

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2981

By: Ortega

4
5
6 AS INTRODUCED

7 An Act relating to Insurance Department fees;
8 amending 36 O.S. 2011, Section 321, which relates to
9 Insurance Department fees; providing for additional
10 fees; amending 36 O.S. 2011, Section 613, which
11 relates to deposit requirements; specifying
12 applicability of certain statute; imposing deposit
13 requirement for certain insurers; amending 36 O.S.
14 2011, Section 1450, which relates to licensing
15 requirements; extending duration of certain licenses;
16 modifying certain fees; amending 36 O.S. 2011,
17 Section 6676, which relates to certain limited-lines
18 license application requirements; directing Insurance
19 Commissioner to collect certain fees; amending 59
20 O.S. 2011, Section 858-708, which relates to real
21 estate appraiser fees; directing Insurance Department
22 to charge and collect certain federal fees; amending
23 59 O.S. 2011, Sections 1305, 1310 and 1314, which
24 relate to bail bondsmen licensing fees and
requirements; increasing application fee; modifying
penalties for certain notice failures; establishing
certain late fee; authorizing civil penalty for
certain late filings; and providing an effective
date.

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 321, is
amended to read as follows:

1 Section 321. A. The Insurance Commissioner shall collect in
2 advance the following fees and licenses:

3 1. For filing charter documents:
4 Original charter documents,
5 articles of incorporation, bylaws,
6 or record of organization of alien
7 or foreign insurers, or certified
8 copies thereof.....\$50.00

9 2. Certificate of Authority:
10 ~~(a)~~ a. Issuance:
11 Fraternal benefit societies,
12 alien or foreign.....\$150.00
13 Hospital service and medical
14 indemnity corporations, alien
15 or foreign.....\$150.00
16 All other alien or foreign
17 insurers.....\$150.00

18 ~~(b)~~ b. Renewal:
19 Fraternal benefit societies,
20 alien or foreign.....\$150.00
21 Hospital service and medical
22 indemnity corporations, alien
23 or foreign.....\$150.00
24

1	All other alien or foreign	
2	insurers.....	\$150.00
3	<u>c. Duplicate or replacement:</u>	
4	<u>Fraternal benefit societies,</u>	
5	<u>alien or foreign.....</u>	<u>\$25.00</u>
6	<u>Hospital service and medical</u>	
7	<u>indemnity corporations, alien</u>	
8	<u>or foreign.....</u>	<u>\$25.00</u>
9	<u>All other alien or foreign</u>	
10	<u>insurerers.....</u>	<u>\$25.00</u>
11	3. For filing appointment of Insurance	
12	Commissioner as agent for service	
13	of process.....	\$10.00
14	4. Miscellaneous:	
15	(a) <u>a.</u> Copies of records, per page.....	\$0.40
16	(b) <u>b.</u> Amended charter documents,	
17	articles of incorporation or	
18	bylaws of domestic, alien or	
19	foreign insurers or health	
20	maintenance organizations.....	\$50.00
21	(e) <u>c.</u> Certificate of Commissioner,	
22	under seal.....	\$5.00
23	(d) <u>d.</u> For filing Merger and	
24	Acquisition Forms.....	\$1,000.00

- 1 ~~(e)~~ e. For filing Variable Product
- 2 Forms.....\$200.00
- 3 ~~(f)~~ f. For filing a Life, Accident
- 4 and Health Policy and Health
- 5 Maintenance Organization
- 6 contract.....\$50.00
- 7 ~~(g)~~ g. For filing an advertisement or
- 8 rider application to a Life,
- 9 Accident and Health Policy and
- 10 Health Maintenance
- 11 Organization contract.....\$25.00
- 12 ~~(h)~~ h. Pending Company Review.....\$1,000.00
- 13 ~~(i)~~ i. For filing a Viatical
- 14 Settlement Contract or Life
- 15 Settlement.....\$50.00
- 16 ~~(j)~~ j. For filing an advertisement
- 17 for Viatical Settlement or
- 18 Life Settlement.....\$25.00
- 19 ~~(k)~~ k. For filing application for
- 20 Viatical Settlement or Life
- 21 Settlement Contract.....\$25.00
- 22 ~~(l)~~ l. Miscellaneous form filing.....\$25.00

