

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1606

By: Sears

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5  
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,  
8 Section 321, which relates to Insurance Department  
9 fees; providing for additional fees; amending 36 O.S.  
10 2011, Section 613, which relates to deposit  
11 requirements; specifying investment requirements;  
12 imposing deposit requirement for certain insurers;  
13 amending 36 O.S. 2011, Section 628, which relates to  
14 retaliation fees; authorizing the Commissioner to  
15 identify fees that will not be subject to certain  
16 retaliation; amending 36 O.S. 2011, Section 1435.23,  
17 which relates to license fees; removing certain fees;  
18 providing for additional fees; amending 36 O.S. 2011,  
19 Section 1450, which relates to licensing  
20 requirements; extending duration of certain licenses;  
21 modifying certain fees; amending 36 O.S. 2011,  
22 Section 6676, as amended by Section 5, Chapter 147,  
23 O.S.L. 2012 (36 O.S. Supp. 2012, Section 6676), which  
24 relates to certain limited-lines license application  
requirements; directing Insurance Commissioner to  
collect certain fees; amending 59 O.S. 2011, Sections  
1305, as amended by Section 1, Chapter 82, O.S.L.  
2012, 1310 and 1314 (59 O.S. Supp. 2012, Section  
1305), which relate to bail bondsmen licensing fees  
and requirements; increasing application fee;  
modifying penalties for certain notice failures;  
establishing certain late fee; authorizing civil  
penalty for certain late filings; and providing an  
effective date.

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

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

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

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

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

20 ~~(b)~~ b. Renewal:  
21 Fraternal benefit societies,  
22 alien or foreign.....\$150.00  
23  
24

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

1	<del>(e)</del> <u>c.</u>	Certificate of Commissioner,	
2		under seal.....	\$5.00
3	<del>(d)</del> <u>d.</u>	For filing Merger and	
4		Acquisition Forms ( <u>Domestic</u>	
5		<u>Insurers</u> ).....	\$1,000.00
6	<del>(e)</del> <u>e.</u>	For filing Variable Product	
7		Forms.....	\$200.00
8	<del>(f)</del> <u>f.</u>	For filing a Life, Accident	
9		and Health Policy and Health	
10		Maintenance Organization	
11		contract.....	\$50.00
12	<del>(g)</del> <u>g.</u>	For filing an advertisement	
13		or rider application to a	
14		Life, Accident and Health	
15		Policy and Health Maintenance	
16		Organization contract.....	\$25.00
17	<del>(h)</del> <u>h.</u>	Pending Company Review.....	\$1,000.00
18	<del>(i)</del> <u>i.</u>	For filing a Viatical	
19		Settlement Contract or Life	
20		Settlement.....	\$50.00
21	<del>(j)</del> <u>j.</u>	For filing an advertisement	
22		for Viatical Settlement or	
23		Life Settlement.....	\$25.00
24			

- ~~(k)~~ k. For filing application for Viatical Settlement or Life Settlement Contract.....\$25.00
- ~~(l)~~ l. Miscellaneous form filing.....\$25.00

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

Section 613. A. Except as provided in subsection C of this section, any insurer that incorporates or is authorized initially to transact the business of insurance in Oklahoma after the effective date of this act shall not be issued a certificate of authority by the Insurance Commissioner unless it has deposited in trust with the State Treasurer through the Insurance Commissioner's office cash or securities eligible for the investment pursuant to the requirements of Section 1703 of this title of capital funds of domestic insurers under this Code in an amount not less than Three Hundred Thousand

1 Dollars (\$300,000.00). The Insurance Commissioner may require a  
2 greater amount to be deposited in trust if the Insurance  
3 Commissioner finds that a greater amount is warranted for the  
4 protection of the policyholders of the insurer pursuant to rules  
5 promulgated by the Insurance Commissioner. Any amount over Three  
6 Hundred Thousand Dollars (\$300,000.00) must be documented and  
7 reasons stated by the Commissioner in writing for the excess deposit  
8 amount. The Commissioner will annually review those insurers with  
9 deposits above Three Hundred Thousand Dollars (\$300,000.00) to  
10 determine whether such additional deposits remain justified.

