STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

SENATE BILL 1511 By: Justice

AS INTRODUCED

An Act relating to the Insurance Commissioner and the Insurance Department; declaring legislative intent that the Insurance Department shall be a nonappropriated agency; granting the Insurance Commissioner the authority to take certain actions regarding certain fees through the promulgation of rules; specifying effective date of certain actions relating to fees; amending 36 O.S. 2011, Sections 307.3, 321, 348.1, 362, 622, 635, 1219.4, 1435.23, 1450, 1661, 3102, 4055.3, 6124, 6128, 6144, 6145, 6209, 6212, 6465, 6470.3, 6559, 6604, 6609, 6615 and 6753, which relate to insurance and fees collected by the Insurance Commissioner or the Insurance Department; amending 40 O.S. 2011, Section 600.5, which relates to the Oklahoma Professional Employer Recognition and Registration Act and fees collected by the Insurance Commissioner or the Insurance Department; amending 59 O.S. 2011, Sections 1305, 1308, 1308.1, 1309, 1314 and 1317, which relate to bail bondsmen and fees collected by the Insurance Commissioner or the Insurance Department; specifying certain expenditures shall be made without legislative appropriation; modifying distribution of funds; providing exception to the amount of certain fees; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 301.1 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. The Legislature hereby declares its intent that beginning July 1, 2012, the Insurance Department shall be a nonappropriated agency of the State of Oklahoma.

B. Beginning July 1, 2012, the Insurance Commissioner shall have the authority to establish, set, amend, revoke and collect any fee falling within the authority of the Commissioner or Department through the promulgation of necessary rules.

C. No fee established, set, amended, revoked or collected pursuant to subsection B of this section shall take effect prior to July 1, 2013.

SECTION 2. AMENDATORY 36 O.S. 2011, Section 307.3, is amended to read as follows:

Section 307.3. A. Effective July 1, 2009, there is hereby created in the State Treasury a revolving fund for the Insurance Commissioner called the State Insurance Commissioner Revolving Fund. The revolving fund shall be used to fund the operations of the Office of the Insurance Commissioner.

1. Notwithstanding any other law to the contrary, the revolving fund shall consist of and consolidate all funds that are or have been paid or collected by the Insurance Commissioner pursuant to the laws of this state and the rules of the Insurance Department except that the revolving fund shall not include:

a. premium taxes,

b. monies transferred to the Attorney General's Insurance Fraud Unit Revolving Fund pursuant to Section 362 of this title,

c. funds paid to and collected pursuant to the Oklahoma Certified Real Estate Appraisers Act~~, Sections 858-700 through 858-732 of Title 59 of the Oklahoma Statutes~~,

d. health carrier access payments paid to and collected by the Insurance Commissioner and deposited into the Health Carrier Access Payment Revolving Fund, and

e. recoveries obtained as a result of insurance-related crimes, and other fines, late fees, and penalties assessed and collected.

2. The revolving fund shall be a continuing fund, not subject to fiscal year limitations. Expenditures from the revolving fund shall be made pursuant to the laws of this state and the statutes relating to the Insurance Department, and without legislative appropriation. Warrants for expenditures from the revolving fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Insurance Department and filed with the Director of the Office of State Finance.

B. All funds collected by the Insurance Commissioner shall be paid into the State Treasury weekly.

C. After ~~the effective date of this act~~ November 1, 2010, the State Treasury is authorized and directed to deduct from the funds

paid or collected by the Insurance Commissioner ~~a sum equal to seventy-six and one half percent (76.5%)~~ all funds in excess of twenty-eight and one-half percent (28.5%) of the payment and place the same to the credit of the General Revenue Fund of the state. The State Treasurer shall place to the credit of the State Insurance Commissioner Revolving Fund the remainder of the funds so paid ~~and~~ or collected by the Insurance Commissioner.

SECTION 3. AMENDATORY 36 O.S. 2011, Section 321, is amended to read as follows:

Section 321. A. ~~The Insurance Commissioner shall collect in advance the following fees and licenses~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the following fees and licenses shall be collected in advance by the Commissioner:

1. For filing charter documents:

Original charter documents,
articles of incorporation, bylaws,
or record of organization of alien
or foreign insurers, or certified
copies thereof.....$50.00

2. Certificate of Authority:

(a) Issuance:

Fraternal benefit societies,
alien or foreign.....$150.00

Hospital service and medical indemnity corporations, alien or foreign.....$150.00

All other alien or foreign insurers.....$150.00

(b) Renewal:

Fraternal benefit societies, alien or foreign.....$150.00

Hospital service and medical indemnity corporations, alien or foreign.....$150.00

All other alien or foreign insurers.....$150.00

3. For filing appointment of Insurance Commissioner as agent for service of process.....$10.00

4. Miscellaneous:

(a) Copies of records, per page.....$0.40

(b) Amended charter documents, articles of incorporation or bylaws of domestic, alien or foreign insurers or health maintenance organizations.....$50.00

(c) Certificate of Commissioner, under seal.....$5.00

(d) For filing Merger and Acquisition Forms.....$1,000.00

(e) For filing Variable Product Forms.....$200.00

(f) For filing a Life, Accident and Health Policy and Health Maintenance Organization contract.....$50.00

(g) For filing an advertisement or rider application to a Life, Accident and Health Policy and Health Maintenance Organization contract.....$25.00

(h) Pending Company Review.....$1,000.00

(i) For filing a Viatical Settlement Contract or Life Settlement.....$50.00

(j) For filing an advertisement for Viatical Settlement or Life Settlement.....$25.00

(k) For filing application for Viatical Settlement or Life Settlement Contract.....$25.00

(l) Miscellaneous form filing.....$25.00

B. ~~There~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, there shall be assessed an annual fee of Five Hundred Dollars ($500.00) payable by each insurer, health maintenance organization, fraternal benefit society, hospital service and medical indemnity corporation, charitable and benevolent corporation, or United States surplus lines insurance companies licensed to do business in this state, to pay for the filing, processing, and reviewing of annual and quarterly financial statements by personnel of the Office of the State Insurance Commissioner.

SECTION 4. AMENDATORY 36 O.S. 2011, Section 348.1, is amended to read as follows:

Section 348.1 A. ~~The Insurance~~ Unless the Insurance Commissioner has set forth a fee as provided for in this section through the promulgation of a rule, the Commissioner shall collect the following fees and licenses for the Property and Casualty Division:

1. Rating organizations, statistical agents and advisory organizations:

a. Application fee for issuance of license.....$200.00

b. License fee.....$500.00

2. Miscellaneous:

a. Certificate of Insurance Commissioner, under seal.....$20.00

b. Upon each transaction of filing of documents required pursuant to the provisions of Sections 3610 and 6601 of this title:

(1) For an individual insurer.....$50.00

(2) For an approved joint underwriting association, or rating or advisory organization:

(a) Basic fee.....$50.00

(b) Additional fee for each member or subscriber insurer.....$10.00, not to exceed.....$500.00.

3. For each rate, loss cost and rule filing request pursuant to the provisions of Sections 6821 and 981 et seq. of this title:

a. For an individual insurer.....$100.00

b. For an approved joint underwriting association, rating or advisory organization:

(1) Basic fee.....$100.00

(2) Additional fee for each member or subscriber insurer.....$10.00, not to exceed.....$500.00.

B. The fees, licenses, and taxes imposed by the Commissioner upon persons, firms, associations, or corporations licensed pursuant to this section shall be payment in full with respect thereto of and in lieu of all demands for any and all state, county, district, and municipal license fees, license taxes, business privilege taxes, business privilege fees, and charges of every kind now or hereafter imposed upon all such persons, firms, associations, or corporations. This subsection shall not affect other fees, licenses and taxes imposed by the Insurance Code.

C. Any costs incurred by the Commissioner in the process of review and analysis of a filing shall be assessed against the company or organization making the filing.

SECTION 5. AMENDATORY 36 O.S. 2011, Section 362, is amended to read as follows:

Section 362. ~~An~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, an annual fee of Seven Hundred Fifty Dollars ($750.00) shall be paid to the ~~Insurance~~ Commissioner to be expended by the ~~Insurance~~ Commissioner for the purposes of investigation of suspected insurance fraud and civil or administrative action in

cases involving suspected insurance fraud. The following shall pay an annual fee of Seven Hundred Fifty Dollars ($750.00) to the Insurance Department which shall be payable quarterly in the amount of One Hundred Eighty-seven Dollars and fifty cents ($187.50): Life, accident and health insurers; property and casualty insurers; county mutual fire insurers; mutual benefit associations; fraternal benefit societies; reciprocal insurers; motor service clubs; title insurers; nonprofit insurers; health maintenance organizations (HMOs); service warranty associations; surplus lines carriers; multiple employer welfare arrangements (MEWAs); trusts which write surety policies; prepaid dental plan organizations; and accredited reinsurers. The payments shall be due on or before the last day of the month following each calendar quarter. Beginning in the calendar year 2010, payment of the annual fee shall be made as one payment of Seven Hundred Fifty Dollars ($750.00) which shall be paid on or before July 1. Within sixty (60) days after each calendar quarter in which monies are collected, the Commissioner shall transfer twenty-five percent (25%) of all monies collected by the Insurance Department pursuant to this section to the Attorney General's Insurance Fraud Unit Revolving Fund created in Section 19.3 of Title 74 of the Oklahoma Statutes, for use by the Attorney General in the investigation and prosecution of insurance fraud.

SECTION 6. AMENDATORY 36 O.S. 2011, Section 622, is amended to read as follows:

Section 622. A. Triplicate copies of legal process against an insurer for whom the Insurance Commissioner is agent shall be served upon the Commissioner at the principal offices of the Insurance Department. When legal process against an insurer for whom the Insurance Commissioner is agent is issued, it shall be served in triplicate by any manner now provided by law or in lieu thereof by mailing triplicate copies of such legal process in the United States mails with postage prepaid to the Insurance Commissioner with return receipt requested, in which event service shall be sufficient upon showing of proof of mailing to the Commissioner with the return receipt attached. ~~At~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, at the time of service the plaintiff shall pay to the Insurance Commissioner Twenty Dollars ($20.00), taxable as costs in the action. Upon receiving service, the Insurance Commissioner shall promptly forward a copy thereof by mail with return receipt requested to the person last so designated by the insurer to receive the same.

B. Process served upon the Insurance Commissioner and copy thereof forwarded as provided in this section shall constitute service upon the insurer.