23 B. There shall be assessed an annual fee of Five Hundred
 24 Dollars (\$500.00) payable by each insurer, health maintenance

1 organization, fraternal benefit society, hospital service and
2 medical indemnity corporation, charitable and benevolent
3 corporation, or United States surplus lines insurance companies
4 licensed to do business in this state, to pay for the filing,
5 processing, and reviewing of annual and quarterly financial
6 statements by personnel of the Office of the State Insurance
7 Commissioner.

8 SECTION 2. AMENDATORY 36 O.S. 2011, Section 613, is
9 amended to read as follows:

10 Section 613. A. Except as provided in subsection C of this
11 section, any insurer that incorporates or is authorized initially to
12 transact the business of insurance in Oklahoma after the effective
13 date of this act shall not be issued a certificate of authority by
14 the Insurance Commissioner unless it has deposited in trust with the
15 State Treasurer through the Insurance Commissioner's office cash or
16 securities eligible for the investment pursuant to the requirements
17 of Section 1703 of this title of capital funds of domestic insurers
18 under this Code in an amount not less than Three Hundred Thousand
19 Dollars (\$300,000.00). The Insurance Commissioner may require a
20 greater amount to be deposited in trust if the Insurance
21 Commissioner finds that a greater amount is warranted for the
22 protection of the policyholders of the insurer pursuant to rules
23 promulgated by the Insurance Commissioner. Any amount over Three
24 Hundred Thousand Dollars (\$300,000.00) must be documented and

1 reasons stated by the Commissioner in writing for the excess deposit
2 amount. The Commissioner will annually review those insurers with
3 deposits above Three Hundred Thousand Dollars (\$300,000.00) to
4 determine whether such additional deposits remain justified.

5 B. The Insurance Commissioner shall not issue a certificate of
6 authority to any insurer that incorporated or was initially
7 authorized to transact the business of insurance in Oklahoma prior
8 to the effective date of this act unless it has deposited in trust
9 with the State Treasurer through the Insurance Commissioner's office
10 cash or securities eligible for the investment of capital funds of
11 domestic insurers under this Code in an amount not less than the
12 surplus in regard to policyholders, or net admitted assets (if a
13 Lloyd's association) required pursuant to this Code to be maintained
14 for authority to transact the kinds of insurance to be transacted,
15 except that in the case of life and/or accident and health insurers
16 the deposit shall be in the amount of One Hundred Thousand Dollars
17 (\$100,000.00).

18 C. 1. As to domestic title insurers, the deposit shall be as
19 required by Article 50 (Title Insurers).

20 2. As to foreign insurers, in lieu of such deposit or part
21 thereof in this state, the Insurance Commissioner may accept the
22 current certificate in proper form of the public official having
23 supervision over insurers in any other state to the effect that a
24 like deposit or part thereof by such insurer is being maintained in

1 public custody in such state in trust for the purpose, among other
2 reasonable purposes, of protection of all the insurer's
3 policyholders or of all its policyholders and creditors.

4 3. As to alien insurers, other than title insurers, in lieu of
5 such deposit or part thereof in this state, the Insurance
6 Commissioner may accept the certificate of the official having
7 supervision over insurance of another state in the United States,
8 given under his hand and seal, that the insurer maintains within the
9 United States by way of deposits with public depositaries, or in
10 trust institutions within the United States approved by such
11 official, assets available for discharge of its United States
12 insurance obligations, which assets shall be in amount not less than
13 the outstanding liabilities of the insurer arising out of its
14 insurance transactions in the United States, together with the
15 largest deposit required by this Code to be made in this state by
16 any type of domestic insurer transacting like kinds of insurance.