11 B. The Insurance Commissioner shall not issue a certificate of  
12 authority to any insurer that incorporated or was initially  
13 authorized to transact the business of insurance in Oklahoma prior  
14 to the effective date of this act unless it has deposited in trust  
15 with the State Treasurer through the Insurance Commissioner's office  
16 cash or securities eligible for the investment of capital funds of  
17 domestic insurers under this Code in an amount not less than the  
18 surplus in regard to policyholders, or net admitted assets (if a  
19 Lloyd's association) required pursuant to this Code to be maintained  
20 for authority to transact the kinds of insurance to be transacted,  
21 ~~except that in the case of life and/or accident and health insurers~~  
22 ~~the deposit shall be in the amount of One Hundred Thousand Dollars~~  
23 ~~(\$100,000.00).~~

24

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

3 2. As to foreign insurers, in lieu of such deposit or part  
4 thereof in this state, the Insurance Commissioner may accept the  
5 current certificate in proper form of the public official having  
6 supervision over insurers in any other state to the effect that a  
7 like deposit or part thereof by such insurer is being maintained in  
8 public custody in such state in trust for the purpose, among other  
9 reasonable purposes, of protection of all the insurer's  
10 policyholders or of all its policyholders and creditors.

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

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1 D. Any securities deposited by insurers shall be issued to the  
2 Insurance Commissioner and the insurer and shall not be released by  
3 any company holding such security without the signatures of the  
4 Insurance Commissioner and the authorized insurer's personnel.  
5 Failure of any company holding such security to comply with this  
6 subsection may result, after hearing by the proper licensing  
7 authority, in a fine of not more than Twenty-five Thousand Dollars  
8 (\$25,000.00) per occurrence.

9 SECTION 3. AMENDATORY 36 O.S. 2011, Section 628, is  
10 amended to read as follows:

11 Section 628. When by or pursuant to the laws of any other state  
12 or foreign country any premium or income or other taxes, or any  
13 fees, fines, penalties, licenses, deposit requirements or other  
14 material obligations, prohibitions or restrictions are imposed upon  
15 Oklahoma insurers doing business, or that might seek to do business  
16 in such other state or country, which in the aggregate are in excess  
17 of such taxes, fees, fines, penalties, licenses, deposit  
18 requirements or other obligations, prohibitions or restrictions  
19 directly imposed upon similar insurers of such other state or  
20 foreign country under the statutes of this state, so long as such  
21 laws continue in force or are so applied, the same obligations,  
22 prohibitions and restrictions of whatever kind shall be imposed upon  
23 similar insurers of such other state or foreign country doing  
24 business in Oklahoma. All insurance companies of other nations

1 shall be held to the same obligations and prohibitions that are  
2 imposed by the state where they have elected to make their deposit  
3 and establish their principal agency in the United States. Any tax,  
4 license or other obligation imposed by any city, county or other  
5 political subdivision of a state or foreign country on Oklahoma  
6 insurers or their agents shall be deemed to be imposed by such state  
7 or foreign country within the meaning of this section. The  
8 provisions of this section shall not apply to ad valorem taxes on  
9 real or personal property or to personal income taxes, or fees  
10 specified by the Insurance Commissioner.

11 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1435.23, is  
12 amended to read as follows:

13 Section 1435.23 A. All applications shall be accompanied by  
14 the applicable fees. An appointment may be deemed by the  
15 Commissioner to have terminated upon failure by the insurer to pay  
16 the prescribed renewal fee. The Commissioner may also by order  
17 impose a civil penalty equal to double the amount of the unpaid  
18 renewal fee.

19 The Insurance Commissioner shall collect in advance the  
20 following fees and licenses:

- 21 1. For filing appointment of Insurance Commissioner  
22 as agent for service of process..... \$ 20.00
- 23 2. Miscellaneous:

24



1	e.	<u>Nonresident limited lines producer</u>	
2		<u>biennial license</u> .....	<u>\$100.00</u>
3	f.	Temporary license as agent.....	\$ 20.00
4	<del>f.</del> g.	Managing general agent's biennial license...	\$ 60.00
5	<del>g.</del> h.	Surplus lines broker's biennial license.....	\$100.00
6	<del>h.</del> i.	Insurance vending machine, each machine,	
7		biennial fee.....	\$100.00
8	<del>i.</del> j.	Insurance consultant's biennial license,	
9		resident or nonresident.....	\$100.00
10	<del>j.</del> k.	Customer service representative biennial	
11		license.....	\$ 40.00

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

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

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

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

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

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

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

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

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

19           B. An administrator shall not be eligible for a nonresident  
20 administrator license under this section if the administrator does  
21 not hold a home state certificate of authority or license in a state  
22 that has adopted the Third-party Administrator Act or that applies  
23 substantially similar provisions as are contained in the Third-party  
24 Administrator Act to that administrator. If the Third-party

1 Administrator Act in the administrator's home state does not extend  
2 to stop-loss insurance, but if the home state otherwise applies  
3 substantially similar provisions as are contained in the Third-party  
4 Administrator Act to that administrator, then that omission shall  
5 not operate to disqualify the administrator from receiving a  
6 nonresident administrator license in this state.

