

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1618

By: Brown

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 1435.6, which relates to the Oklahoma
9 Producer Licensing Act; modifying time period to take
10 certain examination; placing time limit for making an
11 application for a producer's license; modifying
12 requirements relating to subsequent examinations;
13 amending 36 O.S. 2011, Section 1464, which relates to
14 the Oklahoma Life, Accident and Health Insurance
15 Broker Act; limiting the resident life or accident
16 and health insurance broker license to certain
17 licensees; eliminating ability of nonresident broker
18 to receive a license in this state; specifying amount
19 of renewal fee for broker's license; correcting
20 statutory cite; amending 36 O.S. 2011, Sections 1473
21 and 1477, which relate to the Managing General Agents
22 Act; correcting statutory cite; clarifying language;
23 amending 36 O.S. 2011, Sections 1608, 1609 and 1620,
24 which relate to investments; clarifying types of
investments; specifying types of investments that are
not acceptable; providing that certificates of
deposits or other time deposit instruments shall be
classified as negotiable and transferrable; amending
36 O.S. 2011, Section 1651 and 1654, which relate to
subsidiaries of insurers; adding definition;
requiring the filing of an annual enterprise risk
report; specifying that it is a violation for failure
to make the enterprise risk filing; amending 36 O.S.
2011, Sections 1703 and 1707, which relate to
administration of deposits; adding time deposits to
definition of cash; specifying when a deposit can be
released; amending 36 O.S. 2011, Section 3639.1,
which relates to homeowner's insurance policies;
prohibiting insurer from canceling or renewing policy
or increasing premium of other personal residential
insurance coverage because of the filing of claims

1 after certain time period; exempting insurer from
2 providing certain notice for certain policies;
3 amending 36 O.S. 2011, Section 4030.9, which relates
4 to the Standard Nonforfeiture Law for Individual
5 Deferred Annuities; specifying certain maturity
6 dates; amending 36 O.S. 2011, Sections 6206 and 6217,
7 which relate to the Insurance Adjusters Licensing
8 Act; specifying that the exam for an adjusters
9 license must be passed within certain specified time;
10 eliminating continuing education requirement relating
11 to workers' compensation for certain adjusters;
12 requiring an adjuster to report certain actions or
13 prosecutions to the Insurance Commissioner; amending
14 36 O.S. 2011, Section 6475.13, which relates to the
15 Uniform Health Carrier External Review Act; requiring
16 an independent review organization to possess any
17 additional qualifications promulgated by the
18 Insurance Commissioner; allowing the Insurance
19 Commissioner to accept certain accreditation
20 standards; amending 36 O.S. 2011, Section 6608, which
21 relates to the Service Warranty Insurance Act;
22 specifying that certain reporting date is an annual
23 requirement; providing for codification; and
24 providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1435.6, is
amended to read as follows:

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

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

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

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

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

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

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

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

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

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

23 I. The applicant shall pass the examination with a grade
24 determined by the Commissioner to indicate satisfactory knowledge

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

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

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

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

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

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

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

19 ~~3.~~ The renewal fee for a life or accident and health insurance
20 broker's license shall be Fifty Dollars (\$50.00). The license may
21 be renewed each year for the same fee. Late application for renewal
22 of a license shall require a fee of double the amount of the
23 original current license fee. The fees shall be placed in the State
24 Insurance Commissioner Revolving Fund.

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

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

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

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

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

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

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

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

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

11 Section 1473. A. No person shall act in the capacity of a
12 managing general agent with respect to risks located in this state
13 for an insurer unless such person is licensed as ~~an agent or broker~~
14 a producer pursuant to Section 1421 et seq. of Title 36 of the
15 ~~Oklahoma Statutes~~ the Oklahoma Producer Licensing Act.

16 B. No person shall act in the capacity of a managing general
17 agent, representing an insurer domiciled in this state with respect
18 to risks located outside this state, unless such person is licensed
19 as ~~an agent or broker pursuant to Section 1421 et seq. of Title 36~~
20 ~~of the Oklahoma Statutes~~ a producer pursuant to the Oklahoma
21 Producer Licensing Act. Provided, such license may be a nonresident
22 license.