17 4. As to all insurers with the surety including bail line of
18 authority, a minimum three-hundred-thousand-dollar deposit shall be
19 required.

20 D. Any securities deposited by insurers shall be issued to the
21 Insurance Commissioner and the insurer and shall not be released by
22 any company holding such security without the signatures of the
23 Insurance Commissioner and the authorized insurer's personnel.
24 Failure of any company holding such security to comply with this

1 subsection may result, after hearing by the proper licensing
2 authority, in a fine of not more than Twenty-five Thousand Dollars
3 (\$25,000.00) per occurrence.

4 SECTION 3. AMENDATORY 36 O.S. 2011, Section 1450, is
5 amended to read as follows:

6 Section 1450. A. No person shall act as or present himself or
7 herself to be an administrator, as defined by the provisions of the
8 Third-party Administrator Act, in this state, unless the person
9 holds a valid license as an administrator which is issued by the
10 Insurance Commissioner.

11 B. An administrator shall not be eligible for a nonresident
12 administrator license under this section if the administrator does
13 not hold a home state certificate of authority or license in a state
14 that has adopted the Third-party Administrator Act or that applies
15 substantially similar provisions as are contained in the Third-party
16 Administrator Act to that administrator. If the Third-party
17 Administrator Act in the administrator's home state does not extend
18 to stop-loss insurance, but if the home state otherwise applies
19 substantially similar provisions as are contained in the Third-party
20 Administrator Act to that administrator, then that omission shall
21 not operate to disqualify the administrator from receiving a
22 nonresident administrator license in this state.

23 1. "Home state" means the United States jurisdiction that has
24 adopted the Third-party Administrator Act or a substantially similar

1 law governing third-party administrators and which has been
2 designated by the administrator as its principal regulator. The
3 administrator may designate either its state of incorporation or its
4 principal place of business within the United States if that
5 jurisdiction has adopted the Third-party Administrator Act or a
6 substantially similar law governing third-party administrators. If
7 neither the administrator's state of incorporation nor its principal
8 place of business within the United States has adopted the Third-
9 party Administrator Act or a substantially similar law governing
10 third-party administrators, then the third-party administrator shall
11 designate a United States jurisdiction in which it does business and
12 which has adopted the Third-party Administrator Act or a
13 substantially similar law governing third-party administrators. For
14 purposes of this definition, "United States jurisdiction" means the
15 District of Columbia or a state or territory of the United States.

16 2. "Nonresident administrator" means a person who is applying
17 for licensure or is licensed in any state other than the
18 administrator's home state.

19 C. In the case of a partnership which has been licensed, each
20 general partner shall be named in the license and shall qualify
21 therefore as though an individual licensee. The Commissioner shall
22 charge a full additional license fee and a separate license shall be
23 issued for each individual so named in such a license. The
24 partnership shall notify the Commissioner within fifteen (15) days

1 if any individual licensed on its behalf has been terminated, or is
2 no longer associated with or employed by the partnership. Any
3 entity or partnership licensed as administrators under the Third-
4 party Administrators Act shall provide National Association of
5 Insurance Commissioner Biographical Affidavits as required for
6 domestic insurers pursuant to the insurance laws of this state.

7 D. An application for an administrator's license shall be in a
8 form prescribed by the Commissioner and shall be accompanied by a
9 fee of ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00).
10 This fee shall not be refundable if the application is denied or
11 refused for any reason by either the applicant or the Commissioner.

12 E. The administrator's license shall continue in force no
13 longer than ~~twelve (12)~~ twenty-four (24) months from the original
14 month of issuance. Upon filing a renewal form prescribed by the
15 Commissioner, accompanied by a fee of ~~One Hundred Dollars (\$100.00)~~
16 Two Hundred Dollars (\$200.00), the license may be renewed annually
17 for a one-year term. Late application for renewal of a license
18 shall require a fee of double the amount of the original license
19 fee. The administrator shall submit, together with the application
20 for renewal, a list of the names and addresses of the persons with
21 whom the administrator has contracted in accordance with Section
22 1443 of this title. The Commissioner shall hold this information
23 confidential except as provided in Section 1443 of this title.