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

24

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

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

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

21        E. The administrator's license shall continue in force no  
22 longer than ~~twelve (12)~~ twenty-four (24) months from the original  
23 month of issuance. Upon filing a renewal form prescribed by the  
24 Commissioner, accompanied by a fee of ~~One Hundred Dollars (\$100.00)~~

1 Two Hundred Dollars (\$200.00), the license may be renewed annually  
2 for a one-year term. Late application for renewal of a license  
3 shall require a fee of double the amount of the original license  
4 fee. The administrator shall submit, together with the application  
5 for renewal, a list of the names and addresses of the persons with  
6 whom the administrator has contracted in accordance with Section  
7 1443 of this title. The Commissioner shall hold this information  
8 confidential except as provided in Section 1443 of this title.

9 F. The administrator's license shall be issued or renewed by  
10 the Commissioner unless, after notice and opportunity for hearing,  
11 the Commissioner determines that the administrator is not competent,  
12 trustworthy, or financially responsible, or has had any insurance  
13 license denied for cause by any state, has been convicted or has  
14 pleaded guilty or nolo contendere to any felony or to a misdemeanor  
15 involving moral turpitude or dishonesty.

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

1 H. Any person who is acting as or presenting himself or herself  
2 to be an administrator without a valid license shall be subject,  
3 upon conviction, to a fine of not less than One Thousand Dollars  
4 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each  
5 occurrence. This fine shall be in addition to any other penalties  
6 which may be imposed for violations of the Oklahoma Insurance Code  
7 or other laws of this state.

8 I. Except as provided for in subsections F and G of this  
9 section, any person convicted of violating any provisions of the  
10 Third-party Administrator Act shall be guilty of a misdemeanor and  
11 shall be subject to a fine of not more than One Thousand Dollars  
12 (\$1,000.00).

13 SECTION 6. AMENDATORY 36 O.S. 2011, Section 6676, as  
14 amended by Section 5, Chapter 147, O.S.L. 2012 (36 O.S. Supp. 2012,  
15 Section 147), is amended to read as follows:

16 Section 6676. A. 1. A sworn application for the license  
17 provided for in Section 6671 of this title shall be made to and  
18 filed with the Insurance Commissioner on forms prescribed and  
19 furnished by the Insurance Commissioner.

20 2. The Insurance Commissioner shall collect in advance the  
21 following fees:

22 a. For filing appointment of Insurance  
23 Commissioner as agent for service of  
24 process..... \$20.00

1           b. For filing organizational documents of  
2           an entity applying for a limited-lines  
3           license..... \$20.00

4           B. The application shall:

5           1. Provide the name, residence address, and other information  
6 required by the Insurance Commissioner for an employee or officer of  
7 the vendor that is designated by the applicant as the person  
8 responsible for the vendor's compliance with the requirements of  
9 Sections 6670 through 6676 of this title and update such information  
10 within thirty (30) days of a change in the same. If the vendor  
11 derives more than fifty percent (50%) of its revenue from the sale  
12 of portable electronics insurance, the information required in this  
13 subparagraph shall be provided for all officers, directors, and  
14 shareholders of record having beneficial ownership of ten percent  
15 (10%) or more of any class of securities registered under the  
16 federal securities law;

17           2. Appoint the Insurance Commissioner as the applicant's  
18 attorney to receive service of all legal process issued against it  
19 in any civil action or proceeding in this state and agreeing that  
20 process so served shall be valid and binding against the applicant.  
21 The appointment shall be irrevocable, shall bind the company and any  
22 successor in interest as the assets or liabilities of the applicant,  
23 and shall remain in effect as long as the applicant's license  
24 remains in force in this state; and

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

2 C. Applications for licensure pursuant to Section 6671 of this  
3 title shall be made within ninety (90) days of the application being  
4 made available by the Insurance Commissioner.

5 D. Initial licenses issued pursuant to Section 6671 of this  
6 title shall be valid for a period of twenty-four (24) months.