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

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

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

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

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

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

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

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1 B. The decision, determination or order of the Commissioner
2 pursuant to subsection A of this section shall be subject to
3 judicial review pursuant to the Administrative Procedures Act and
4 any applicable insurance laws and regulations.

5 C. Nothing contained in this section shall affect the right of
6 the Commissioner to impose any other penalties provided for in the
7 Oklahoma Insurance Code.

8 D. Nothing contained in ~~this act~~ the Managing General Agents
9 Act is intended to or shall, in any manner, limit or restrict the
10 rights of policyholders, claimants and auditors.

11 E. No insurer may continue to utilize the services of a
12 managing general agent on or after July 1, 1991, unless such
13 utilization is in compliance with ~~this act~~ the Managing General
14 Agents Act.

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

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

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

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

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

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

23 B. An insurer may invest or deposit any of its funds in
24 checking, share or saving accounts under certificates of deposit or

1 time deposits in solvent savings and loan associations which are
2 insured by the Federal Savings and Loan Insurance Corporation.

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

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

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

12 Section 1651. As used in ~~this act, the following terms shall~~
13 ~~have the respective meanings hereinafter set forth, unless the~~
14 ~~context shall otherwise require~~ Sections 1651 through 1662 of this
15 title:

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

21 ~~(b) Commissioner. The term~~ 2. "Commissioner" ~~shall mean~~ means
22 the Insurance Commissioner, ~~his deputies, or the Insurance~~
23 ~~Department, as appropriate.~~i

24

1 ~~(c) Control. The term "control"~~ (3. "Control" including the
2 terms "controlling", "controlled by" and "under common control
3 with") means the possession, direct or indirect, of the power to
4 direct or cause the direction of the management and policies of a
5 person, whether through the ownership of voting securities, by
6 contract or otherwise, unless the power is the result of an official
7 position with or corporate office held by the person. Control shall
8 be presumed to exist if any person, directly or indirectly, owns,
9 controls, holds with the power to vote, or holds proxies
10 representing ten percent (10%) or more of the voting securities of
11 any other person. This presumption may be rebutted by a showing
12 that control does not exist in fact in the manner provided in
13 ~~Section 4(i)~~ subsection (j) of Section 1654 of this title. The
14 Commissioner may determine, after furnishing all persons in interest
15 notice and opportunity to be heard and making specific findings of
16 fact to support such determination, that control exists in fact,
17 notwithstanding the absence of a presumption to that effect;

18 ~~(d) Insurance Holding Company System. An "insurance~~ 4.
19 "Enterprise risk" means any activity, circumstance, event or series
20 of events involving one or more affiliates of an insurer that, if
21 not remedied promptly, is likely to have a material adverse effect
22 upon the financial condition or liquidity of the insurer or its
23 insurance holding company system as a whole, including, but not
24 limited to, anything that would cause the insurer's Risk-Based

1 Capital to fall into company action level as set forth in Section
2 1524 of this title or would cause the insurer to be in hazardous
3 financial condition as provided in rules promulgated by the
4 Commissioner;

5 5. "Insurance holding company system" means a system which
6 consists of two or more affiliated persons, one or more of which is
7 an insurer-;

8 ~~(e) Insurer. The term "insurer" shall have~~ 6. "Insurer" means
9 the same meaning as set forth in ~~36 Oklahoma Statutes,~~ Section 103
10 of this title, except that it shall not include agencies,
11 authorities or instrumentalities of the United States, its
12 possessions and territories, the Commonwealth of Puerto Rico, the
13 District of Columbia, or a state or political subdivision of a
14 state-;

15 ~~(f) Person. A "person" is~~ 7. "Person" means an individual, a
16 corporation, a partnership, an association, a joint stock company, a
17 trust, an unincorporated organization, any similar entity or any
18 combination of the foregoing acting in concert, but shall not
19 include any securities broker performing no more than the usual and
20 customary broker's function-;

21 ~~(g) Securityholder. A "securityholder"~~ 8. "Securityholder" of
22 a specified person ~~is~~ means one who owns any security of such
23 person, including common stock, preferred stock, debt obligations,
24

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

3 ~~(h) Subsidiary. A "subsidiary"~~ 9. "Subsidiary" of a specified
4 person ~~is~~ means an affiliate controlled by such person directly, or
5 indirectly, through one or more intermediaries;

