10 additions on amendment forms provided by the Commissioner within
11 fifteen (15) days after the end of the month in which it learns of
12 each such change or addition, provided, however, that subject to
13 subsection (c) of Section 1655 of this title, each registered
14 insurer shall so report all dividends and other distributions to
15 shareholders within two (2) business days following the declaration
16 thereof.

17 ~~(e) Termination of Registration.~~ E. The Commissioner shall
18 terminate the registration of any insurer which demonstrates that it
19 no longer is a member of an insurance holding company system.

20 ~~(f) Consolidated Filing.~~ F. The Commissioner may require two or
21 more affiliated insurers subject to registration hereunder to file a
22 consolidated registration statement or consolidated reports amending
23 their consolidated registration statement, so long as such
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1 consolidated filings correctly reflect the condition of and
2 transactions between such persons.

3 ~~(g) Alternative Registration.~~ G. The Commissioner may allow an
4 insurer which is authorized to do business in this state and which
5 is a part of an insurance holding company system to register on
6 behalf of any affiliated insurer which is required to register under
7 subsection ~~(a)~~ A and to file all information and material required
8 to be filed under ~~Section~~ Sections 1651 ~~et seq.~~ through 1662 of this
9 title.

10 ~~(h) Exemptions.~~ H. The provisions of this section shall not
11 apply to any insurer, information or transaction if and to the
12 extent that the Commissioner by rule, regulation, or order shall
13 exempt the same from the provisions of this section.

14 ~~(i) Disclaimer.~~ I. Any person may file with the Commissioner a
15 disclaimer of affiliation with any authorized insurer or such a
16 disclaimer may be filed by such insurer or any member of an
17 insurance holding company system. The disclaimer shall fully
18 disclose all material relationships and bases for affiliation
19 between such person and such insurer as well as the basis for
20 disclaiming such affiliation. After a disclaimer has been filed,
21 the insurer shall be relieved of any duty to register or report
22 under this section which may arise out of the insurer's relationship
23 with such person unless and until the Commissioner disallows such a
24 disclaimer. The Commissioner shall disallow such a disclaimer only

1 after furnishing all parties in interest with notice and opportunity
2 to be heard and after making specific findings of fact to support
3 such disallowance.

4 ~~(j) Summary of Registration Statement.~~ J. All registration
5 statements shall contain a summary outlining all items in the
6 current registration statement representing changes from the prior
7 registration statement.

8 ~~(k) Reporting Dividends to Shareholders.~~ K. Every domestic
9 insurer that is a member of a holding company system shall report to
10 the Insurance Department all dividends to shareholders within five
11 (5) business days following declaration and at least ten (10) days,
12 commencing from date of receipt by the Department, prior to payment
13 thereof.

14 ~~(l) Information of Insurers.~~ L. The ultimate controlling person
15 of every insurer subject to registration shall also file an annual
16 enterprise risk report. The report shall, to the best of the
17 ultimate controlling person's knowledge and belief, identify the
18 material risks within the insurance holding company system that
19 could pose enterprise risk to the insurer. The report shall be
20 filed with the lead state commissioner of the insurance holding
21 company system as determined by the procedures within the Financial
22 Analysis Handbook adopted by the National Association of Insurance
23 Commissioners.

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1 M. The failure to file a registration statement of any summary
2 of the registration statement or enterprise risk filing required by
3 this section within the time specified for filing shall be a
4 violation of this section.

5 N. Any person within an insurance holding company system
6 subject to registration shall be required to provide complete and
7 accurate information to an insurer where such information is
8 reasonably necessary to enable the insurer to comply with the
9 provisions of this article.

10 ~~(m) Violations.~~ O. The failure to file a registration
11 statement, any summary of the registration statement thereto, or any
12 additional information required by this section within the time
13 specified for such filing shall be a violation of this section.

14 SECTION 10. AMENDATORY 36 O.S. 2011, Section 1703, is
15 amended to read as follows:

16 Section 1703. A. All such deposits required for authority to
17 transact insurance business in Oklahoma shall consist of cash, under
18 negotiable, and transferable certificates of deposit or other time
19 deposit instruments issued by solvent insured banks, savings and
20 loan associations, and trust companies in Oklahoma, or a combination
21 of the foregoing and the securities described in the following
22 sections of Article 16 of this Code: Sections 1607, 1608, 1609 and
23 1620 of this title.

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1 B. All such deposits required pursuant to the laws of another
2 state, province, or country, or pursuant to the retaliatory
3 provision of Section 628 of this title, shall consist of such assets
4 as are required or permitted by such laws, or as required pursuant
5 to such retaliatory provision.