7 E. Each vendor of portable electronics licensed pursuant to  
8 Sections 6670 through 6676 of this title shall pay to the Insurance  
9 Commissioner a fee as prescribed by the Insurance Commissioner but  
10 in no event shall the fee exceed One Thousand Dollars (\$1,000.00)  
11 for an initial portable electronics limited lines license and Five  
12 Hundred Dollars (\$500.00) for each renewal thereof. For a vendor  
13 that is engaged in portable electronics transactions at ten or fewer  
14 locations in the state the fee shall not exceed One Hundred Dollars  
15 (\$100.00) for an initial license and for each renewal thereof.

16 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1305, as  
17 amended by Section 1, Chapter 82, O.S.L. 2012 (59 O.S. Supp. 2012,  
18 Section 1305), is amended to read as follows:

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

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

23 2. Is competent, trustworthy, financially responsible, and is  
24 of good personal and business reputation and character;

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

4 4. Is a citizen of the United States;

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

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

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

10 8. Has a high school diploma or its equivalent; provided,  
11 however, the provisions of this paragraph shall apply only to  
12 initial applications for license submitted on or after November 1,  
13 1997, and shall not apply to renewal applications for license.

14 B. The applicant shall apply electronically on forms approved  
15 by the Insurance Commissioner, and the Commissioner may propound any  
16 reasonable interrogatories to an applicant for a license pursuant to  
17 Sections 1301 through 1340 of this title, or on any renewal thereof,  
18 relating to qualifications, residence, prospective place of business  
19 and any other matters which, in the opinion of the Commissioner, are  
20 deemed necessary or expedient in order to protect the public and  
21 ascertain the qualifications of the applicant. The Commissioner may  
22 also conduct any reasonable inquiry or investigation relative to the  
23 determination of the fitness of the applicant to be licensed or to  
24 continue to be licensed including, but not limited to, requiring a

1 national criminal history record check as defined by Section 150.9  
2 of Title 74 of the Oklahoma Statutes. The Commissioner may require  
3 any documents reasonably necessary to verify the information in the  
4 application.

5 C. An applicant shall furnish to the Commissioner a license fee  
6 of ~~Two Hundred Fifty Dollars (\$250.00)~~ Three Hundred Fifty Dollars  
7 (\$350.00) with the application, a complete set of the fingerprints  
8 of the applicant and two recent credential-size full face  
9 photographs of the applicant. The fingerprints of the applicant  
10 shall be certified by an authorized law enforcement officer. The  
11 applicant shall provide with the application an investigative fee of  
12 One Hundred Dollars (\$100.00) with which the Commissioner will  
13 conduct an investigation of the applicant. All fees shall be  
14 nonrefundable.

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

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

21 SECTION 8. AMENDATORY 59 O.S. 2011, Section 1310, is  
22 amended to read as follows:

23 Section 1310. A. The Insurance Commissioner may deny, censure,  
24 suspend, revoke, or refuse to renew any license issued under

1 Sections 1301 through 1340 of this title for any of the following  
2 causes:

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

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

7 3. Material misstatement, misrepresentation, or fraud in  
8 obtaining the license;

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

12 5. Conviction of, or having entered a plea of guilty or nolo  
13 contendere to, any felony or to a misdemeanor involving moral  
14 turpitude or dishonesty;

15 6. Fraudulent or dishonest practices in conducting business  
16 under the license;

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

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

22 9. When, in the judgment of the Commissioner, the licensee has,  
23 in the conduct of affairs under the license, demonstrated  
24 incompetency, or untrustworthiness, or conduct or practices

1 rendering the licensee unfit to carry on the bail bond business or  
2 making continuance in the business detrimental to the public  
3 interest, or that the licensee is no longer in good faith carrying  
4 on the bail bond business, or that the licensee is guilty of  
5 rebating, or offering to rebate, or dividing with someone other than  
6 a licensed bail bondsman, or offering to divide commissions in the  
7 case of limited surety agents, or premiums in the case of  
8 professional bondsmen, and for this conduct is found by the  
9 Commissioner to be a source of detriment, injury, or loss to the  
10 public;

11 10. For any materially untrue statement in the license  
12 application;

13 11. Misrepresentation of the terms of any actual or proposed  
14 bond;

15 12. For forging the name of another to a bond or application  
16 for bond;

17 13. Cheating on an examination for licensure;

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

20 15. For paying a fee or rebate, or giving or promising anything  
21 of value to a jailer, trustee, police officer, law enforcement  
22 officer, or other officer of the law, or any other person who has  
23 power to arrest or hold in custody, or to any public official or  
24 public employee in order to secure a settlement, compromise,