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

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

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

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

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

8 (i) the capital structure, general financial condition,
9 ownership and management of the insurer and any person
10 controlling the insurer;

11 (ii) the identity and relationship of every member of the
12 insurance holding company system;

13 (iii) the following agreements in force, relationships
14 subsisting, and transactions currently outstanding or
15 which have occurred during the previous calendar year
16 between such insurer and its affiliates:

17 (1) loans, other investments or purchases, sales or
18 exchanges of securities of the affiliates by the
19 insurer or of the insurer by its affiliates;

20 (2) purchases, sales or exchanges of assets;

21 (3) transactions not in the ordinary course of
22 business;

23 (4) guarantees or undertakings for the benefit of an
24 affiliate which result in an actual contingent

1 exposure of the insurer's assets to liability,
2 other than insurance contracts entered into in
3 the ordinary course of the insurer's business;

4 (5) all management and service contracts and all
5 cost-sharing arrangements;

6 (6) reinsurance agreements covering all or
7 substantially all of one or more lines of
8 insurance of the ceding company;

9 (7) dividends and other distributions to
10 shareholders; and

11 (8) consolidated tax allocation agreements.

12 (iv) other matters concerning transactions between
13 registered insurers and any affiliates as may be
14 included from time to time in any registration forms
15 adopted or approved by the Commissioner; and

16 (v) any pledge of the insurer's stock, including stock of
17 any subsidiary or controlling affiliate, for a loan
18 made to any member of the insurance holding company
19 system.

20 (c) Materiality. No information need be disclosed on the
21 registration statement filed pursuant to subsection (b) of this
22 section if such information is not material for the purposes of this
23 section. Unless the Commissioner by rule, regulation or order
24 provides otherwise, sales purchases, exchanges, loans or extensions

1 of credit, or investments, involving one-half of one percent (1/2 of
2 1%) or less of an insurer's admitted assets as of the 31st day of
3 December next preceding shall not be deemed material for purposes of
4 this section.

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

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

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

24

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

7 (h) Enterprise Risk Filing. The ultimate controlling person of
8 every insurer subject to registration shall also file an annual
9 enterprise risk report. The report shall, to the best of the
10 ultimate controlling person's knowledge and belief, identify the
11 material risks within the insurance holding company system that
12 could pose enterprise risk to the insurer. The report shall be
13 filed with the lead state commissioner of the insurance holding
14 system as determined by the procedures within the Financial Analysis
15 Handbook adopted by the National Association of Insurance
16 Commissioners.

17 (i) Exemptions. The provisions of this section shall not apply
18 to any insurer, information or transaction if and to the extent that
19 the Commissioner by rule, regulation, or order shall exempt the same
20 from the provisions of this section.

21 ~~(i)~~ (j) Disclaimer. Any person may file with the Commissioner
22 a disclaimer of affiliation with any authorized insurer or such a
23 disclaimer may be filed by such insurer or any member of an
24 insurance holding company system. The disclaimer shall fully

1 disclose all material relationships and bases for affiliation
2 between such person and such insurer as well as the basis for
3 disclaiming such affiliation. After a disclaimer has been filed,
4 the insurer shall be relieved of any duty to register or report
5 under this section which may arise out of the insurer's relationship
6 with such person unless and until the Commissioner disallows such a
7 disclaimer. The Commissioner shall disallow such a disclaimer only
8 after furnishing all parties in interest with notice and opportunity
9 to be heard and after making specific findings of fact to support
10 such disallowance.

11 ~~(j)~~ (k) Summary of Registration Statement. All registration
12 statements shall contain a summary outlining all items in the
13 current registration statement representing changes from the prior
14 registration statement.

15 ~~(k)~~ (l) Reporting Dividends to Shareholders. Every domestic
16 insurer that is a member of a holding company system shall report to
17 the Insurance Department all dividends to shareholders within five
18 (5) business days following declaration and at least ten (10) days,
19 commencing from date of receipt by the Department, prior to payment
20 thereof.

21 ~~(l)~~ (m) Information of Insurers. Any person within an
22 insurance holding company system subject to registration shall be
23 required to provide complete and accurate information to an insurer
24

1 where such information is reasonably necessary to enable the insurer
2 to comply with the provisions of this article.