SECTION 7. AMENDATORY 36 O.S. 2011, Section 635, is amended to read as follows:

Section 635. A. To meet the requirements for issuance of a license and to maintain a MEWA, a MEWA either ~~must~~ shall be:

1. a. nonprofit,

b. (1) established by a trade association, industry association or professional association of employers or professionals that has a constitution or bylaws and that has been organized and maintained in good faith for a continuous period of five (5) years for purposes other than that of obtaining or providing insurance, or

(2) requires membership in an association described in division (1) of this subparagraph in order to obtain the insurance offered by the MEWA,

c. operated pursuant to a trust agreement by a board of trustees that has complete fiscal control over the MEWA and that is responsible for all operations of the MEWA. Except as provided in this paragraph, the trustees ~~must~~ shall:

(1) be owners, shareholders, partners, officers, directors, or employees of one or more employers in the MEWA. With the Insurance Commissioner's approval, a person who is not such an owner, shareholder, partner, officer, director, or

employee may serve as a trustee if that person possesses the expertise required for ~~such~~ the service. A trustee may not be an owner, shareholder, partner, officer or employee of the administrator or service company of the MEWA,

(2) have the authority to approve applications of association members for participation in the MEWA, and

(3) have the authority to contract with an authorized administrator or service company to administer the operations of the MEWA,

d. neither offered nor advertised to the public generally,

e. operated in accordance with sound actuarial principles, and

f. offered only after Two Hundred Thousand Dollars ($200,000.00) of cash or federally guaranteed obligations of less than five-year maturity that have a fixed or recoverable principal amount or ~~such~~ other investments as the Commissioner may authorize by rule is titled in ~~such~~ a manner that it may not be traded, sold or otherwise expended without the consent of the Insurance Commissioner; provided, ~~said~~ the funds shall be taken into account in determining whether the MEWA

is actuarially sound, and evidence of ~~said~~ the investment shall be filed with the State Treasurer; or

2. a. operated pursuant to a trust agreement for a trust which has its situs in this state, is operated pursuant to a trust agreement by a board of trustees that has complete fiscal control over the MEWA, is responsible for all operations of the MEWA, and which has as one of its trustees a financial institution which is independent of the entity which established the MEWA. Except as provided in this paragraph, the board of trustees ~~must~~ shall have owners, shareholders, partners, officers, directors or employees of one or more employers in the MEWA. With the Insurance Commissioner's approval, a person who is not such an owner, shareholder, partner, officer, director or employee may serve as a trustee if that person possesses the expertise required for ~~such~~ the service. A trustee shall not be an owner, shareholder, partner, officer, director or employee of the administrator or service company of the MEWA,

b. operated and administered in a manner that causes all assets of the MEWA to be held in trust until paid either:

(1) for the benefit of individuals who receive medical, dental or similar benefits from the MEWA, or

(2) for the expenses of the MEWA, such as the fees of the trustee, licensed agents, administrator, service company, and all expenses of complying with the provisions of ~~this act~~ Section 633 et seq. of this title,

c. offered only to employers for the benefit of their employees,

d. operated in accordance with sound actuarial principles, and

e. offered only after Two Hundred Thousand Dollars ($200,000.00) of cash or federally guaranteed obligations of less than five-year maturity that have a fixed or recoverable principal amount or such other investments as the Commissioner may authorize by rule is titled in ~~such~~ a manner that it may not be traded, sold or otherwise expended without the consent of the Insurance Commissioner; provided, ~~said~~ the funds shall be taken into account in determining whether the MEWA is actuarially sound, and evidence of ~~said~~ the investment shall be filed with the State Treasurer.

B. 1. The MEWA shall issue to each covered employee a policy, contract, certificate, summary plan description, or other evidence of the benefits and coverages provided. The policy, contract, certificate, summary plan description, or other evidence of the benefits, coverages provided, premium rates to be charged and any contracts between the MEWA and any administrator or service company, including any changes to those documents, ~~must~~ shall be filed with the Oklahoma Insurance Department. The evidence of benefits and coverages provided shall contain, in boldface type on the face page of the policy and the certificate, the following statement: "THE BENEFITS AND COVERAGES DESCRIBED HEREIN ARE PROVIDED THROUGH A TRUST FUND ESTABLISHED BY A GROUP OF EMPLOYERS (name of MEWA). THE TRUST FUND IS NOT SUBJECT TO ANY INSURANCE GUARANTY ASSOCIATION. OTHER RELATED FINANCIAL INFORMATION IS AVAILABLE FROM YOUR EMPLOYER OR FROM THE (name of MEWA). EXCESS INSURANCE IS PROVIDED BY A LICENSED INSURANCE COMPANY TO COVER CERTAIN CLAIMS WHICH EXCEED CERTAIN AMOUNTS. THIS IS THE ONLY SOURCE OF FUNDING FOR THESE BENEFITS AND COVERAGES."

2. If applicable, the same documents shall contain in boldface type on the face page of the policy and the certificate: "THE BENEFITS AND COVERAGE DESCRIBED HEREIN ARE FUNDED BY CONTRIBUTIONS FROM EMPLOYERS, EMPLOYEES, AND OTHER INDIVIDUALS ELIGIBLE FOR COVERAGE."

3. Any statement required by this subsection is not required on identification cards issued to covered employees or other insureds.

C. The Commissioner shall not grant or continue a license to any MEWA if the Commissioner reasonably deems that:

1. Any trust, manager or administrator is incompetent, untrustworthy, or so lacking in insurance expertise as to make the operations of the MEWA hazardous to the potential and existing insureds;

2. Any trustee, manager or administrator has been found guilty of or has pled guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of one (1) year or more under the law of any state or country, whether or not a judgment or conviction has been entered; or

3. Any trustee, manager or administrator has had any type of insurance license justifiably revoked in this or any other state.

D. To qualify for and retain a license, a MEWA shall file all contracts with administrators or service companies with the Insurance Commissioner, and report any changes in ~~such~~ the contracts to the Commissioner in advance of their implementation. The Commissioner shall have the authority to cause any contract with an administrator or service company to be renegotiated if the Commissioner reasonably determines that the charges under any such contract are excessively high in light of the services being delivered under the contract.

E. ~~An~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, an initial filing fee of One Thousand Dollars ($1,000.00) is required for licensure~~. Each~~ and each subsequent year the MEWA is in operation, an annual fee of Two Hundred Fifty Dollars ($250.00) shall be required.

F. Failure to maintain compliance with the eligibility requirements established by this section ~~is~~ shall be a ground for denial, suspension or revocation of the license of a MEWA.

SECTION 8. AMENDATORY 36 O.S. 2011, Section 1219.4, is amended to read as follows:

Section 1219.4 A. As used in this section:

1. "Direct contract" means a contractual arrangement tying the ultimate seller purporting to offer discounts through the discount card to the health care provider, which expressly states the intent of this agreement to be used for the purpose of offering discounts on health-related purchases to uninsured or noncovered persons;

2. "Discount card" means a card or any other purchasing mechanism or device, which is not insurance, that purports to offer discounts or access to discounts in health-related purchases from health care providers;

3. "Discount medical plan" means a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, provides access for plan members to providers

of medical services and the right to receive medical services from those providers at a discount. The term discount medical plan does not include any product regulated as an insurance product, group health service product or health maintenance organization (HMO) product in the State of Oklahoma or discounts provided by an insurer, group health service, or health maintenance organizations (HMOs) where those discounts are provided at no cost to the insured or member and are offered due to coverage with a licensed insurer, group health service, or HMO;

4. "Discount medical plan organization" means a person or an entity which operates a discount medical plan;

5. "Health care provider" means any person or entity licensed by this state to provide health care services including, but not limited to, physicians, hospitals, home health agencies, pharmacies, and dentists;

6. "Health care provider network" means an entity which directly contracts with physicians and hospitals and has contractual rights to negotiate on behalf of those health care providers with a discount medical plan organization to provide medical services to members of the discount medical plan organization;

7. "Marketer" means a person or entity who markets, promotes, sells or distributes a discount medical plan, including a private label entity that places its name on and markets or distributes a discount medical plan but does not operate a discount medical plan;

8. "Medical services" means any care, service or treatment of illness or dysfunction of, or injury to, the human body including, but not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, laboratory services, and medical equipment and supplies. The term does not include pharmaceutical supplies or prescriptions;

9. "Member" means any person who pays fees, dues, charges, or other consideration for the right to receive the purported benefits of a discount medical plan; and

10. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, or any other government or commercial entity.

B. 1. Before doing business in this state as a discount medical plan organization, an entity shall be a corporation, limited liability corporation, partnership, limited liability partnership or other legal entity, organized under the laws of this state or, if a foreign entity, authorized to transact business in this state, and shall be registered as a discount medical plan organization with the Insurance Department of the State of Oklahoma or be licensed by the Insurance Department of the State of Oklahoma as a licensed insurance company, licensed HMO, licensed group health service organization or motor service club.

2. ~~To~~ Unless the Insurance Commissioner has set forth a fee as provided for in this paragraph through the promulgation of a rule, to register as a discount medical plan organization, an applicant shall:

a. file with the Insurance Department of the State of Oklahoma an application on the form that the Insurance Commissioner requires, and

b. pay to the Department an application fee of Two Hundred Fifty Dollars ($250.00).

3. A registration is valid for a one-year term.

4. A registration expires one year following the registration unless it is renewed as provided in this subsection.

5. ~~Before~~ Unless the Insurance Commissioner has set forth a fee as provided for in this paragraph through the promulgation of a rule, before it expires, a registrant may renew the registration for an additional one-year term if the registrant:

a. otherwise is entitled to be registered,

b. files with the Department a renewal application on the form that the Insurance Commissioner requires, and

c. pays to the Department a renewal fee of Two Hundred Fifty Dollars ($250.00).

6. The Insurance Commissioner may deny a registration to an applicant or refuse to renew, suspend, or revoke the registration of

a registrant if the applicant or registrant, or an officer, director, or employee of the applicant or registrant:

a. makes a material misstatement or misrepresentation in an application for registration,

b. fraudulently or deceptively obtains or attempts to obtain a registration for the applicant or registrant or for another,

c. in connection with the administration of a health care discount program, commits fraud or engages in illegal or dishonest activities, or

d. has violated any provisions of this section.

7. Prior to registration by the Insurance Department of the State of Oklahoma, each discount medical plan organization shall establish an Internet web site.

8. All amounts collected as registration or renewal fees shall be ~~deposited~~ paid into the ~~General Revenue Fund~~ State Treasury.