1 remission, or reduction of the amount of any bail bond or  
2 estreatment thereof, or to secure delay or other advantage. This  
3 shall not apply to a jailer, police officer, or officer of the law  
4 who is not on duty and who assists in the apprehension of a  
5 defendant;

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

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

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

14 19. Accepting anything of value from a principal, other than  
15 the premium; provided, the bondsman shall be permitted to accept  
16 collateral security or other indemnity from the principal which  
17 shall be returned immediately upon final termination of liability on  
18 the bond and upon satisfaction of all terms, conditions, and  
19 obligations contained within the indemnity agreement. Collateral  
20 security or other indemnity required by the bondsman shall be  
21 reasonable in relation to the amount of the bond;

22 20. Willful failure to return collateral security to the  
23 principal when the principal is entitled thereto;

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

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

10          23. For filing a materially untrue monthly report;

11          24. For filing false affidavits regarding cancellation of the  
12 appointment of an insurer;

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

15          26. For failing to pay any fees to a district court clerk as  
16 are required by this title or failing to pay any fees to a municipal  
17 court clerk as are required by this title or by Section 28-127 of  
18 Title 11 of the Oklahoma Statutes;

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

22          28. For failing to pay travel expenses for the return of the  
23 defendant to custody once having guaranteed the expenses pursuant to  
24

1 the provisions of subparagraph d of paragraph 3 of subsection C of  
2 Section 1332 of this title; and

3 29. The Commissioner may also refuse to renew a licensed  
4 bondsman for failing to file all outstanding monthly bail reports,  
5 pay any outstanding fines, pay any outstanding monthly report  
6 reviewal fees owed to the Commissioner, or respond to a current  
7 order issued by the Commissioner.

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

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

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

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

15 F. Any law enforcement agency, district attorney's office,  
16 court clerk's office, or insurer that is aware that a licensed bail  
17 bondsman has been convicted of or has pleaded guilty or nolo  
18 contendere to any crime, shall notify the Insurance Commissioner of  
19 that fact.

20 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1314, is  
21 amended to read as follows:

22 Section 1314. A. When a bail bondsman or managing general  
23 agent accepts collateral, the bail bondsman or managing general  
24 agent shall give a written receipt for same, and this receipt shall

1 give in detail a full description of the collateral received. A  
2 description of the collateral shall be listed on the undertaking by  
3 affidavit. All property taken as collateral, whether personal,  
4 intangible or real, shall be receipted for and deemed, for all  
5 purposes, to be in the name of, and for the use and benefit of, the  
6 surety company or licensed professional bondsman, as the case may  
7 be. Every receipt, encumbrance, mortgage or other evidence of the  
8 custody, possession or claim shall facially indicate that it has  
9 been taken or made on behalf of the surety company or professional  
10 bondsman through its authorized agent, the individual licensed  
11 bondsman or managing general agent who has transacted the  
12 undertaking with the bond principal. Any mortgage or other  
13 encumbrance against real property taken under the provisions of this  
14 section which does not indicate beneficial ownership of the claim to  
15 be in favor of the surety company or professional bondsman shall be  
16 deemed to constitute a cloud on the title to real estate and shall  
17 subject the person filing, or causing same to be filed, in the real  
18 estate records of the county, to a penalty of treble damages or One  
19 Thousand Dollars (\$1,000.00), whichever is greater, in an action  
20 brought by the person, organization or corporation injured thereby.  
21 For collateral taken, or liens or encumbrances taken or made  
22 pursuant to the provisions of this section, the individual bondsman  
23 or managing general agent taking possession of the property or  
24 making the lien, claim or encumbrance shall do so on behalf of the

1 surety company or professional bondsman, as the case may be, and the  
2 individual licensed bondsman shall be deemed to act in the capacity  
3 of fiduciary in relation to both:

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

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

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

19 B. 1. Every licensed bondsman shall file monthly  
20 electronically with the Insurance Commissioner and on forms approved  
21 by the Commissioner ~~as follows~~.

22 ~~1.~~ 2. A monthly report showing every bond written, amount of  
23 bond, whether released or revoked during each month, showing the  
24

1 court and county, and the style and number of the case, premiums  
2 charged and collateral received; ~~and.~~

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

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

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

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

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

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

SECTION 10. This act shall become effective November 1, 2013.

54-1-5579            AMM            01/16/13