3 ~~(m)~~ (n) Violations. The failure to file a registration
4 statement, any summary of the registration statement thereto, an
5 enterprise risk filing or any additional information required by
6 this section within the time specified for such filing shall be a
7 violation of this section.

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

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

18 B. All such deposits required pursuant to the laws of another
19 state, province, or country, or pursuant to the retaliatory
20 provision of Section 628 of this title, shall consist of such assets
21 as are required or permitted by such laws, or as required pursuant
22 to such retaliatory provision.

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

1 Section 1707. Any deposit made in this state under ~~this~~ the
2 Insurance Code shall be released and returned:

3 1. To the insurer upon extinguishment by reinsurance or
4 otherwise of substantially all liability of the insurer for the
5 security of which the deposit is held upon proper request by the
6 insurer and after financial review of the insurer proving generally
7 acceptable financial conditions;

8 2. To the insurer to the extent such deposit is in excess of
9 the amount required upon proper request by the insurer and after
10 financial review of the insurer proving generally acceptable
11 financial conditions; or

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

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

18 Section 3639.1. A. No insurer shall cancel, refuse to renew or
19 increase the premium of a homeowner's insurance policy or any other
20 personal residential insurance coverage, which has been in effect
21 more than forty-five (45) days, solely because the insured filed a
22 first claim against the policy. The provisions of this section
23 shall not be construed to prevent the cancellation, nonrenewal or
24

1 increase in premium of a homeowner's insurance policy for the
2 following reasons:

3 1. Nonpayment of premium;

4 2. Discovery of fraud or material misrepresentation in the
5 procurement of the insurance or with respect to any claims submitted
6 thereunder;

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

9 4. A change in the risk which substantially increases any
10 hazard insured against after insurance coverage has been issued or
11 renewed;

12 5. Violation of any local fire, health, safety, building, or
13 construction regulation or ordinance with respect to any insured
14 property or the occupancy thereof which substantially increases any
15 hazard insured against;

16 6. A determination by the Insurance Commissioner that the
17 continuation of the policy would place the insurer in violation of
18 the insurance laws of this state; or

19 7. Conviction of the named insured of a crime having as one of
20 its necessary elements an act increasing any hazard insured against.

21 B. An insurer shall give to the named insured at the mailing
22 address shown on a ~~private passenger auto or~~ homeowner's policy, a
23 written renewal notice that shall include new premium, new
24 deductible, new limits or coverage at least thirty (30) days prior

1 to the expiration date of the policy. If the insurer fails to
2 provide such notice, the premium, deductible, limits and coverage
3 provided to the named insurer prior to the change shall remain in
4 effect until notice is given or until the effective date of
5 replacement coverage obtained by the named insured, whichever occurs
6 first. If notice is given by mail, the notice shall be deemed to
7 have been given on the day the notice is mailed. If the insured
8 elects not to renew, any earned premium for the period of extension
9 of the terminated policy shall be calculated pro rata at the lower
10 of the current or previous year's rate. If the insured accepts the
11 renewal, the premium increase, if any, and other changes shall be
12 effective the day following the prior policy's expiration or
13 anniversary date.

14 SECTION 13. AMENDATORY 36 O.S. 2011, Section 4030.9, is
15 amended to read as follows:

16 Section 4030.9. A. For annuities written prior to November 1,
17 2012, for the purpose of determining the benefits calculated under
18 Sections 4030.7 and 4030.8 of this title, in the case of annuity
19 contracts under which an election may be made to have annuity
20 payments commence at optional maturity dates, the maturity date
21 shall be deemed to be the latest date for which election shall be
22 permitted by the contract, but shall not be deemed to be later than
23 the anniversary of the contract next following the annuitant's
24

1 seventieth birthday or the tenth anniversary of the contract,
2 whichever is later.

3 B. For annuities written on or after November 1, 2012, for the
4 purpose of determining the benefits calculated under Sections 4030.7
5 and 4030.8 of this title, the maturity date shall be deemed to be
6 the latest date for which election shall be permitted by the
7 contract, but shall not be deemed to be later than the anniversary
8 of the contract next following the annuitant's seventieth birthday
9 or the tenth anniversary of the contract, whichever is later.