9. Nothing in this subsection shall require a provider who provides discounts to his or her own patients to obtain and maintain a registration as a discount medical plan organization.

10. a. Nothing in this subsection shall apply to an affiliate of a licensed insurance company, HMO, group health service organization or motor service club, provided that the affiliate registers with and maintains registration in good standing with the Insurance

Department of the State of Oklahoma in accordance with subparagraphs b and c of this paragraph.

b. ~~An~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subparagraph through the promulgation of a rule, an affiliate shall register as a discount medical plan organization on a form prescribed by the Insurance Commissioner prior to the sale, marketing or solicitation of a discount medical plan and pay an application fee of One Hundred Dollars ($100.00).

c. A registration shall expire one (1) year after the date of registration, and each year on that date thereafter. ~~A~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subparagraph through the promulgation of a rule, a registrant may renew the registration if the registrant pays an annual registration fee of One Hundred Dollars ($100.00) and remains in good standing with the Insurance Department of the State of Oklahoma.

d. For purposes of this section, "affiliate" means a person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with an insurance company,

HMO, group health service organization or motor service club licensed in this state.

C. 1. The Department may examine or investigate the business and affairs of any discount medical plan organization. The Department may require any discount medical plan organization or applicant to produce any records, books, files, advertising and solicitation materials, or other information and may take statements under oath to determine whether the discount medical plan organization or applicant is in violation of the law or is acting contrary to the public interest. The expenses incurred in conducting any examination or investigation shall be paid by the discount medical plan organization or applicant. Examinations and investigations shall be conducted as provided in Sections 309.1 and 309.3 through 309.7 of this title. Discount medical plan organizations shall be governed by the provisions of this section and shall not be subject to the provisions of the Insurance Code unless specifically referenced.

2. All work papers, recorded information, documents, books, files, advertising and solicitation materials, copies or other information produced by, obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to this section or in the course of analysis by the Commissioner or other person, shall be given confidential treatment and may not be made public by the

Commissioner or any other person, except to the extent provided in this section. Access may be granted to the National Association of Insurance Commissioners. The parties shall agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained. The privilege of confidentiality provided for in this paragraph shall not be construed to be extended to identical, similar or other related documents to the work papers that are not deemed to be in the possession, custody or control of the Commissioner.

3. Failure by the discount medical plan organization to pay the expenses incurred under paragraph 1 of this subsection shall be grounds for denial or revocation of the discount medical plan organization's registration.

D. 1. A discount medical plan organization may charge a reasonable one-time processing fee and a periodic charge.

2. If the member cancels the membership within the first thirty (30) days after receipt of the discount card and other membership materials, the member shall receive a reimbursement of all periodic charges paid. The return of all periodic charges shall be made within thirty (30) days of the date of the cancellation. If all of the periodic charges have not been paid within thirty (30) days, interest shall be assessed and paid on the proceeds at a rate of the

Treasury Bill rate of the preceding calendar year, plus two (2) percentage points.

3. The right of cancellation shall be set out in the contract on the first page, in ten-point type or larger.

4. If a discount medical plan charges for a time period in excess of one (1) month, the plan shall, in the event of cancellation of the membership by either party, make a pro rata reimbursement of all periodic charges to the member.

E. 1. A discount medical plan organization may not:

a. use in its advertisements, marketing material, brochures, and discount cards the terms "insurance", "health plan", "coverage", "copay", "copayments", "preexisting conditions", "guaranteed issue", "premium", "PPO", "preferred provider organization", or other terms in a manner that could reasonably mislead a person to believe that the discount medical plan is health insurance,

b. except for hospital services, have restrictions on free access to plan providers including waiting periods and notification periods, or

c. pay providers any fees for medical services.

2. A discount medical plan organization may not collect or accept money from a member for payment to a provider for specific medical services furnished or to be furnished to the member unless

the organization has an active license from the Insurance Department of the State of Oklahoma to act as an administrator.

F. 1. The following disclosures, to be printed in not less than twelve-point type, shall be made in writing to any prospective member and shall appear on the first page of any advertisements, marketing materials or brochures relating to a discount medical plan:

a. that the plan is not insurance,

b. that the plan provides discounts with certain health care providers for medical services,

c. that the plan does not make payments directly to the providers of medical services,

d. that the plan member is obligated to pay for all health care services but will receive a discount from those health care providers who have contracted with the discount plan organization, and

e. the name and the location of the registered discount medical plan organization, including the current telephone number of the registered discount medical plan organization or other entity responsible for customer service for the plan, if different from the registered discount medical plan organization.

2. If the discount medical plan is sold, marketed, or solicited by telephone, the disclosures required by this section shall be made

orally and provided in the initial written materials that describe the benefits under the discount medical plan provided to the prospective or new member.

3. The discount card provided to members shall prominently display the words "This is not insurance".

G. 1. All providers offering medical services to members under a discount medical plan shall provide ~~such~~ the services pursuant to a written agreement. The agreement may be entered into directly by the health care provider or by a health care provider network to which the provider belongs if the provider network has contracts with the health care provider that allow the provider network to contract on behalf of the health care provider.

2. A health care provider agreement shall provide the following:

a. a description of the services and products to be provided at a discount,

b. the amount or amounts of the discounts or, alternatively, a fee schedule which reflects the health care provider's discounted rates, and

c. a provision that the health care provider will not charge members more than the discounted rates.

3. A health care provider agreement with a health care provider network shall require that the health care provider network have written agreements with its health care providers that:

a. contain the terms described in paragraph 2 of this subsection,

b. authorize the health care provider network to contract with the discount medical plan organization on behalf of the provider, and

c. require the network to maintain an up-to-date list of its contracted health care providers and to provide that list on a quarterly basis to the discount medical plan organization.

4. The discount medical plan organization shall maintain a copy of each active health care provider agreement into which it has entered.

H. 1. There shall be a written agreement between the discount medical plan organization and the member specifying the benefits under the discount medical plan and complying with the disclosure requirements of this section.

2. All forms used, including the written agreement pursuant to the provisions of subsection G of this section, shall first be filed with the Department. Every form filed shall be identified by a unique form number placed in the lower left corner of each form. ~~A~~ Unless the Insurance Commissioner has set forth a fee as provided for in this paragraph through the promulgation of a rule, a filing fee of Twenty-five Dollars ($25.00) per form shall be payable to the

Insurance Department of the State of Oklahoma ~~for deposit into the General Revenue Fund~~.

I. 1. Each discount medical plan organization required to be registered pursuant to this section except an affiliate shall, at all times, maintain a net worth of at least One Hundred Fifty Thousand Dollars ($150,000.00).

2. The Insurance Department of the State of Oklahoma may not allow a registration unless the discount medical plan organization has a net worth of at least One Hundred Fifty Thousand Dollars ($150,000.00).

J. 1. The Insurance Department of the State of Oklahoma may suspend the authority of a discount medical plan organization to enroll new members, revoke any registration issued to a discount medical plan organization, or order compliance if the Department finds that any of the following conditions exist:

a. the organization is not operating in compliance with the provisions of this section,

b. the organization does not have the minimum net worth as required by this section,

c. the organization has advertised, merchandised or attempted to merchandise its services in such a manner as to misrepresent its services or capacity for service or has engaged in deceptive, misleading or

unfair practices with respect to advertising or merchandising,

d. the organization is not fulfilling its obligations as a discount medical plan organization, or

e. the continued operation of the organization would be hazardous to its members.

2. If the Insurance Department of the State of Oklahoma has cause to believe that grounds for the suspension or revocation of a registration exist, the Department shall notify the discount medical plan organization in writing, specifically stating the grounds for suspension or revocation, and shall provide opportunity for a hearing on the matter in accordance with the Administrative Procedures Act and the Oklahoma Insurance Code.

3. When the certificate of registration of a discount medical plan organization is nonrenewed, surrendered or revoked, ~~such~~ the organization shall proceed, immediately following the effective date of the order of revocation, or in the case of nonrenewal, the date of expiration of the certificate of registration, to wind up its affairs transacted under the certificate of registration. The organization may not engage in any further advertising, solicitation, collecting of fees, or renewal of contracts.

4. The Insurance Department of the State of Oklahoma shall, in its order suspending the authority of a discount medical plan organization to enroll new members, specify the period during which

the suspension is to be in effect and the conditions, if any, which shall be met by the discount medical plan organization prior to reinstatement of its registration to enroll new members. The order of suspension is subject to rescission or modification by further order of the Department prior to the expiration of the suspension period. Reinstatement may not be made unless requested by the discount medical plan organization; however, the Department may not grant reinstatement if it finds that the circumstances for which the suspension occurred still exist or are likely to reoccur.

K. Each discount medical plan organization required to be registered pursuant to this section shall provide the Insurance Department of the State of Oklahoma at least thirty (30) days' advance notice of any change in the discount medical plan organization's name, address, principal business address, or mailing address.

L. Each discount medical plan organization shall maintain an up-to-date list of the names and addresses of the providers with which it has contracted on an Internet web site page, the address of which shall be prominently displayed on all its advertisements, marketing materials, brochures, and discount cards. This section applies to those providers with whom the discount medical plan organization has contracted directly, as well as those who are members of a provider network with which the discount medical plan organization has contracted.

M. 1. All advertisements, marketing materials, brochures and discount cards used by marketers shall be approved in writing for such use by the discount medical plan organization.

2. The discount medical plan organization shall have an executed written agreement with a marketer prior to the marketer's marketing, promoting, selling, or distributing the discount medical plan.

N. The Insurance Commissioner may promulgate rules to administer the provisions of this section.

O. Regulation of discount medical plan organizations shall be done pursuant to the Administrative Procedures Act.

P. 1. A discount medical plan organization required to be registered pursuant to this section except an affiliate shall maintain a surety bond with the Insurance Department of the State of Oklahoma, having at all times a value of not less than Thirty-five Thousand Dollars ($35,000.00), for use by the Department in protecting plan members.

2. No judgment creditor or other claimant of a discount medical plan organization, other than the Insurance Department of the State of Oklahoma, shall have the right to levy upon the surety bond held pursuant to the provisions of paragraph 1 of this subsection.

Q. 1. A person who knowingly and willfully operates as or aids and abets another operating as a discount medical plan organization in violation of subsection B of this section commits a felony,

punishable as provided for in Oklahoma law, as if the discount medical plan organization were an unauthorized insurer, and the fees, dues, charges, or other consideration collected from the members by the discount medical plan organization or marketer were insurance premium.