24

1 F. The administrator's license shall be issued or renewed by
2 the Commissioner unless, after notice and opportunity for hearing,
3 the Commissioner determines that the administrator is not competent,
4 trustworthy, or financially responsible, or has had any insurance
5 license denied for cause by any state, has been convicted or has
6 pleaded guilty or nolo contendere to any felony or to a misdemeanor
7 involving moral turpitude or dishonesty.

8 G. After notice and opportunity for hearing, and upon
9 determining that the administrator has violated any of the
10 provisions of the Oklahoma Insurance Code or upon finding reasons
11 for which the issuance or nonrenewal of such license could have been
12 denied, the Commissioner may either suspend or revoke an
13 administrator's license or assess a civil penalty of not more than
14 Five Thousand Dollars (\$5,000.00) for each occurrence. The payment
15 of the penalty may be enforced in the same manner as civil judgments
16 may be enforced.

17 H. Any person who is acting as or presenting himself or herself
18 to be an administrator without a valid license shall be subject,
19 upon conviction, to a fine of not less than One Thousand Dollars
20 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each
21 occurrence. This fine shall be in addition to any other penalties
22 which may be imposed for violations of the Oklahoma Insurance Code
23 or other laws of this state.

24

1 I. Except as provided for in subsections F and G of this
2 section, any person convicted of violating any provisions of the
3 Third-party Administrator Act shall be guilty of a misdemeanor and
4 shall be subject to a fine of not more than One Thousand Dollars
5 (\$1,000.00).

6 SECTION 4. AMENDATORY 36 O.S. 2011, Section 6676, is
7 amended to read as follows:

8 Section 6676. A. 1. A sworn application for the license
9 provided for in Section ~~2~~ 6671 of this ~~act~~ title shall be made to
10 and filed with the Insurance Commissioner on forms prescribed and
11 furnished by the Insurance Commissioner.

12 2. The Insurance Commissioner shall collect in advance the
13 following fees:

14 a. For filing appointment of Insurance
15 Commissioner as agent for service of
16 process.....\$20.00

17 b. For filing organizational documents of an
18 entity applying for a limited-lines
19 license.....\$20.00

20 B. The application shall:

21 1. Provide the name, residence address, and other information
22 required by the Insurance Commissioner for an employee or officer of
23 the vendor that is designated by the applicant as the person
24 responsible for the vendor's compliance with the requirements of

1 Sections ~~±~~ 6670 through ~~7~~ 6676 of this ~~act~~ title. If the vendor
2 derives more than fifty percent (50%) of its revenue from the sale
3 of portable electronics insurance, the information noted above shall
4 be provided for all officers, directors, and shareholders of record
5 having beneficial ownership of ten percent (10%) or more of any
6 class of securities registered under the federal securities law;

7 2. Appoint the Insurance Commissioner as the applicant's
8 attorney to receive service of all legal process issued against it
9 in any civil action or proceeding in this state and agreeing that
10 process so served shall be valid and binding against the applicant.
11 The appointment shall be irrevocable, shall bind the company and any
12 successor in interest as the assets or liabilities of the applicant,
13 and shall remain in effect as long as the applicant's license
14 remains in force in this state; and

15 3. Specify the location of the applicant's home office.

16 C. Applications for licensure pursuant to Section ~~±~~ 6671 of
17 this ~~act~~ title shall be made within ninety (90) days of the
18 application being made available by the Insurance Commissioner.

19 D. Initial licenses issued pursuant to ~~the~~ Section ~~±~~ 6671 of
20 this ~~act~~ title shall be valid for a period of twenty-four (24)
21 months.