10 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6206, is
11 amended to read as follows:

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

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

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

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

24 4. Is a trustworthy person;

1 5. Has had experience or special education or training of
2 sufficient duration and extent with reference to the handling of
3 loss claims pursuant to insurance contracts to make the applicant
4 competent to fulfill the responsibilities of an adjuster;

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

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

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

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

1 acceptable notification of a change of legal name or address to the
2 Insurance Commissioner within forty-five (45) days of the date the
3 administrative fee is assessed will result in penalties pursuant to
4 Section 6220 of this title.

5 SECTION 14. AMENDATORY 36 O.S. 2011, Section 6217, is
6 amended to read as follows:

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

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

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

1 1. Employees of the Insurance Commissioner;

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

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

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

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

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

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

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

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

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

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

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

5 SECTION 15. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6222 of Title 36, unless there
7 is created a duplication in numbering, reads as follows:

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

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

20 SECTION 16. AMENDATORY 36 O.S. 2011, Section 6475.13, is
21 amended to read as follows:

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

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

4 1. A quality assurance mechanism in place that:

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

21 2. A toll-free telephone service to receive information on a
22 twenty-four-hour-a-day, seven-day-a-week basis related to external
23 reviews that is capable of accepting, recording or providing
24

1 appropriate instruction to incoming telephone callers during other
2 than normal business hours; and

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

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

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

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

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

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

1 C. In addition to the requirements set forth in subsection A of
2 this section, an independent review organization may not own or
3 control, be a subsidiary of or in any way be owned or controlled by,
4 or exercise control with a health benefit plan, a national, state or
5 local trade association of health benefit plans, or a national,
6 state or local trade association of health care providers.

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

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

1 recommending the health care service or treatment that
2 is the subject of the external review,

3 e. the facility at which the recommended health care
4 service or treatment would be provided, or

5 f. the developer or manufacturer of the principal drug,
6 device, procedure or other therapy being recommended
7 for the covered person whose treatment is the subject
8 of the external review.

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

1 E. In addition to the requirements set forth in subsections A,
2 B, C and D of this section, an independent review organization shall
3 possess any additional minimum qualifications that the Insurance
4 Commissioner may promulgate by rule.

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

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

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

1 3. Upon request, a nationally recognized private accrediting
2 entity shall make its current independent review organization
3 accreditation standards available to the Commissioner or the NAIC in
4 order for the Commissioner to determine if the entity's standards
5 are equivalent to or exceed the minimum qualifications established
6 under this section. The Commissioner may exclude any private
7 accrediting entity that is not reviewed by the NAIC.

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

12 SECTION 17. AMENDATORY 36 O.S. 2011, Section 6608, is
13 amended to read as follows:

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

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

- 21 1. The location of the home office of the applicant;
- 22 2. The name and residence address of each director or officer
23 of the applicant; and

24

1 3. Other pertinent information as may be required by the
2 Commissioner.

3 C. The Commissioner may require that the application, when
4 filed, be accompanied by:

5 1. A copy of the articles of incorporation of the applicant,
6 certified by the public official having custody of the original, and
7 a copy of the bylaws of the applicant, certified by the chief
8 executive officer of the applicant;

9 2. A copy of the most recent financial statement of the
10 applicant, verified under oath of at least two of its principal
11 officers; and

12 3. A license fee as required pursuant to Section 6604 of this
13 title.

14 D. Upon completion of the application for license, the
15 Commissioner shall examine the application and make such further
16 investigation of the applicant as the Commissioner deems advisable.
17 If the Commissioner finds that the applicant is qualified, the
18 Commissioner shall issue to the applicant a license as a service
19 warranty association. If the Commissioner does not find the
20 applicant to be qualified the Commissioner shall refuse to issue the
21 license and shall give the applicant written notice of the refusal,
22 setting forth the grounds of the refusal.

23 E. 1. Any entity that claims one or more of the exclusions
24 from the definition of service warranty provided in paragraph 14 of

1 Section 6602 of this title shall file audited financial statements
2 and other information as requested by the Commissioner by May 1,
3 2010, and each year thereafter, to document and verify that the
4 contracts of the entity are not included within the definition of
5 service warranty.

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

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

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

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

23

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