2. A person who collects fees for purported membership in a discount medical plan but fails to provide the promised benefits commits a theft, punishable as provided in Oklahoma law.

R. 1. In addition to the penalties and other enforcement provisions of this section, the Department may seek both temporary and permanent injunctive relief if:

a. a discount medical plan organization is being operated by any person or entity that is not registered pursuant to this section, or

b. any person, entity, or discount medical plan organization has engaged in any activity prohibited by this section or any rule adopted pursuant to this section.

2. The venue for any proceeding brought pursuant to the provisions of this section shall be in the district court of Oklahoma County.

S. 1. The provisions of this section apply to the activities of a discount medical plan organization that is not registered

pursuant to this section as if the discount medical plan organization were an unauthorized insurer.

2. A discount medical plan organization being operated by any person or entity that is not registered pursuant to this section, or any person, entity or discount medical plan organization that has engaged or is engaging in any activity prohibited by this section or any rules adopted pursuant to this section shall be subject to the Unauthorized Insurer Act as if the discount medical plan organization were an unauthorized insurer, and shall be subject to all the remedies available to the Insurance Commissioner under the Unauthorized Insurer Act.

T. If the Insurance Commissioner finds that a discount medical plan organization has violated any provision of this section or that grounds exist for the discretionary revocation or suspension of a registration, the Commissioner, in lieu of ~~such~~ the revocation or suspension, may impose a fine upon the discount medical plan organization in an amount not to exceed One Thousand Dollars ($1,000.00) per violation.

SECTION 9. AMENDATORY 36 O.S. 2011, Section 1435.23, is amended to read as follows:

Section 1435.23 A. All applications shall be accompanied by the applicable fees. An appointment may be deemed by the Insurance Commissioner to have terminated upon failure by the insurer to pay the prescribed renewal fee. The Commissioner may also by order

impose a civil penalty equal to double the amount of the unpaid renewal fee.

~~The Insurance~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the Commissioner shall collect in advance the following fees and licenses:

1. For filing appointment of Insurance Commissioner as agent for service of process..... $ 20.00

2. Miscellaneous:

a. Certificate and Clearance of Commissioner..... $ 3.00

b. Insurance producer's study manual:

Life, Accident & Health..... not to exceed $ 40.00

Property and Casualty..... not to exceed $ 40.00

c. For filing organizational documents of an entity applying for a license as an insurance producer..... $ 20.00

3. Examination for license:

For each examination covering laws and one or more lines of insurance.... not to exceed $100.00

4. Licenses:

a. Insurance producer's biennial license..... $ 60.00

b. Nonresident insurance producer's biennial license..... $100.00

c. Insurance producer's biennial license for sale or solicitation of variable insurance products..... $ 60.00

d. Limited lines producer biennial license..... $ 40.00

e. Temporary license as agent..... $ 20.00

f. Managing general agent's biennial license..... $ 60.00

g. Surplus lines broker's biennial license..... $100.00

h. Insurance vending machine, each machine, biennial fee..... $100.00

i. Insurance consultant's biennial license, resident or nonresident..... $100.00

j. Customer service representative biennial license..... $ 40.00

5. Annual fee for each appointed insurance producer, managing general agent, or limited lines producer by insurer, each license of each insurance producer or representative..... $ 30.00

6. Renewal fee for all licenses shall be the same as the current initial license fee.

7. The fee for a duplicate license shall be one-half (1/2) the fee of an original license.

8. The renewal of a license shall require a fee of double the current original license fee if the application for renewal is late, or incomplete on the renewal deadline.

9. The administrative fee for submission of a change of legal name or address more than thirty (30) days after the change occurred shall be Fifty Dollars ($50.00).

B. If for any reason an insurance producer license or appointment is not issued or renewed by the Commissioner, all fees accompanying the appointment or application for the license shall be deemed earned and shall not be refundable except as provided in Section 352 of this title.

C. The ~~Insurance~~ Commissioner, by order, may waive licensing fees in extraordinary circumstances for a class of producers where the Commissioner deems that the public interest will be best served.

SECTION 10. AMENDATORY 36 O.S. 2011, Section 1450, is amended to read as follows:

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

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

1. "Home state" means the United States jurisdiction that has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators and which has been designated by the administrator as its principal regulator. The administrator may designate either its state of incorporation or its principal place of business within the United States if that jurisdiction has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators. If neither the administrator's state of incorporation nor its principal place of business within the United States has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators, then the third-party administrator shall

designate a United States jurisdiction in which it does business and which has adopted the Third-party Administrator Act or a substantially similar law governing third-party administrators. For purposes of this definition, "United States jurisdiction" means the District of Columbia or a state or territory of the United States.

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

C. In the case of a partnership which has been licensed, each general partner shall be named in the license and shall qualify therefore as though an individual licensee. ~~The~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the Commissioner shall charge a full additional license fee and a separate license shall be issued for each individual so named in ~~such a~~ the license. The partnership shall notify the Commissioner within fifteen (15) days if any individual licensed on its behalf has been terminated, or is no longer associated with or employed by the partnership. Any entity or partnership licensed as administrators under the Third-party Administrators Act shall provide National Association of Insurance Commissioner Biographical Affidavits as required for domestic insurers pursuant to the insurance laws of this state.

D. ~~An~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, an

application for an administrator's license shall be in a form prescribed by the Commissioner and shall be accompanied by a fee of One Hundred Dollars ($100.00). This fee shall not be refundable if the application is denied or refused for any reason by either the applicant or the Commissioner.

E. The administrator's license shall continue in force no longer than twelve (12) months from the original month of issuance. ~~Upon~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, upon filing a renewal form prescribed by the Commissioner, accompanied by a fee of One Hundred Dollars ($100.00), the license may be renewed annually for a one-year term. Late application for renewal of a license shall require a fee of double the amount of the original license fee. The administrator shall submit, together with the application for renewal, a list of the names and addresses of the persons with whom the administrator has contracted in accordance with Section 1443 of this title. The Commissioner shall hold this information confidential except as provided in Section 1443 of this title.

F. The administrator's license shall be issued or renewed by the Commissioner unless, after notice and opportunity for hearing, the Commissioner determines that the administrator is not competent, trustworthy, or financially responsible, or has had any insurance license denied for cause by any state, has been convicted or has

pleaded guilty or nolo contendere to any felony or to a misdemeanor involving moral turpitude or dishonesty.

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

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

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

SECTION 11. AMENDATORY 36 O.S. 2011, Section 1661, is amended to read as follows:

Section 1661. ~~The~~ Unless the Insurance Commissioner has set forth a fee as provided for in this section through the promulgation of a rule, the initial fee for registration required by the provisions of Section 1654 of this title shall be Two Hundred Fifty Dollars ($250.00) and an additional fee of One Hundred Dollars ($100.00) shall be payable on May 1 of each calendar year thereafter so long as such registration continues.

SECTION 12. AMENDATORY 36 O.S. 2011, Section 3102, is amended to read as follows:

Section 3102. A. No company shall sell, or offer for sale, any motor club service without first having deposited with the Insurance Commissioner the sum of Fifty Thousand Dollars ($50,000.00), in cash or securities approved by the Commissioner, or, in lieu thereof, a corporate surety bond, approved by the Commissioner, in the form described by the Commissioner, payable to the State of Oklahoma, in the sum of One Hundred Thousand Dollars ($100,000.00), and conditioned upon the faithful performance in the sale or rendering of motor club service and payment of any fines or penalties levied against it for failure to comply with the provisions of ~~this act~~ Section 3101 et seq. of this title. Provided, however, that the aggregate liability of the surety for all breaches of the conditions

of the bond and for the payment of all fines and penalties shall, in no event, exceed the amount of ~~said~~ the bond.

B. No Certificate of Authority shall be issued by the Commissioner until the company has filed with ~~him~~ the Commissioner the following:

1. A formal application for the certificate in ~~such~~ the form and detail as the Commissioner requires, executed under oath by its president or another principal officer of the company;

2. A certified copy of its charter or articles of incorporation and its bylaws, if any;

3. A certificate from the Secretary of State, State of Oklahoma, in the event that it is a domestic corporation, signifying that the company is in compliance with the corporation laws of the State of Oklahoma;

4. A copy of its latest financial statement, or report of independent audit, as the Commissioner may require; or, in the event that neither is available, its most recent audited and certified operating statement and balance sheet. Any ~~such~~ certified operating statement, audit or audited and certified operating statement and balance sheet shall be verified by the person compiling or making the same and by an executive officer of the applicant;

5. A certificate from its domiciliary state regulatory authority, in the event that it is a foreign corporation, to be executed not more than thirty (30) days before the filing of its

application, signifying that it is duly authorized to do motor club business in that state;

6. An explanation of its plan of doing business and copies of the following:

a. its application for membership,

b. the proposed membership certificate or identification card and any proposed addendum thereto,

c. any individual insurance policy and any group master policy and individual certificates thereunder to be offered, and

d. any service contract to be issued; and

7. ~~Such~~ Any other information as the Commissioner may find necessary in order to determine the applicant's qualifications.

C. ~~No~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, no Certificate of Authority shall be issued by the Commissioner until the company has:

1. Paid an initial filing fee of Two Hundred Fifty Dollars ($250.00) ~~to the General Fund of the State of Oklahoma~~;

2. Paid an annual license fee of One Hundred Dollars ($100.00) ~~to the General Fund of the State of Oklahoma~~;

3. Had its name approved by the Commissioner under the provisions of ~~Title 36 of the Oklahoma Statutes,~~ Sections 620 and

2104 of this title, the provisions of which are hereby made applicable to motor clubs;

4. Proved by affidavits of its officers, directors, managers and individual owners of more than ten percent (10%), on a form prescribed by the Commissioner, that it is not disqualified under any provisions contained in ~~this act~~ Section 3101 et seq. of this title or contained in the Insurance Code; and

5. Proved to the Commissioner's satisfaction that it is a separate legal entity capable of being examined by the Commissioner as provided in ~~this act~~ Section 3101 et seq. of this title.

D. Certificates of authority issued hereunder shall expire annually on July 1, unless sooner revoked or suspended, as hereinafter provided.

SECTION 13. AMENDATORY 36 O.S. 2011, Section 4055.3, is amended to read as follows:

Section 4055.3. A. 1. A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the Insurance Commissioner of the state of residence of the viator.