6 SECTION 11. AMENDATORY 36 O.S. 2011, Section 1707, is
7 amended to read as follows:

8 Section 1707. Any deposit made in this state under this Code
9 shall be released and returned:

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

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

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

23 SECTION 12. AMENDATORY 36 O.S. 2011, Section 3639.1, is
24 amended to read as follows:

1 Section 3639.1 A. No insurer shall cancel, refuse to renew or
2 increase the premium of a homeowner's insurance policy or any other
3 personal residential insurance coverage, which has been in effect
4 more than forty-five (45) days, solely because the insured filed a
5 first claim against the policy. The provisions of this section
6 shall not be construed to prevent the cancellation, nonrenewal or
7 increase in premium of a homeowner's insurance policy for the
8 following reasons:

9 1. Nonpayment of premium;

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

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

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

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

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

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 insurer 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 13. AMENDATORY 36 O.S. 2011, Section 4030.9, is
21 amended to read as follows:

22 Section 4030.9 For the purpose of determining the benefits
23 calculated under Sections 4030.7 and 4030.8 of this title, ~~in the~~
24 ~~case of annuity contracts under which an election may be made to~~

1 ~~have annuity payments commence at optional maturity dates,~~ the
2 maturity date shall be deemed to be the latest date for which
3 election shall be permitted by the contract, but shall not be deemed
4 to be later than the anniversary of the contract next following the
5 annuitant's seventieth birthday or the tenth anniversary of the
6 contract, whichever is later.

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

9 Section 6206. A. The Insurance Commissioner shall license as
10 an adjuster only an individual who has fully complied with the
11 provisions of the Insurance Adjusters Licensing Act, including the
12 furnishing of evidence satisfactory to the Commissioner that the
13 applicant:

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

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

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

21 4. Is a trustworthy person;

22 5. Has had experience or special education or training of
23 sufficient duration and extent with reference to the handling of
24

1 loss claims pursuant to insurance contracts to make the applicant
2 competent to fulfill the responsibilities of an adjuster;

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

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

9 B. Residence addresses and telephone listings, birth dates, and
10 social security numbers for insurance adjusters and public adjusters
11 on file with the Insurance Department are exempt from disclosure as
12 public records. A separate business or mailing address as provided
13 by the adjuster shall be considered a public record and upon request
14 shall be disclosed. If an adjuster's residence and business address
15 or residence and business telephone number are the same, such
16 address or telephone number shall be considered a public record.

17 C. The mailing address shall appear on all licenses of the
18 licensee, and the licensee shall promptly notify the Insurance
19 Commissioner within thirty (30) days of any change in legal name or
20 mailing, business or residence address of the licensee. A change in
21 legal name or address thirty (30) days after the change must include
22 an administrative fee of Fifty Dollars (\$50.00). Failure to provide
23 acceptable notification of a change of legal name or address to the
24 Insurance Commissioner within forty-five (45) days of the date the

1 administrative fee is assessed will result in penalties pursuant to
2 Section 6220 of this title.

3 SECTION 15. AMENDATORY 36 O.S. 2011, Section 6217, is
4 amended to read as follows:

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

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

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

23 1. Employees of the Insurance Commissioner;

24

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

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

13 C. An adjuster who, during the time period prior to renewal,
14 participates in an approved professional designation program shall
15 be deemed to have met the biennial requirement for continuing
16 education. Each course in the curriculum for the program shall
17 total a minimum of twenty (20) hours. Each approved professional
18 designation program included in this section shall be reviewed for
19 quality and compliance every three (3) years in accordance with
20 standardized criteria promulgated by rule. Continuation of approved
21 status is contingent upon the findings of the review. The list of
22 professional designation programs approved under this subsection
23 shall be made available to producers and providers annually.

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

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

16 ~~F.~~ E. The active service of a licensed adjuster as a member of
17 a continuing education advisory committee, as described in paragraph
18 2 of subsection B of this section, shall be deemed to qualify for
19 continuing education credit on an hour-for-hour basis.

20 ~~G.~~ F. Each provider of continuing education shall, after
21 approval by the Commissioner, submit an annual fee. A fee may be
22 assessed for each course submission at the time it is first
23 submitted for review and upon submission for renewal at expiration.
24 Annual fees and course submission fees shall be set forth as a rule

1 by the Commissioner. The fees are payable to the Insurance
2 Commissioner and shall be deposited in the State Insurance
3 Commissioner Revolving Fund, created in subsection C of Section
4 1435.23 of this title, for the purposes of fulfilling and
5 accomplishing the conditions and purposes of the Oklahoma Producer
6 Licensing Act and the Insurance Adjusters Licensing Act. Public-
7 funded educational institutions, federal agencies, nonprofit
8 organizations, not-for-profit organizations and Oklahoma state
9 agencies shall be exempt from this subsection.

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

18 ~~I.~~ H. If the request, proof of compliance with the continuing
19 education requirement and fee for renewal of a license as an
20 adjuster are filed with the Commissioner prior to the expiration of
21 the existing license, the licensee may continue to act pursuant to
22 said license, unless revoked or suspended prior to the expiration
23 date, until the issuance of a renewal license or until the
24 expiration of ten (10) days after the Commissioner has refused to

1 renew the license and has mailed notice of said refusal to the
2 licensee. Any request for renewal filed after the date of
3 expiration may be considered by the Commissioner as an application
4 for a new license.