22 E. Each vendor of portable electronics licensed pursuant to
23 Sections ~~±~~ 6670 through ~~7~~ 6676 of this ~~act~~ title shall pay to the
24 Insurance Commissioner a fee as prescribed by the Insurance

1 Commissioner but in no event shall the fee exceed One Thousand
2 Dollars (\$1,000.00) for an initial portable electronics limited
3 lines license and Five Hundred Dollars (\$500.00) for each renewal
4 thereof. For a vendor that is engaged in portable electronics
5 transactions at ten or fewer locations in the state the fee shall
6 not exceed One Hundred Dollars (\$100.00) for an initial license and
7 for each renewal thereof.

8 SECTION 5. AMENDATORY 59 O.S. 2011, Section 858-708, is
9 amended to read as follows:

10 Section 858-708. A. The Insurance Department shall charge and
11 collect fees not to exceed the following:

- 12 1. Trainee Appraiser Certificate
13 (annually) \$300.00
- 14 2. State Licensed Appraiser
15 Certificate (annually) \$300.00
- 16 3. State Certified General Appraiser
17 Certificate (annually) \$300.00
- 18 4. State Certified Residential Appraiser
19 Certificate (annually) \$300.00
- 20 5. State Licensed
21 Appraiser Examination \$150.00
- 22 6. State Certified General Appraiser Examination \$150.00
- 23 7. State Certified Residential Appraiser
24 Examination \$150.00

1	8. Reexamination Fee	\$150.00
2	9. Late Fee	\$50.00
3	10. Reinstatement Fee	\$50.00
4	11. Duplicate for Lost or Destroyed Certificate	\$5.00
5	12. Temporary Practice Fee Per Appraisal	\$50.00
6	13. Maximum Temporary Practice Fee Per Assignment	\$150.00

7 B. The Department shall charge and collect such fees as may be
8 promulgated by administrative rule by the Real Estate Appraiser
9 Board for the conduct of experience reviews required in the
10 licensing process.

11 C. The Department shall charge and collect such fees as may be
12 promulgated by administrative rule by the Real Estate Appraiser
13 Board for review of submissions by course providers and instructors.

14 D. The ~~Insurance~~ Department shall charge and collect a Federal
15 Registry Fee of ~~Twenty-five Dollars (\$25.00)~~ in such amount as may
16 be assessed from time to time by the Appraisal Subcommittee of the
17 Federal Financial Institutions Examination Council for all state
18 licensed, state certified residential, and state certified general
19 appraisers. ~~Said~~ The fee shall be transmitted to the Appraisal
20 Subcommittee of the Federal Financial Institutions Examination
21 Council.

22 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1305, is
23 amended to read as follows:

24

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

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

5 2. Is of good character and reputation;

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

9 4. Is a citizen of the United States;

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

12 6. Will actively engage in the bail bond business;

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

15 8. Has a high school diploma or its equivalent; provided,
16 however, the provisions of this paragraph shall apply only to
17 initial applications for license submitted on or after November 1,
18 1997, and shall not apply to renewal applications for license.

19 B. The applicant shall apply electronically on forms approved
20 by the Insurance Commissioner, and the Commissioner may propound any
21 reasonable interrogatories to an applicant for a license pursuant to
22 Sections 1301 through 1340 of this title, or on any renewal thereof,
23 relating to qualifications, residence, prospective place of business
24 and any other matters which, in the opinion of the Commissioner, are

1 deemed necessary or expedient in order to protect the public and
2 ascertain the qualifications of the applicant. The Commissioner may
3 also conduct any reasonable inquiry or investigation relative to the
4 determination of the fitness of the applicant to be licensed or to
5 continue to be licensed including, but not limited to, requiring a
6 national criminal history record check as defined by Section 150.9
7 of Title 74 of the Oklahoma Statutes.

8 C. An applicant shall furnish to the Commissioner a license fee
9 of ~~Two Hundred Fifty Dollars (\$250.00)~~ Three Hundred Fifty Dollars
10 (\$350.00) with the application, a complete set of the fingerprints
11 of the applicant and two recent credential-size full face
12 photographs of the applicant. The fingerprints of the applicant
13 shall be certified by an authorized law enforcement officer. The
14 applicant shall provide with the application an investigative fee of
15 One Hundred Dollars (\$100.00) with which the Commissioner will
16 conduct an investigation of the applicant. All fees shall be
17 nonrefundable.