2. a. A life insurance producer who has been duly licensed as a resident insurance producer with a life line of authority in this state or his or her home state for at least one (1) year and is licensed as a nonresident producer in this state shall be deemed to meet the

licensing requirements of this section and shall be permitted to operate as a viatical settlement broker.

b. Not later than thirty (30) days from the first day of operating as a viatical settlement broker, the life insurance producer shall notify the Commissioner that he or she is acting as a viatical settlement broker on a form prescribed by the Commissioner, and shall pay any applicable fee to be determined by the Commissioner. Notification shall include an acknowledgement by the life insurance producer that he or she will operate as a viatical settlement broker in accordance with the Viatical Settlements Act of 2008.

c. The insurer that issued the policy being viaticated shall not be responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

3. A person licensed as an attorney, certified public accountant or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the

viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

B. Application for a viatical settlement provider or a viatical settlement broker license shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner. ~~The~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the application shall be accompanied by a fee of Five Hundred Dollars ($500.00).

C. ~~Licenses~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fees of Five Hundred Dollars ($500.00). Failure to pay the fees by the renewal date results in expiration of the license.

D. The applicant shall provide information on forms required by the Commissioner. The Commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members and employees, and the Commissioner may, in the exercise of the Commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner or member

thereof who may materially influence the applicant's conduct meets the standards of the Viatical Settlements Act of 2008.

E. A license issued to a legal entity authorizes all partners, officers, members and designated employees to act as viatical settlement providers, viatical settlement brokers as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

F. Upon the filing of an application and the payment of the license fee, the Commissioner shall make an investigation of each applicant and issue a license if the Commissioner finds that the applicant:

1. If a viatical settlement provider, has provided a detailed plan of operation;

2. Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

3. Has a good business reputation and has had experience, training or education so as to be qualified in the business for which the license is applied for;

4. a. If a viatical settlement provider, has demonstrated evidence of financial responsibility in a format prescribed by the Commissioner, through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state, a policy of errors and omissions insurance, or a deposit of cash,

certificates of deposit or securities or any combination thereof in an amount not to exceed Fifty Thousand Dollars ($50,000.00), or

b. If a viatical settlement broker, has demonstrated evidence of financial responsibility in a format prescribed by the Commissioner, through a surety bond executed and issued by an insurer authorized to issue surety bonds in this state, a policy of errors and omissions insurance, or a deposit of cash, certificates of deposit or securities or any combination thereof in an amount not to exceed Fifty Thousand Dollars ($50,000.00), or

c. The Commissioner may ask for evidence of financial responsibility at any time the Commissioner deems necessary;

5. If a legal entity, provides a certificate of good standing from the state of its domicile; and

6. If a viatical settlement provider or viatical settlement broker, has provided an antifraud plan that meets the requirements of subsection G of Section ~~13 of Enrolled Senate Bill No. 1980 of the 2nd Session of the 51st Oklahoma Legislature~~ 4055.13 of this title.

G. The Commissioner shall not issue a license to a nonresident applicant, unless a written designation of an agent for service of

process is filed and maintained with the Commissioner, or the applicant has filed with the Commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Commissioner.

H. A viatical settlement provider, viatical settlement broker or viatical settlement investment agent shall provide to the Commissioner new or revised information about officers, ten percent (10%) or more stockholders, partners, directors, members or designated employees within thirty (30) days of the change.

I. An individual licensed as a viatical settlement broker shall complete on a biennial basis eight (8) hours of training related to viatical settlements and viatical settlement transactions, as required by the Commissioner; provided, however, that a life insurance producer who is operating as a viatical settlement broker pursuant to paragraph 2 of subsection A of this section shall not be subject to the requirements of this subsection. Any person failing to meet the requirements of this subsection shall be subject to the penalties imposed by the Commissioner.

SECTION 14. AMENDATORY 36 O.S. 2011, Section 6124, is amended to read as follows:

Section 6124. A. ~~Each~~ <u>Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, each</u> organization desiring to accept money

or anything of value for prepaid funeral benefits or an agreement to provide funeral benefits in the future at a fixed or predetermined cost, shall file an application for a permit with the Insurance Commissioner, and shall at the time of filing an application pay one initial filing fee of Fifty Dollars ($50.00). The Insurance Commissioner shall issue a permit upon:

1. The receipt of the application and payment of the filing fee;

2. Determination that the organization is in good standing as a funeral establishment with the Oklahoma Funeral Board; and

3. Making a finding that the organization has complied with the rules promulgated under ~~this act~~ Section 6121 et seq. of this title by the Insurance Commissioner. All applications shall be signed by the organization requesting the permit, and shall contain a statement that the organization ~~will~~ shall comply with all the requirements as established by ~~this act~~ Section 6121 et seq. of this title. ~~All~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, all permits shall expire on December 31 of the year the permit is first issued, unless renewed; permits may be renewed for a period not to exceed the succeeding December 31 upon the payment of a renewal fee of Fifty Dollars ($50.00). Late application for renewal of a permit shall require a fee of double the renewal fee. No application for renewal of a permit shall be accepted after January

31 of each year. The Insurance Commissioner may authorize acceptance of a new permit application pursuant to this section prior to the expiration of the one-year period upon good cause shown.

B. The Insurance Commissioner may cancel a permit or refuse to issue a permit or refuse to issue a renewal of a permit for failure to comply with any provision of ~~this act~~ Section 6121 et seq. of this title, or any valid rule, which the Insurance Commissioner has promulgated, after reasonable notice to the organization and after hearing if the organization requests a hearing. When the Insurance Commissioner cancels a permit or refuses to issue a renewal of a permit for a violation as provided by this subsection, the Insurance Commissioner shall notify the Oklahoma Funeral Board of the action and the nature of any violations.

C. No organization shall be entitled to a new permit for a period of one (1) year after cancellation, or refusal by the Insurance Commissioner to renew the permit of the organization but shall thereafter be entitled to a new permit upon satisfactory proof of compliance with this law, after the expiration of the one-year period.

D. Any person or organization aggrieved by the actions of the Insurance Commissioner may appeal therefrom as provided by Article II of the Administrative Procedures Act.

SECTION 15. AMENDATORY 36 O.S. 2011, Section 6128, is amended to read as follows:

Section 6128. Each organization shall file an annual report with the Insurance Commissioner on or before March 15 of each year in such form as the Insurance Commissioner may require, showing the names and addresses of all persons with whom contracts for prepaid funeral benefits have been made prior to December 31 of the preceding year which had not been fully discharged on December 31 and, also showing the date of the contract, the name of the bank or depository holding the trust fund and the amount of the trust fund under each contract on the preceding December 31. Any organization which has discontinued the sale of prepaid funeral benefits, but which still has outstanding contracts, shall not be required to obtain a renewal of its permit, but it shall continue to make annual reports to the Insurance Commissioner until all such contracts have been fully discharged. ~~A~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, a filing fee of Fifty Dollars ($50.00) shall accompany each report. If any officer of any organization fails or refuses to file an annual report, or to cause it to be filed within thirty (30) days after ~~he~~ the officer has been notified by the Insurance Commissioner that the report is due and has not been received, ~~he~~ the officer shall be guilty of a misdemeanor and shall be punished as prescribed in Section 6130 of this title.

SECTION 16. AMENDATORY 36 O.S. 2011, Section 6144, is amended to read as follows:

Section 6144. A. An application for a certificate of authority to operate as a prepaid dental plan organization shall be filed with the Insurance Commissioner in a form prescribed by the Commissioner. The application shall be verified by an officer or authorized representative of the applicant, and shall set forth or be accompanied by:

1. A copy of any basic organizational document of the applicant such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, with all amendments to such documents;

2. A copy of any bylaws, rules or regulations, or similar documents regulating the conduct of the internal affairs of the applicant;

3. A list of the names, addresses, and official positions of the persons who are responsible for the conduct of the business affairs of the applicant, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, and the principal officers in the case of a corporation, and the partners or members in the case of a partnership or association;

4. A copy of any contract made or to be made between any providers of dental services or persons listed in paragraph 3 of this subsection and the applicant;

5. A statement generally describing the prepaid dental plan organization, all prepaid dental plans offered by ~~said~~ the organizations, and facilities, and personnel;

6. A copy of the form of individual or group membership coverage or a copy of the contract to be issued to the members;

7. Financial statements showing assets, liabilities, and sources of financial support of the applicant. If the financial affairs of the applicant are audited by independent certified public accountants, a copy of the most recent regular certified financial statement for the applicant shall satisfy this requirement unless the Commissioner determines that additional or more recent financial information is required;

8. A description of the proposed method of marketing the prepaid dental plan, a financial prospectus which includes a three-year projection of the initial operating results anticipated, and a statement as to the sources of working capital available for the operation of the prepaid dental plan as well as any other sources of funding;

9. A power of attorney, duly executed by ~~said~~ the applicant if not domiciled in this state appointing the Commissioner, as the true and lawful representative for service of process for ~~said~~ the

applicant in this state, upon whom all lawful process in any legal action or proceeding against the prepaid dental plan organization on a cause of action arising in this state may be served;

10. ~~A~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, a fee of One Hundred Dollars ($100.00) for issuance of a certificate of authority; and

11. Such other information as the Commissioner may require.

B. Within ten (10) days following any ~~said~~ modification of information previously furnished as required by subsection A of this section, a prepaid dental plan organization shall file notice of ~~said~~ the modification with the Commissioner.

SECTION 17. AMENDATORY 36 O.S. 2011, Section 6145, is amended to read as follows:

Section 6145. A. Issuance of a certificate of authority for a prepaid dental plan organization shall be granted by the Insurance Commissioner if the Commissioner is satisfied that the following conditions are met:

1. The persons responsible for conducting the business affairs of the prepaid dental plan organization are competent and trustworthy and are professionally capable of providing or arranging for the provision of services offered; ~~and~~

2. The prepaid dental plan organization constitutes an appropriate mechanism to achieve an effective prepaid dental plan; ~~and~~

3. Each officer, responsible for conducting the business affairs of the prepaid dental plan organization, has filed with the Commissioner a fidelity bond in the amount of Fifty Thousand Dollars ($50,000.00), ~~said~~ the bond to be subject to the approval of the Commissioner; and

4. The financial structure of the prepaid dental plan organization may reasonably be expected to meet obligations for payment of services for members and prospective members. In making this determination the Commissioner may consider:

a. the financial soundness of the arrangements made pursuant to the provisions of the prepaid dental plan for services and the schedule of charges used~~; and~~,

b. any agreement with an insurer, a hospital, a medical service corporation, or any other organization for ensuring the payment of prepaid dental services~~; and~~,

c. provisions in the plan for automatic coverage of dental service if the prepaid dental plan is discontinued~~;~~, and

d. the sufficiency of the agreement for prepaid dental services with providers of dental services.

