

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 965

By: Brown

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5
6 AS INTRODUCED

7 An Act relating to regulatory matters of the
8 Insurance Commissioner; amending 36 O.S. 2001,
9 Sections 1435.6, as last amended by Section 24,
10 Chapter 176, O.S.L. 2009 and 1435.29, as last amended
11 by Section 13, Chapter 432, O.S.L. 2009 (36 O.S.
12 Supp. 2010, Sections 1345.6 and 1345.29), which
13 relate to the Oklahoma Producer Licensing Act;
14 modifying time period for taking certain examination;
15 modifying certain continuing education requirements;
16 amending 36 O.S. 2001, Sections 6209, as amended by
17 Section 45, Chapter 176, O.S.L. 2009, 6210, as last
18 amended by Section 46, Chapter 176, O.S.L. 2009 and
19 6217, as last amended by Section 2, Chapter 355,
20 O.S.L. 2010 (36 O.S. supp. 2010, Sections 6209, 6210
21 and 6217), which relate to the Insurance Adjusters
22 Licensing Act; modifying classes of business for
23 purposes of the insurance adjuster license; modifying
24 examination process for the insurance adjuster
license; modifying certain continuing education
requirements; and declaring an emergency.

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

21 SECTION 1. AMENDATORY 36 O.S. 2001, Section 1435.6, as
22 last amended by Section 24, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
23 2010, Section 1435.6), is amended to read as follows:
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1 Section 1435.6 A. A resident individual applying for an
2 insurance producer license shall pass a written examination unless
3 exempt pursuant to Section 1435.10 of this title. The examination
4 shall test the knowledge of the individual concerning the lines of
5 authority for which application is made, the duties and
6 responsibilities of an insurance producer and the insurance laws and
7 regulations of this state. Examinations required by this section
8 shall be developed and conducted under rules and regulations
9 prescribed by the Insurance Commissioner.

10 B. The Commissioner may make arrangements, including
11 contracting with an outside testing service, for administering
12 examinations and collecting the nonrefundable fee set forth in
13 Section 1435.23 of this title.

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

17 D. After completion and filing of the application with the
18 Insurance Commissioner, except as provided in Section 1435.10 of
19 this title, the Commissioner shall subject each applicant for
20 license as an insurance agent, insurance consultant, limited
21 insurance representative, or customer service representative to an
22 examination approved by the Commissioner as to competence to act as
23 a licensee, which each applicant shall personally take and pass to
24 the satisfaction of the Commissioner. The Commissioner may accept

1 examinations administered by a testing service as satisfying the
2 examination requirements of persons seeking license as agents,
3 solicitors, counselors, or adjusters under the Oklahoma Insurance
4 Code. The Commissioner may negotiate agreements with such testing
5 services to include performance of examination development, test
6 scheduling, examination site arrangements, test administration,
7 grading, reporting, and analysis. The Commissioner may require such
8 testing services to correspond directly with the applicants with
9 regard to the administration of such examinations and that such
10 testing services collect fees for administering such examinations
11 directly from the applicants. The Commissioner may stipulate that
12 any agreements with such testing services provide for the
13 administration of examinations in specific locales and at specified
14 frequencies. The Commissioner shall retain the authority to
15 establish the scope and type of all examinations.

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

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

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

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

6 I. The applicant shall pass the examination with a grade
7 determined by the Commissioner to indicate satisfactory knowledge
8 and understanding of the line or lines of insurance for which the
9 applicant seeks qualification. Within ten (10) days after the
10 examination, the Commissioner shall inform the applicant and the
11 appointing insurer, when applicable, as to whether or not the
12 applicant has passed. Formal evidence of licensing shall be issued
13 by the Commissioner to the licensee within a reasonable time.

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

18 K. An applicant who has failed to pass the first two
19 examinations for the license applied for shall not be permitted to
20 take a subsequent examination until the expiration of thirty (30)
21 days after the last previous examination. ~~An applicant shall take
22 and pass the examination within one hundred eighty (180) days of the
23 date of the initial application. If applicant fails to pass the
24 examination within the specified time period, the applicant shall~~

1 ~~submit a new application accompanied by any applicable fees.~~

2 Examination fees for subsequent examinations shall not be waived.

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

7 SECTION 2. AMENDATORY 36 O.S. 2001, Section 1435.29, as
8 last amended by Section 13, Chapter 432, O.S.L. 2009 (36 O.S. Supp.
9 2010, Section 1435.29), is amended to read as follows:

10 Section 1435.29 A. 1. Each insurance producer, with the
11 exception of title producers and aircraft title producers or any
12 other producer exempt by rule, shall, biennially, complete not less
13 than twenty-one (21) clock hours of continuing insurance education
14 ~~which shall cover subjects in the lines for which the insurance~~
15 ~~producer is licensed.~~ Such education may include a written or oral
16 examination.

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

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

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

9 B. 1. The Insurance Commissioner shall approve courses and
10 providers of resident provisional producer prelicensing education
11 and continuing education. The Insurance Department may use one or
12 more of the following to review and provide a nonbinding
13 recommendation to the Insurance Commissioner on approval or
14 disapproval of courses and providers of resident provisional
15 producer prelicensing education and continuing education:

- 16 a. employees of the Insurance Commissioner,
- 17 b. a continuing education advisory committee, or
- 18 c. an independent service whose normal business
19 activities include the review and approval of
20 continuing education courses and providers. The
21 Commissioner may negotiate agreements with such
22 independent service to review documents and other
23 materials submitted for approval of courses and
24 providers and provide the Commissioner with its

1 nonbinding recommendation. The Commissioner may
2 require such independent service to collect the fee
3 charged by the independent service for reviewing
4 materials provided for review directly from the course
5 providers.