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

22 E. The fee for a duplicate pocket license shall be Twenty-five
23 Dollars (\$25.00).

24

1 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1310, is
2 amended to read as follows:

3 Section 1310. A. The Insurance Commissioner may deny, censure,
4 suspend, revoke, or refuse to renew any license issued under
5 Sections 1301 through 1340 of this title for any of the following
6 causes:

7 1. For any cause for which issuance of the license could have
8 been refused;

9 2. Violation of any laws of this state or any lawful rule,
10 regulation, or order of the Commissioner relating to bail;

11 3. Material misstatement, misrepresentation, or fraud in
12 obtaining the license;

13 4. Misappropriation, conversion, or unlawful withholding of
14 monies or property belonging to insurers, insureds, or others
15 received in the conduct of business under the license;

16 5. Conviction of, or having entered a plea of guilty or nolo
17 contendere to, any felony or to a misdemeanor involving moral
18 turpitude or dishonesty;

19 6. Fraudulent or dishonest practices in conducting business
20 under the license;

21 7. Failure to comply with, or violation of any proper order,
22 rule, or regulation of the Commissioner;

23

24

1 8. Recommending any particular attorney-at-law to handle a case
2 in which the bail bondsman has caused a bond to be issued under the
3 terms of Sections 1301 through 1340 of this title;

4 9. When, in the judgment of the Commissioner, the licensee has,
5 in the conduct of affairs under the license, demonstrated
6 incompetency, or untrustworthiness, or conduct or practices
7 rendering the licensee unfit to carry on the bail bond business or
8 making continuance in the business detrimental to the public
9 interest, or that the licensee is no longer in good faith carrying
10 on the bail bond business, or that the licensee is guilty of
11 rebating, or offering to rebate, or dividing with someone other than
12 a licensed bail bondsman, or offering to divide commissions in the
13 case of limited surety agents, or premiums in the case of
14 professional bondsmen, and for this conduct is found by the
15 Commissioner to be a source of detriment, injury, or loss to the
16 public;

17 10. For any materially untrue statement in the license
18 application;

19 11. Misrepresentation of the terms of any actual or proposed
20 bond;

21 12. For forging the name of another to a bond or application
22 for bond;

23 13. Cheating on an examination for licensure;

24

1 14. Soliciting business in or about any place where prisoners
2 are confined, arraigned, or in custody;

3 15. For paying a fee or rebate, or giving or promising anything
4 of value to a jailer, trustee, police officer, law enforcement
5 officer, or other officer of the law, or any other person who has
6 power to arrest or hold in custody, or to any public official or
7 public employee in order to secure a settlement, compromise,
8 remission, or reduction of the amount of any bail bond or
9 estreatment thereof, or to secure delay or other advantage. This
10 shall not apply to a jailer, police officer, or officer of the law
11 who is not on duty and who assists in the apprehension of a
12 defendant;

13 16. For paying a fee or rebating or giving anything of value to
14 an attorney in bail bond matters, except in defense of an action on
15 a bond;

16 17. For paying a fee or rebating or giving or promising
17 anything of value to the principal or anyone in the behalf of the
18 principal;

19 18. Participating in the capacity of an attorney at a trial or
20 hearing for one on whose bond the licensee is surety;

21 19. Accepting anything of value from a principal, other than
22 the premium; provided, the bondsman shall be permitted to accept
23 collateral security or other indemnity from the principal which
24 shall be returned immediately upon final termination of liability on

1 the bond and upon satisfaction of all terms, conditions, and
2 obligations contained within the indemnity agreement. Collateral
3 security or other indemnity required by the bondsman shall be
4 reasonable in relation to the amount of the bond;