B. A certificate of authority shall expire at midnight on June 30, following the date of issuance or last renewal date. ~~If~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, if the prepaid dental plan organization remains in compliance with the provisions of the Prepaid Dental Plan Act and pays a renewal fee of One Hundred Dollars ($100.00), the certificate of authority of ~~said~~ the plan may be renewed. The renewal fee shall be deposited in the State Insurance Commissioner Revolving Fund.

SECTION 18. AMENDATORY 36 O.S. 2011, Section 6209, is amended to read as follows:

Section 6209. A. Each examination for a license as an adjuster shall be prescribed by the Insurance Commissioner and shall be of sufficient scope to reasonably test the knowledge of the applicant as to the kinds of insurance contracts which may be dealt with in accordance with the license applied for, the duties and responsibilities of insurers pursuant to said contracts and pursuant to the laws of this state applicable to the adjusting claims of losses in accordance with the license applied for.

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

The application for a license shall specify which of the following classes of business the application and license are to cover:

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

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

3. Workers' compensation; or

4. Crime and fidelity bonds; or

5. Crop/hail; or

6. Multi-peril crop.

C. ~~The~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the Commissioner shall prepare and make available to applicants a manual of instructions stating in general terms the subjects which may be covered in any examination for a license as an adjuster. The Commissioner may charge a reasonable amount not to exceed Forty Dollars ($40.00) for the study manual.

SECTION 19. AMENDATORY 36 O.S. 2011, Section 6212, is amended to read as follows:

Section 6212. A. ~~The Insurance~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the Commissioner or an

administrator approved by the ~~Insurance~~ Commissioner shall collect a fee of Twenty Dollars ($20.00) for an examination for an adjuster's license in any of the following single classes of business. The fee for any examination which includes two or more classes of business shall not exceed Forty Dollars ($40.00). The classes of business are:

1. Motor vehicle physical damage;

2. Fire and allied lines (property);

3. Casualty;

4. Workers' compensation;

5. Crime and fidelity bonds; and

6. Crop/hail.

B. ~~The~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the Commissioner shall collect the following fees for an adjuster's license:

1. For a license in any single class of business, every two (2) years, Thirty Dollars ($30.00);

2. For a license in any combination of two or more classes of business, every two (2) years, Fifty Dollars ($50.00);

3. Public adjuster, every two (2) years, Thirty Dollars ($30.00);

4. Emergency adjuster, as provided for in Section 6218 of this title, each year, Fifteen Dollars ($15.00); and

5. Apprentice adjuster, as provided for in Section 6204.1 of this title, Twenty Dollars ($20.00).

C. The fees prescribed in this section shall accompany the application for an original license or a renewal of a license.

D. The fee for the original license or renewal license shall be collected in advance of issuance. Late application for renewal shall require a fee of double the amount of the original license fee.

E. The Commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to the provisions of the Insurance Adjusters Licensing Act if an affidavit is submitted by the licensee to the Commissioner concerning the facts of ~~such~~ the loss, theft, or destruction. The affidavit shall be in a form prescribed by the Commissioner. The fee for a duplicate license shall be one-half (1/2) the fee of the license.

F. Licensees shall inform by any means acceptable to the Commissioner of a change of legal name, address or e-mail address within thirty (30) days of the change to permit the Commissioner to give proper notice to licensees. ~~A~~ Unless the Insurance Commissioner has set forth a fee as provided for in this section through the promulgation of a rule, a change in legal name or address submitted more than thirty (30) days after the change shall include an administrative fee of Fifty Dollars ($50.00). Failure to provide acceptable notification of a change of legal name or address to the

Commissioner within forty-five (45) days of the date the administrative fee is assessed shall result in penalties pursuant to subsection B of Section 6220 of this title.

SECTION 20. AMENDATORY 36 O.S. 2011, Section 6465, is amended to read as follows:

Section 6465. ~~There~~ Unless the Insurance Commissioner has set forth a fee as provided for in this section through the promulgation of a rule, there shall be collected, at the time of filing of information for a risk retention group, a fee payable annually, of Four Hundred Dollars ($400.00). In addition, risk retention groups chartered for domicile in this state shall pay the same fees applicable to insurers in this state.

~~Purchasing~~ Unless the Commissioner has set forth a fee as provided for in this section through the promulgation of a rule, purchasing groups shall pay annually at the time of registration, a fee of Four Hundred Dollars ($400.00).

SECTION 21. AMENDATORY 36 O.S. 2011, Section 6470.3, is amended to read as follows:

Section 6470.3 A. A captive insurance company, when permitted by its articles of incorporation or charter, may apply to the Insurance Commissioner for a license to do any and all insurance, except workers' compensation insurance, authorized by ~~Title 36 of the Oklahoma Statutes~~ this title; however:

1. A pure captive insurance company may not insure any risks other than those of its parent, affiliated companies, controlled unaffiliated business, or a combination thereof;

2. An association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;

3. An industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

4. A special purpose captive insurance company may only insure the risks of its parent. Notwithstanding any other provisions of the Oklahoma Captive Insurance Company Act, a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the Insurance Commissioner;

5. A captive insurance company may not provide personal motor vehicle or homeowner's insurance coverage or any component of these coverages; and

6. A captive insurance company may not accept or cede reinsurance except as provided in Section 6470.16 of this title.

B. To conduct insurance business in this state a captive insurance company shall:

1. Obtain from the Insurance Commissioner a license authorizing it to conduct insurance business in this state;

2. Hold at least one board of directors meeting, or in the case of a reciprocal insurer, a subscriber's advisory committee meeting, each year in this state;

3. Maintain its principal place of business in this state, or in the case of a branch captive insurance company, maintain the principal place of business for its branch operations in this state; and

4. Appoint a resident registered agent to accept service of process and to otherwise act on its behalf in this state. The agent shall be licensed by the Oklahoma Insurance Department as a licensed third-party administrator or managing general agent and maintain its principal place of business in this state. In the case of a captive insurance company:

a. formed as a corporation, whenever the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the Insurance Commissioner ~~must~~ shall be an agent of the captive insurance company upon whom any process, notice, or demand may be served, or

b. formed as a reciprocal insurer, whenever the registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the Insurance Commissioner ~~must~~ shall be an agent of the captive insurance company

upon whom any process, notice, or demand may be served.

C. 1. Before receiving a license, a captive insurance company:

a. formed as a corporation, shall file with the Insurance Commissioner a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the Insurance Commissioner, or

b. formed as a reciprocal shall:

(1) file with the Insurance Commissioner a certified copy of the power of attorney of its attorney-in-fact, a certified copy of its subscribers' agreement, a statement under oath of its attorney-in-fact showing its financial condition and any other statements or documents required by the Insurance Commissioner, and

(2) submit to the Insurance Commissioner for approval a description of the coverages, deductibles, coverage limits, and rates and any other information the Insurance Commissioner may reasonably require. If there is a subsequent material change in an item in the description, the reciprocal captive insurance company shall

submit to the Insurance Commissioner for approval an appropriate revision and may not offer any additional kinds of insurance until a revision of the description is approved by the Insurance Commissioner. The reciprocal captive insurance company shall inform the Insurance Commissioner of any material change in rates within thirty (30) days of the adoption of the change.

2. In addition to the information required by paragraph 1 of this subsection, an applicant captive insurance company shall file with the Insurance Commissioner evidence of:

a. the amount and liquidity of its assets relative to the risks to be assumed,

b. the adequacy of the expertise, experience, and character of the person or persons who will manage it,

c. the overall soundness of its plan of operation,

d. the adequacy of the loss prevention programs of its parent, member organizations, or industrial insureds as applicable, and

e. ~~such~~ other factors considered relevant by the Insurance Commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

3. In addition to the information required by paragraphs 1 and 2 of this subsection, an applicant sponsored captive insurance company shall file with the Insurance Commissioner:

a. a business plan demonstrating how the applicant will account for the loss and expense experience of each protected cell at a level of detail found to be sufficient by the Insurance Commissioner, and how it will report the experience to the Insurance Commissioner,

b. a statement acknowledging that all financial records of the sponsored captive insurance company, including records pertaining to any protected cells, ~~must~~ shall be made available for inspection or examination by the Insurance Commissioner,

c. all contracts or sample contracts between the sponsored captive insurance company and any participants, and

d. evidence that expenses will be allocated to each protected cell in an equitable manner.

4. Information submitted pursuant to this subsection is confidential and may not be made public by the Insurance Commissioner or an agent or employee of the Insurance Commissioner without the written consent of the company, except that:

a. information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted the information is a party, upon a showing by the party seeking to discover the information that:

(1) the information sought is relevant to and necessary for the furtherance of the action or case,

(2) the information sought is unavailable from other nonconfidential sources, and

(3) a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the Insurance Commissioner; however, the provisions of this paragraph do not apply to an industrial insured captive insurance company insuring the risks of an industrial insured group, and

b. the Insurance Commissioner may disclose the information to a public officer having jurisdiction over the regulation of insurance in another state if:

(1) the public official agrees in writing to maintain the confidentiality of the information, and

(2) the laws of the state in which the public official serves require the information to be confidential.

D. ~~A~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, a captive insurance company shall pay to the Department a nonrefundable fee of Two Hundred Dollars ($200.00) for examining, investigating, and processing its application for license, and the Insurance Commissioner may retain legal, financial, and examination services from outside the Department, the reasonable cost of which may be charged against the applicant. ~~Title 36 of the Oklahoma Statutes~~ This title applies to examinations, investigations, and processing conducted under the authority of this section. ~~In~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, in addition, a captive insurance company shall pay a license fee for the year of registration and a renewal fee of Three Hundred Dollars ($300.00).

E. If the Insurance Commissioner is satisfied that the documents and statements filed by the captive insurance company comply with the provisions of the Oklahoma Captive Insurance Company Act, the Insurance Commissioner may grant a license authorizing the company to do insurance business in this state until March 1 at which time the license may be renewed.