6 The Insurance Commissioner has sole authority to approve courses
7 and providers of resident provisional producer prelicensing
8 education and continuing education. If the Insurance Commissioner
9 uses one of the entities listed above to provide a nonbinding
10 recommendation, the Commissioner shall adopt or decline to adopt the
11 recommendation within thirty (30) days of receipt of the
12 recommendation. In the event the Insurance Commissioner takes no
13 action within said thirty-day period, the recommendation made to the
14 Commissioner will be deemed to have been adopted by the
15 Commissioner.

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

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

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

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

13 4. The Insurance Department may promulgate rules providing that
14 courses or programs offered by professional associations shall
15 qualify for presumptive continuing education credit approval. The
16 rules shall include standardized criteria for reviewing the
17 professional associations' mission, membership, and other relevant
18 information, and shall provide a procedure for the Department to
19 disallow all or part of a presumptively approved course.

20 Professional association courses approved in accordance with this
21 paragraph shall be reviewed every three (3) years to determine
22 whether they continue to qualify for continuing education credit.

23 5. Subject to approval by the Commissioner, the active
24 membership of the licensed producer or broker in local, regional,

1 state, or national professional insurance organizations or
2 associations may be approved for up to one (1) annual hour of
3 instruction. The hour shall be credited upon timely filing with the
4 Commissioner, or designee of the Commissioner, and appropriate
5 written evidence acceptable to the Commissioner of such active
6 membership in the organization or association.

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

11 C. Annual fees and course submission fees shall be set forth as
12 a rule by the Commissioner. The fees are payable to the Insurance
13 Commissioner. Provided, public-funded educational institutions,
14 federal agencies, nonprofit organizations, not-for-profit
15 organizations, and Oklahoma state agencies shall be exempt from this
16 subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 6. Multi-peril crop.

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

22 SECTION 4. AMENDATORY 36 O.S. 2001, Section 6210, as
23 last amended by Section 46, Chapter 176, O.S.L. 2009 (36 O.S. Supp.
24 2010, Section 6210), is amended to read as follows:

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

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

7 C. An applicant who has failed to pass the first ~~examination~~
8 two examinations for the license ~~for which applied may take a second~~
9 ~~examination within~~ for shall not be permitted to take a subsequent
10 examination until the expiration of thirty (30) days following the
11 first after the last examination. ~~An applicant who has failed to~~
12 ~~pass the first two examinations for the license for which applied~~
13 ~~shall not be permitted to take a subsequent examination until the~~
14 ~~expiration of thirty (30) days after the last previous examination.~~
15 ~~An applicant shall take and pass the examination within one hundred~~
16 ~~eighty (180) days of the date of the initial application. If the~~
17 ~~applicant fails to pass an examination within the specified time~~
18 ~~period, the applicant shall submit a new application accompanied by~~
19 ~~any applicable fees. Examination fees for subsequent examinations~~
20 shall not be waived.

21 SECTION 5. AMENDATORY 36 O.S. 2001, Section 6217, as
22 last amended by Section 2, Chapter 355, O.S.L. 2010 (36 O.S. Supp.
23 2010, Section 6217), is amended to read as follows:
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1 Section 6217. A. All licenses issued pursuant to the
2 provisions of the Insurance Adjusters Licensing Act shall continue
3 in force not longer than twenty-four (24) months. The renewal dates
4 for the licenses may be staggered throughout the year by notifying
5 licensees in writing of the expiration and renewal date being
6 assigned to the licensees by the Insurance Commissioner and by
7 making appropriate adjustments in the biennial licensing fee.

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

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

- 21 1. Employees of the Insurance Commissioner;
- 22 2. A continuing education advisory committee. The continuing
23 education advisory committee is separate and distinct from the
24 Advisory Board established by Section 6221 of this title;

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

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

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

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

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

17 G. Each provider of continuing education shall, after approval
18 by the Commissioner, submit an annual fee. A fee may be assessed
19 for each course submission at the time it is first submitted for
20 review and upon submission for renewal at expiration. Annual fees
21 and course submission fees shall be set forth as a rule by the
22 Commissioner. The fees are payable to the Insurance Commissioner
23 and shall be deposited in the State Insurance Commissioner Revolving
24 Fund, created in subsection C of Section 1435.23 of this title, for

1 the purposes of fulfilling and accomplishing the conditions and
2 purposes of the Oklahoma Producer Licensing Act and the Insurance
3 Adjusters Licensing Act. Public-funded educational institutions,
4 federal agencies, nonprofit organizations, not-for-profit
5 organizations and Oklahoma state agencies shall be exempt from this
6 subsection.

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

14 I. If the request, proof of compliance with the continuing
15 education requirement and fee for renewal of a license as an
16 adjuster are filed with the Commissioner prior to the expiration of
17 the existing license, the licensee may continue to act pursuant to
18 said license, unless revoked or suspended prior to the expiration
19 date, until the issuance of a renewal license or until the
20 expiration of ten (10) days after the Commissioner has refused to
21 renew the license and has mailed notice of said refusal to the
22 licensee. Any request for renewal filed after the date of
23 expiration may be considered by the Commissioner as an application
24 for a new license.

1 SECTION 6. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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