5 SECTION 16. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6220.2 of Title 36, unless there
7 is created a duplication in numbering, reads as follows:

8 A. An insurance adjuster shall report to the Insurance
9 Commissioner any administrative action taken against the adjuster in
10 another jurisdiction or by another governmental agency in the state
11 within thirty (30) days of the final disposition of the matter.
12 This report shall include a copy of the order, consent to order or
13 other relevant legal documents.

14 B. Within thirty (30) days of the initial pretrial hearing
15 date, an adjuster shall report to the Insurance Commissioner any
16 criminal prosecution of the adjuster taken in any jurisdiction. The
17 report shall include a copy of the initial complaint filed, the
18 order resulting from the hearing and any other relevant legal
19 documents.

20 SECTION 17. AMENDATORY 36 O.S. 2011, Section 6475.13, is
21 amended to read as follows:

22 Section 6475.13 A. To be approved under Section ~~36~~ 6475.12 of
23 this ~~act~~ title to conduct external reviews, an independent review
24 organization shall have and maintain written policies and procedures

1 that govern all aspects of both the standard external review process
2 and the expedited external review process set forth in this act that
3 include, at a minimum:

4 1. A quality assurance mechanism in place that:

- 5 a. ensures that external reviews are conducted within the
6 specified time frames and required notices are
7 provided in a timely manner,
- 8 b. ensures the selection of qualified and impartial
9 clinical reviewers to conduct external reviews on
10 behalf of the independent review organization and
11 suitable matching of reviewers to specific cases and
12 that the independent review organization employs or
13 contracts with an adequate number of clinical
14 reviewers to meet this objective,
- 15 c. ensures the confidentiality of medical and treatment
16 records and clinical review criteria, and
- 17 d. ensures that any person employed by or under contract
18 with the independent review organization adheres to
19 the requirements of this act;

20 2. A toll-free telephone service to receive information on a
21 twenty-four-hour-a-day, seven-day-a-week basis related to external
22 reviews that is capable of accepting, recording or providing
23 appropriate instruction to incoming telephone callers during other
24 than normal business hours; and

1 3. Agree to maintain and provide to the Insurance Commissioner
2 the information set out in Section ~~39~~ 6475.15 of this ~~act~~ title.

3 B. All clinical reviewers assigned by an independent review
4 organization to conduct external reviews shall be physicians or
5 other appropriate health care providers who meet the following
6 minimum qualifications:

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

9 2. Be knowledgeable about the recommended health care service
10 or treatment through recent or current actual clinical experience
11 treating patients with the same or similar medical condition of the
12 covered person;

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

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

23 C. In addition to the requirements set forth in subsection A of
24 this section, an independent review organization may not own or

1 control, be a subsidiary of or in any way be owned or controlled by,
2 or exercise control with a health benefit plan, a national, state or
3 local trade association of health benefit plans, or a national,
4 state or local trade association of health care providers.

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

- 13 a. the health carrier that is the subject of the external
14 review,
- 15 b. the covered person whose treatment is the subject of
16 the external review or the covered person's authorized
17 representative,
- 18 c. any officer, director or management employee of the
19 health carrier that is the subject of the external
20 review,
- 21 d. the health care provider, the health care provider's
22 medical group or independent practice association
23 recommending the health care service or treatment that
24 is the subject of the external review,

- 1 e. the facility at which the recommended health care
2 service or treatment would be provided, or
3 f. the developer or manufacturer of the principal drug,
4 device, procedure or other therapy being recommended
5 for the covered person whose treatment is the subject
6 of the external review.

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

22 E. In addition to the requirements set forth in subsections A,
23 B, C and D of this section, an independent review organization shall
24

1 possess any additional minimum qualifications that the Commissioner
2 may promulgate by rule.

3 F. 1. An independent review organization that is accredited by
4 a nationally recognized private accrediting entity that has
5 independent review accreditation standards that the Commissioner has
6 determined are equivalent to or exceed the minimum qualifications of
7 this section shall be presumed in compliance with this section to be
8 eligible for approval under Section ~~36~~ 6475.12 of this ~~act~~ title.

9 If a nationally recognized private accrediting entity has
10 independent review accreditation standards that are substantially
11 similar to but do not equal or exceed the minimum qualifications of
12 this section, the Commissioner may accept the accreditation as an
13 equivalent accreditation standard after reviewing for compliance any
14 minimum qualifications required by this section that are not
15 required by the national accreditation.

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

23 3. Upon request, a nationally recognized private accrediting
24 entity shall make its current independent review organization

1 accreditation standards available to the Commissioner or the NAIC in
2 order for the Commissioner to determine if the entity's standards
3 are equivalent to or exceed the minimum qualifications established
4 under this section. The Commissioner may exclude any private
5 accrediting entity that is not reviewed by the NAIC.

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

10 SECTION 18. AMENDATORY 36 O.S. 2011, Section 6608, is
11 amended to read as follows:

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

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

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

24

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 and other information as requested by the Commissioner by May 1,

1 2010, and each year thereafter, to document and verify that the
2 contracts of the entity are not included within the definition of
3 service warranty.

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

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

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

20 SECTION 19. This act shall become effective November 1, 2012.

21

22 53-2-8892 SDR 01/11/12

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