SECTION 22. AMENDATORY 36 O.S. 2011, Section 6559, is amended to read as follows:

Section 6559. A. Insurance companies and not-for-profit hospital services and medical indemnity plans licensed by the Insurance Commissioner that perform in-house utilization review shall submit to the Commissioner the following information regarding utilization review:

1. A utilization review plan that includes:

a. an adequate summary description of review standards, protocol and procedures to be used in evaluating proposed or delivered hospital and medical care,

b. assurances that the standards and criteria to be applied in review determinations are established with input from health care providers representing major areas of specialty and certified by the boards of the various American medical specialties, and

c. the provisions by which patients or health care providers may seek reconsideration or appeal of adverse decisions concerning requests for medical evaluation, treatment or procedures;

2. The type and qualifications of the personnel either employed or under contract to perform the utilization review;

3. The procedures and policies to ensure that a representative is reasonably accessible to patients and health care providers five

(5) days a week during normal business hours, ~~such~~ the procedures and policies to include as a requirement a toll-free telephone number to be available during ~~said~~ stated business hours; provided, in the case of insurance companies, if the personnel performing utilization review are out-of-state, the personnel shall be available or make staff available by toll-free telephone for at least forty (40) hours per week during normal business hours and shall have a telephone system which is capable of accepting or recording incoming telephone calls during other than normal hours, and shall respond to ~~such~~ these calls within two (2) working days, if sufficient information for response is provided to whomever accepts the call or on a recorded message;

4. The policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;

5. The policies and procedures to verify the identity and authority of personnel performing utilization review by telephone;

6. A copy of the materials designed to inform applicable patients and health care providers of the requirements of the utilization review plan;

7. The procedures for receiving and handling complaints by patients, hospitals and health care providers concerning utilization review; and

8. Procedures to ensure that after a request for medical evaluation, treatment, or procedures has been rejected in whole or in part and in the event a copy of the report on ~~said~~ the rejection is requested, a copy of the report of the personnel performing utilization review concerning the rejection shall be mailed by the insurer, postage prepaid, to the ill or injured person, the treating health care provider, hospital or to the person financially responsible for the patient's bill within fifteen (15) days after receipt of the request for the report.

B. ~~Insurance~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, insurance companies that provide for in-house utilization review shall pay an annual fee to the ~~Insurance~~ Commissioner of Five Hundred Dollars ($500.00).

SECTION 23. AMENDATORY 36 O.S. 2011, Section 6604, is amended to read as follows:

Section 6604. A. No person in this state shall act as a service warranty association unless licensed by the Insurance Commissioner.

B. ~~A~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, a service warranty association shall pay to the Insurance Department a license fee of Four Hundred Dollars ($400.00) for such license for each year, or part thereof, the license is in force.

C. An insurer, while authorized to transact property or casualty insurance in this state, may also transact a service warranty business without additional qualifications or licensure as required by the Service Warranty Insurance Act, but shall be otherwise subject to the provisions of the Service Warranty Insurance Act.

D. A service warranty association may appoint an administrator or other designee to be responsible for any or all of the administration of service contracts and compliance with the Service Warranty Insurance Act.

E. An agreement which provides specified scheduled maintenance services over a stated period of time does not constitute insurance or a service warranty.

SECTION 24. AMENDATORY 36 O.S. 2011, Section 6609, is amended to read as follows:

Section 6609. Each license issued to a service warranty association shall expire on November 1 following the date of issuance. ~~If~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, if the association is then qualified under the provisions of the Service Warranty Insurance Act, its license may be renewed annually, upon its request, and upon payment to the ~~Insurance~~ Commissioner of the license fee in the amount of Four Hundred Dollars ($400.00) in advance for each ~~such~~ license year.

SECTION 25. AMENDATORY 36 O.S. 2011, Section 6615, is amended to read as follows:

Section 6615. A. In addition to the license fees provided in the Service Warranty Insurance Act for service warranty associations each service warranty association and insurer shall, annually on or before the first day of May, file with the Insurance Commissioner its annual statement in the form prescribed by the Commissioner showing all gross written premiums or assessments received by it in connection with the issuance of service warranties in this state during the preceding calendar year and other relevant financial information as deemed necessary by the Commissioner, using accounting principles which ~~will~~ shall enable the Commissioner to ascertain whether the financial requirements set forth in Section 6607 of this title have been satisfied.

B. The Commissioner may levy a fine of up to One Hundred Dollars ($100.00) a day for each day an association neglects to file the annual statement in the form and within the time provided by the Service Warranty Insurance Act.

C. In addition to an annual statement, the Commissioner may require of licensees, under oath and in the form prescribed by it, quarterly statements or special reports which the Commissioner deems necessary for the proper supervision of licensees under the Service Warranty Insurance Act.

D. ~~Premiums~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, premiums and assessments received by associations and insurers for service warranties shall not be subject to the premium tax provided for in Section 624 of this title, but shall be subject to an administrative fee of equal to two percent (2%) of the gross premium received on the sale of all service contracts issued in this state during the preceding calendar quarter. ~~Said~~ The fees shall be paid quarterly to the Insurance Commissioner. ~~However~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, licensed associations, licensed insurers and entities with applications for licensure as a service warranty association pending with the Insurance Department that have contractual liability insurance in place as of March 31, 2009, from an insurer which satisfies the requirements of subsections B and C of Section 6607 of this title and which covers one hundred percent (100%) of the claims exposure of the association or insurer on all contracts written may elect to pay an annual administrative fee of Three Thousand Dollars ($3,000.00) in lieu of the two-percent administrative fee.

SECTION 26. AMENDATORY 36 O.S. 2011, Section 6753, is amended to read as follows:

Section 6753. A. Home service contracts shall not be issued, sold or offered for sale in this state unless the provider has:

1. Provided a receipt for, or other written evidence of, the purchase of the home service contract to the contract holder; and

2. Provided a copy of the home service contract to the service contract holder within a reasonable period of time from the date of purchase.

B. Each provider of home service contracts sold in this state shall file a registration with, and on a form prescribed by, the Insurance Commissioner consisting of their name, full corporate physical street address, telephone number, contact person and a designated person in this state for service of process. ~~Each~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, each provider shall pay to the Commissioner a fee in the amount of One Thousand Two Hundred Dollars ($1,200.00) upon initial registration and every three (3) years thereafter. ~~Each~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, each provider shall pay to the Commissioner an Antifraud Assessment Fee of Two Thousand Two Hundred Fifty Dollars ($2,250.00) upon initial registration and every three (3) years thereafter. The registration need only be updated by written notification to the Commissioner if material changes occur in the registration on file. A proper registration is de facto a license to conduct business in Oklahoma and may be suspended as provided in Section ~~6~~ 6755 of this ~~act~~ title. Fees received from home service

contract providers shall not be subject to any premium tax, but shall be subject to an administrative fee equal to two percent (2%) of the gross fees received on the sale of all home service contracts issued in this state during the preceding calendar quarter. The fees shall be paid quarterly to the Commissioner and submitted along with a report on a form prescribed by the Commissioner. ~~However, service~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, service contract providers may elect to pay an annual administrative fee of Three Thousand Dollars ($3,000.00) in lieu of the two-percent administrative fee, if the provider maintains an insurance policy as provided in paragraph 3 of subsection C of this section.

C. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider shall be responsible for complying with the requirements of paragraph 1, 2 or 3 of this subsection:

1. a. maintain a funded reserve account for its obligations under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent (40%) of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the Commissioner, and

b. place in trust with the Commissioner a financial security deposit, having a value of not less than five percent (5%) of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than Twenty-five Thousand Dollars ($25,000.00), consisting of one of the following:

(1) a surety bond issued by an authorized surety,

(2) securities of the type eligible for deposit by authorized insurers in this state,

(3) cash,

(4) a letter of credit issued by a qualified financial institution, or

(5) another form of security prescribed by rule promulgated by the Commissioner;

2. a. maintain, or together with its parent company maintain, a net worth or stockholders' equity of Twenty-five Million Dollars ($25,000,000.00), excluding goodwill, intangible assets, customer lists and affiliated receivables, and

b. upon request, provide the Commissioner with a copy of the provider's or the provider's parent company's most recent Form 10-K or Form 20-F filed with the Securities and Exchange Commission (SEC) within the

last calendar year, or if the company does not file with the SEC, a copy of the company's financial statements, which shows a net worth of the provider or its parent company of at least Twenty-five Million Dollars ($25,000,000.00) based upon Generally Accepted Accounting Principles (GAAP) accounting standards. If the provider's parent company's Form 10-K, Form 20-F, or financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the provider relating to service contracts sold by the provider in this state; or

3. Purchase an insurance policy which demonstrates to the satisfaction of the Insurance Commissioner that one hundred percent (100%) of its claim exposure is covered by such policy. The insurance shall be obtained from an insurer that is licensed, registered, or otherwise authorized to do business in this state, that is rated B++ or better by A.M. Best Company, Inc., and that meets the requirements of subsection D of this section. For the purposes of this paragraph, the insurance policy shall contain the following provisions:

a. in the event that the provider is unable to fulfill its obligation under contracts issued in this state for any reason, including insolvency, bankruptcy, or

dissolution, the insurer shall pay losses and unearned premiums under such plans directly to the person making the claim under the contract,

b. the insurer issuing the insurance policy shall assume full responsibility for the administration of claims in the event of the inability of the provider to do so, and

c. the policy shall not be canceled or not renewed by either the insurer or the provider unless sixty (60) days' written notice thereof has been given to the Commissioner by the insurer before the date of such cancellation or nonrenewal.

D. The insurer providing the insurance policy used to satisfy the financial responsibility requirements of paragraph 3 of subsection C of this section shall meet one of the following standards:

1. The insurer shall, at the time the policy is filed with the Commissioner, and continuously thereafter:

a. maintain surplus as to policyholders and paid-in capital of at least Fifteen Million Dollars ($15,000,000.00), and

b. annually file copies of the audited financial statements of the insurer, its National Association of Insurance Commissioners (NAIC) Annual Statement, and

the actuarial certification required by and filed in the state of domicile of the insurer; or

2. The insurer shall, at the time the policy is filed with the Commissioner, and continuously thereafter:

a. maintain surplus as to policyholders and paid-in capital of less than Fifteen Million Dollars ($15,000,000.00),

b. demonstrate to the satisfaction of the Commissioner that the company maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one, and

c. annually file copies of the audited financial statements of the insurer, its NAIC Annual Statement, and the actuarial certification required by and filed in the state of domicile of the insurer.

E. Except for the registration requirements in subsection B of this section, providers, administrators and other persons marketing, selling or offering to sell home service contracts are exempt from any licensing requirements of this state and shall not be subject to other registration information or security requirements. Home service contract providers as defined in Section ~~3~~ 6752 of this ~~act~~ title and properly registered under this law are exempt from any treatment pursuant to the Service Warranty Insurance Act. Home

service contract providers applying for registration under the Oklahoma Home Service Contract Act that have not been registered in the preceding twelve (12) months under the act may be subject to a thirty-day prior review before their registration is deemed complete. Said applications shall be deemed complete after thirty (30) days unless the Commissioner takes action in that period under Section ~~6~~ 6755 of this ~~act~~ title, for cause shown, to suspend their registration.