5 20. Willful failure to return collateral security to the
6 principal when the principal is entitled thereto;

7 21. For failing to notify the Commissioner of a change of legal
8 name, address, or e-mail address as noted on the license, within
9 five (5) business days after a change is made, or failing to respond
10 to a properly mailed notification within a reasonable amount of
11 time. A change in legal name, address, or e-mail address submitted
12 to the Department more than five (5) business days after the change
13 shall include an administrative fee of Twenty-five Dollars (\$25.00);

14 22. For failing to file a report as required by Section 1314 of
15 this title;

16 23. For filing a materially untrue monthly report;

17 24. For filing false affidavits regarding cancellation of the
18 appointment of an insurer;

19 25. Forcing the Commissioner to withdraw deposited monies to
20 pay forfeitures or any other outstanding judgments;

21 26. For failing to pay any fees to a district court clerk as
22 are required by this title or failing to pay any fees to a municipal
23 court clerk as are required by this title or by Section 28-127 of
24 Title 11 of the Oklahoma Statutes;

1 27. For uttering an insufficient check to the Insurance
2 Commissioner for any fees, fines or other payments received by the
3 Commissioner from the bail bondsman;

4 28. For failing to pay travel expenses for the return of the
5 defendant to custody once having guaranteed the expenses pursuant to
6 the provisions of subparagraph d of paragraph 3 of subsection C of
7 Section 1332 of this title; and

8 29. The Commissioner may also refuse to renew a licensed
9 bondsman for failing to file all outstanding monthly bail reports,
10 pay any outstanding fines, pay any outstanding monthly report
11 renewal fees owed to the Commissioner, or respond to a current
12 order issued by the Commissioner.

13 B. In addition to any applicable denial, censure, suspension,
14 or revocation of a license, any person violating any provision of
15 Sections 1301 through 1340 of this title may be subject to a civil
16 penalty of not less than Two Hundred Fifty Dollars (\$250.00) nor
17 more than Two Thousand Five Hundred Dollars (\$2,500.00) for each
18 occurrence. This fine may be enforced in the same manner in which
19 civil judgments may be enforced. Any order for civil penalties
20 entered by the Commissioner or authorized decision maker for the
21 Insurance Department which has become final may be filed with the
22 court clerk of Oklahoma County and shall then be enforced by the
23 judges of Oklahoma County.

24

1 C. No bail bondsman or bail bond agency shall advertise as or
2 hold itself out to be a surety company.

3 D. If any bail bondsman is convicted by any court of a
4 violation of any of the provisions of this act, the license of the
5 individual shall therefore be deemed to be immediately revoked,
6 without any further procedure relative thereto by the Commissioner.

7 E. For one (1) year after notification by the Commissioner of
8 an alleged violation, or for two (2) years after the last day the
9 person was licensed, whichever is the lesser period of time, the
10 Commissioner shall retain jurisdiction as to any person who cancels
11 his bail bondsman's license or allows the license to lapse, or
12 otherwise ceases to be licensed, if the person while licensed as a
13 bondsman allegedly violated any provision of this title. Notice and
14 opportunity for hearing shall be conducted in the same manner as if
15 the person still maintained a bondsman's license. If the
16 Commissioner or a hearing examiner determines that a violation of
17 the provisions of Sections 1301 through 1340 of this title occurred,
18 any order issued pursuant to the determination shall become a
19 permanent record in the file of the person and may be used if the
20 person should request licensure or reinstatement.

21 F. Any law enforcement agency, district attorney's office,
22 court clerk's office, or insurer that is aware that a licensed bail
23 bondsman has been convicted of or has pleaded guilty or nolo
24

1 | contendere to any crime, shall notify the Insurance Commissioner of
2 | that fact.