F. The marketing, sale, offering for sale, issuance, making, proposing to make and administration of home service contracts by providers and related service contract sellers, administrators, and other persons, including but not limited to real estate licensees, shall be exempt from all other provisions of the Insurance Code.

SECTION 26. AMENDATORY 40 O.S. 2011, Section 600.5, is amended to read as follows:

Section 600.5 A. Initial registration. ~~Upon~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, upon filing an initial registration statement under the Oklahoma Professional Employer Organization Recognition and Registration Act, a PEO shall pay an initial registration fee of Five Hundred Dollars ($500.00).

B. Initial Group Registration. ~~Upon~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, upon filing an initial Group

registration statement pursuant to the Oklahoma Professional Employer Organization Recognition and Registration Act, the PEO Group shall pay an initial registration fee of Five Hundred Dollars ($500.00) per member of the PEO Group.

C. Renewal. ~~Upon~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, upon each annual renewal of a registration statement filed under the Oklahoma Professional Employer Organization Recognition and Registration Act, a PEO shall pay a renewal fee of Two Hundred Fifty Dollars ($250.00).

D. Renewal. ~~Upon~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, upon each annual renewal of a Group registration statement filed under the Oklahoma Professional Employer Organization Recognition and Registration Act, a PEO Group shall pay a renewal fee of Two Hundred Fifty Dollars ($250.00) per member of the PEO Group.

E. Exemption. ~~Each~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, each PEO exempt from registration under the terms of this subsection shall pay an exemption fee in the amount of Two Hundred Fifty Dollars ($250.00) upon initial application for exemption and upon each annual renewal of the exemption.

SECTION 27. AMENDATORY 59 O.S. 2011, Section 1305, is amended to read as follows:

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

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

2. Is of good character and reputation;

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

4. Is a citizen of the United States;

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

6. Will actively engage in the bail bond business;

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

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

B. The applicant shall apply electronically on forms approved by the Insurance Commissioner, and the Commissioner may propound any reasonable interrogatories to an applicant for a license pursuant to ~~Sections~~ Section 1301 ~~through 1340~~ et seq. of this title, or on any

renewal thereof, relating to qualifications, residence, prospective place of business and any other matters which, in the opinion of the Commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation relative to the determination of the fitness of the applicant to be licensed or to continue to be licensed including, but not limited to, requiring a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

C. ~~An~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, an applicant shall furnish to the Commissioner a license fee of Two Hundred Fifty Dollars ($250.00) with the application, a complete set of the fingerprints of the applicant and two recent credential-size full face photographs of the applicant. The fingerprints of the applicant shall be certified by an authorized law enforcement officer. ~~The~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the applicant shall provide with the application an investigative fee of One Hundred Dollars ($100.00) with which the Commissioner will conduct an investigation of the applicant. All fees shall be nonrefundable.

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

E. ~~The~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the fee for a duplicate pocket license shall be Twenty-five Dollars ($25.00).

SECTION 28. AMENDATORY 59 O.S. 2011, Section 1308, is amended to read as follows:

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

B. Each applicant shall become eligible for examination if the applicant has completed sixteen (16) hours of education as required by Section 1308.1 of this title prior to the examination. Examinations shall be held at times and places as designated by the Commissioner.

C. ~~The~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule,

the fee for the examination shall be One Hundred Dollars ($100.00). Results will be provided after the applicant is examined.

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

SECTION 29. AMENDATORY 59 O.S. 2011, Section 1308.1, is amended to read as follows:

Section 1308.1 A. In order to be eligible to take the examination required to be licensed as a bail bondsman, each person shall complete not less than sixteen (16) clock hours of education in subjects pertinent to the duties and responsibilities of a bail bondsman, including all laws and regulations related thereto. Further, each licensee shall complete biennially not less than sixteen (16) clock hours of continuing education in said subjects prior to renewal of the license. ~~Such~~ The continuing education shall not include a written or oral examination.

Provided, any person licensed as a bail bondsman prior to November 1, 1989, shall not be required to complete sixteen (16) clock hours of education prior to licensure but shall be subject to the sixteen-hour continuing education requirement in order to renew ~~said~~ the license, except that a licensed bail bondsman who is sixty-

five (65) years of age or older and who has been licensed as a bail bondsman for fifteen (15) years or more shall be exempt from both the education and continuing education requirements of this section.

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

C. ~~The~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the Oklahoma Bondsman Association shall submit biennially a fee of Two Hundred Dollars ($200.00), payable to the Insurance Commissioner which shall be deposited with the State Treasurer for the purposes of fulfilling and accomplishing the conditions and purposes of this section.

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

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

SECTION 30. AMENDATORY 59 O.S. 2011, Section 1309, is amended to read as follows:

Section 1309. A. ~~A~~ Unless the Insurance Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, a renewal license shall be issued by the ~~Insurance~~ Commissioner to a licensee who has continuously maintained same in effect, without further examination, upon payment of a renewal fee of Two Hundred Dollars ($200.00) for a bail bondsman and proof of completion of sixteen (16) hours of continuing education as required by Section 1308.1 of this title. The renewal fee for licenses expiring September 15, 2012, shall be prorated to the birth month of the bondsman. Thereafter the renewal fee shall be submitted biennially by the last day of the birth month of the bondsman. Such licensee shall in all other respects be required to comply with and be subject to the provisions of Section 1301 et seq. of this title.

B. An individual holding a professional bondsman license shall also provide an annual financial statement prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with generally accepted principles of accounting procedures showing assets, liabilities, and net worth, the annual statement to be as of a date not earlier than ninety (90) days prior to the last day of the birth month of the bondsman. The statements shall be attested to by an unqualified opinion of the accounting firm or individual holding a permit to practice public accounting in this state that prepared the statement or statements.

The statement shall be submitted annually by the last day of the birth month of the bondsman.

C. An individual holding a property bondsman license shall also provide an annual county assessor's written statement stating the property's assessed value for each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds. The written statements shall be submitted annually by the last day of the birth month of the bondsman.

D. If the license is not renewed or the renewal fee is not paid by the last day of the birth month of the bondsman, the license shall expire automatically pursuant to Section 1304 of this title. After expiration, the license may be reinstated for up to one (1) year following the expiration date. If after the one-year date the license has not been renewed, the licensee shall be required to apply for a license as a new applicant.

E. Reinstatement fees shall be double the original fee.

SECTION 31. AMENDATORY 59 O.S. 2011, Section 1314, is amended to read as follows:

Section 1314. A. When a bail bondsman or managing general agent accepts collateral, the bail bondsman or managing general agent shall give a written receipt for ~~same~~ the collateral, and this receipt shall give in detail a full description of the collateral received. A description of the collateral shall be listed on the

undertaking by affidavit. All property taken as collateral, whether personal, intangible or real, shall be receipted for and deemed, for all purposes, to be in the name of, and for the use and benefit of, the surety company or licensed professional bondsman, as the case may be. Every receipt, encumbrance, mortgage or other evidence of the custody, possession or claim shall facially indicate that it has been taken or made on behalf of the surety company or professional bondsman through its authorized agent, the individual licensed bondsman or managing general agent who has transacted the undertaking with the bond principal. Any mortgage or other encumbrance against real property taken under the provisions of this section which does not indicate beneficial ownership of the claim to be in favor of the surety company or professional bondsman shall be deemed to constitute a cloud on the title to real estate and shall subject the person filing, or causing same to be filed, in the real estate records of the county, to a penalty of treble damages or One Thousand Dollars ($1,000.00), whichever is greater, in an action brought by the person, organization or corporation injured thereby. For collateral taken, or liens or encumbrances taken or made pursuant to the provisions of this section, the individual bondsman or managing general agent taking possession of the property or making the lien, claim or encumbrance shall do so on behalf of the surety company or professional bondsman, as the case may be, and the

individual licensed bondsman shall be deemed to act in the capacity of fiduciary in relation to both:

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

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

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

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

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

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

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

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

D. ~~Each~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, each bail bondsman shall submit each month with the monthly report of the bondsman, a reviewal fee equal to two-tenths of one percent (2/10 of 1%) of the new liability written for that month. The fee shall be payable to the Insurance Commissioner who shall deposit same with the State Treasurer.

SECTION 32. AMENDATORY 59 O.S. 2011, Section 1317, is amended to read as follows:

Section 1317. A. Every surety or professional bondsman who appoints a surety bondsman or managing general agent in the state~~,~~ shall give notice thereof to the Insurance Commissioner. ~~The~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, the filing fee for appointment of each surety bondsman or managing general agent shall be Ten Dollars ($10.00), payable to the Commissioner and shall be submitted with the appointment. The appointment shall remain in effect until the surety or professional bondsman submits a notice of cancellation to the Commissioner, the license of the bail bondsman expires, or the Commissioner cancels the appointment. The Commissioner may cancel a bail surety appointment if the license of the bondsman is suspended, revoked or nonrenewed. ~~If~~ Unless the Commissioner has set forth a fee as provided for in this subsection through the promulgation of a rule, if the surety changes the liability limitations of the surety bondsman or the managing general agent, or any other provisions of the appointment, the surety shall submit an amended appointment form and a filing fee of Ten Dollars ($10.00) payable to the Commissioner.

B. A surety terminating the appointment of a surety bondsman or managing general agent immediately shall file written notice thereof with the Commissioner, together with a statement that it has given

or mailed notice to the surety bondsman or managing general agent. The notice filed with the Commissioner shall state the reasons, if any, for the termination.

C. Prior to issuance of a new surety appointment for a surety bondsman or managing general agent, the bondsman or agent shall file an affidavit with the Commissioner stating that no forfeitures are owed to any court, no fines are owed to the ~~insurance department~~ Insurance Department, and no premiums or indemnification for forfeitures or fines are owed to any insurer. This provision shall not require that all outstanding liabilities have been exonerated, but may provide that the liabilities are still being monitored by the bondsman or agent.

D. Every bail bondsman who negotiates and posts a bond shall, in any controversy between the defendant, indemnitor, or guarantor and the bail bondsman or surety, be regarded as representing the surety. This provision shall not affect the apparent authority of a bail bondsman as an agent for the insurer.

SECTION 33. This act shall become effective July 1, 2012.

SECTION 34. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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