3 | SECTION 8. AMENDATORY 59 O.S. 2011, Section 1314, is
4 | amended to read as follows:

5 | Section 1314. A. When a bail bondsman or managing general
6 | agent accepts collateral, the bail bondsman or managing general
7 | agent shall give a written receipt for same, and this receipt shall
8 | give in detail a full description of the collateral received. A
9 | description of the collateral shall be listed on the undertaking by
10 | affidavit. All property taken as collateral, whether personal,
11 | intangible or real, shall be receipted for and deemed, for all
12 | purposes, to be in the name of, and for the use and benefit of, the
13 | surety company or licensed professional bondsman, as the case may
14 | be. Every receipt, encumbrance, mortgage or other evidence of the
15 | custody, possession or claim shall facially indicate that it has
16 | been taken or made on behalf of the surety company or professional
17 | bondsman through its authorized agent, the individual licensed
18 | bondsman or managing general agent who has transacted the
19 | undertaking with the bond principal. Any mortgage or other
20 | encumbrance against real property taken under the provisions of this
21 | section which does not indicate beneficial ownership of the claim to
22 | be in favor of the surety company or professional bondsman shall be
23 | deemed to constitute a cloud on the title to real estate and shall
24 | subject the person filing, or causing same to be filed, in the real

1 estate records of the county, to a penalty of treble damages or One
2 Thousand Dollars (\$1,000.00), whichever is greater, in an action
3 brought by the person, organization or corporation injured thereby.
4 For collateral taken, or liens or encumbrances taken or made
5 pursuant to the provisions of this section, the individual bondsman
6 or managing general agent taking possession of the property or
7 making the lien, claim or encumbrance shall do so on behalf of the
8 surety company or professional bondsman, as the case may be, and the
9 individual licensed bondsman shall be deemed to act in the capacity
10 of fiduciary in relation to both:

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

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

15 As fiduciary and bailee for hire, the individual bondsman shall
16 be liable in criminal or civil actions at law for failure to
17 properly receipt or account for, maintain or safeguard, release or
18 deliver possession upon lawful demand, in addition to any other
19 penalties set forth in this subsection. No person who takes
20 possession of property as collateral pursuant to this section shall
21 use or otherwise dissipate the asset, or do otherwise with the
22 property than to safeguard and maintain its condition pending its
23 return to its lawful owner, or deliver to the surety company or

24

1 professional bondsman, upon lawful demand pursuant to the terms of
2 the bailment.

3 B. 1. Every licensed bondsman shall file monthly
4 electronically with the Insurance Commissioner and on forms approved
5 by the Commissioner ~~as follows:~~ .

6 ~~1.~~ 2. A monthly report showing every bond written, amount of
7 bond, whether released or revoked during each month, showing the
8 court and county, and the style and number of the case, premiums
9 charged and collateral received, ~~and.~~ .

10 ~~2.~~ C. Professional bondsmen shall submit electronic monthly
11 reports showing total current liabilities, all bonds written during
12 the month by the professional bondsman and by any licensed bondsman
13 who may countersign for the professional bondsman, all bonds
14 terminated during the month, and the total liability and a list of
15 all bondsmen currently employed by the professional bondsmen.

16 Monthly reports shall be submitted electronically to the
17 Insurance Commissioner by the fifteenth day of each month. The
18 records shall be maintained by the Commissioner as public records.

19 ~~C.~~ D. Every licensee shall keep at the place of business of the
20 licensee the usual and customary records pertaining to transactions
21 authorized by the license. All of the records shall be available
22 and open to the inspection of the Commissioner at any time during
23 business hours during the three (3) years immediately following the
24 date of the transaction. The Commissioner may require a financial

1 examination or market conduct survey during any investigation of a
2 licensee.

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

8 F. 1. A bondsman who submits an untimely report shall be
9 assessed a late filing fee of Fifty Dollars (\$50.00) for each report
10 submitted untimely.

11 2. A bondsman who has submitted untimely reports three (3)
12 times within a twelve-month period shall be subject to the
13 provisions of subsection B of Section 1310 of this title.

14 SECTION 9. This act shall become effective November 1, 2012.

15

16 53-2-9205 SDR 01/19/12

17

18

19

20

21

22

23

24