

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2190

By: Sims

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5  
6 AS INTRODUCED

7 An Act relating to the Oklahoma Annual Financial  
8 Report Act; amending 36 O.S. 2011, Sections 311A.1,  
9 311A.2 and 311A.3, which relate to short title and  
10 definitions; updating statutory cites; modifying  
11 definition; defining term; amending 36 O.S. 2011,  
12 Sections 311A.9, 311A.11, 311A.12 and 311A.14, which  
13 relate to audit committee; providing for oversight  
14 and authority; creating exemptions; providing  
15 internal audit function requirements; amending 36  
16 O.S. 2011, Sections 311A.16, 311A.17 and 311A.18,  
17 which relate to exemptions from compliance;  
18 eliminating obsolete language; providing compliance  
19 deadline; providing for codification; and providing  
20 an effective date.

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

22 SECTION 1. AMENDATORY 36 O.S. 2011, Section 311A.1, is  
23 amended to read as follows:

24 Section 311A.1 ~~Sections 3 through 20 of this act~~ 311A.1 through  
311A.18 of this title shall be known as and may be cited as the  
"Oklahoma Annual Financial Report Act".

SECTION 2. AMENDATORY 36 O.S. 2011, Section 311A.2, is  
amended to read as follows:

1 Section 311A.2 A. The purpose of the Oklahoma Annual Financial  
2 Report Act is to improve the surveillance of the Insurance  
3 Commissioner over the financial condition of insurers by requiring:

4 1. An annual audit of financial statements reporting the  
5 financial position and the results of operations of insurers by  
6 independent certified public accountants;

7 2. Communication of Internal Control Related Matters Noted in  
8 an Audit; and

9 3. Management's Report of Internal Control over Financial  
10 Reporting.

11 B. Every insurer as defined in Section ~~5 of this act~~ 311A.3 of  
12 this title shall be subject to the Oklahoma Annual Financial Report  
13 Act. Insurers having direct premiums written in this state of less  
14 than One Million Dollars (\$1,000,000.00) in any calendar year and  
15 less than one thousand policy holders or certificate holders of  
16 direct written policies nationwide at the end of the calendar year  
17 shall be exempt from the Oklahoma Annual Financial Report Act for  
18 the year unless the Commissioner makes a specific finding that  
19 compliance is necessary for the Commissioner to carry out statutory  
20 responsibilities. Insurers having assumed premiums pursuant to  
21 contracts and treaties of reinsurance of One Million Dollars  
22 (\$1,000,000.00) or more will not be so exempt.

23 C. Foreign or alien insurers filing the audited financial  
24 reports in another state, pursuant to the requirement of that state

1 for filing of audited financial reports, which has been found by the  
2 Commissioner to be substantially similar to the requirements of the  
3 Oklahoma Annual Financial Report Act, are exempt from Sections ~~6~~  
4 ~~through 15 of this act~~ 311A.4 through 311A.13 of this title if:

5 1. A copy of the audited financial report, Communication of  
6 Internal Control Related Matters Noted in an Audit, and the  
7 Accountant's Letter of Qualifications that are filed with the other  
8 state are filed with the Commissioner in accordance with the filing  
9 dates specified in Sections ~~6, 13 and 14 of this act~~ 311A.4, 311A.11  
10 and 311A.12 of this title, respectively. Canadian insurers may  
11 submit accountants' reports as filed with the Office of the  
12 Superintendent of Financial Institutions, Canada; and

13 2. A copy of any Notification of Adverse Financial Condition  
14 Report filed with the other state is filed with the Commissioner  
15 within the time specified in Section ~~12 of this act~~ 311A.10 of this  
16 title.

17 D. Foreign or alien insurers required to file Management's  
18 Report of Internal Control over Financial Reporting in another state  
19 are exempt from filing the Report in this state provided the other  
20 state has substantially similar reporting requirements as determined  
21 by the Commissioner and the Report is filed with the Commissioner of  
22 the other state within the time specified.

23 E. The Oklahoma Annual Financial Report Act shall not prohibit,  
24 preclude, or in any way limit the Commissioner from ordering or

1 conducting or performing examinations of insurers under the rules of  
2 the Insurance Department and the practices and procedures of the  
3 Insurance Department.

4 SECTION 3. AMENDATORY 36 O.S. 2011, Section 311A.3, is  
5 amended to read as follows:

6 Section 311A.3 As used in the Oklahoma Annual Financial Report  
7 Act:

8 1. "Accountant" or "independent certified public accountant"  
9 means an independent certified public accountant or accounting firm  
10 in good standing with the American Institute of Certified Public  
11 Accounts (AICPA), and in all states in which the accountant is  
12 licensed to practice and for Canadian and British companies, it  
13 means a Canadian-chartered or British-chartered accountant;

14 2. An "affiliate" of, or person "affiliated" with, a specific  
15 person, is a person that directly, or indirectly through one or more  
16 intermediaries, controls, or is controlled by, or is under common  
17 control with, the person specified;

18 3. "Audit committee" means a committee or equivalent body  
19 established by the board of directors of an entity for the purpose  
20 of overseeing the accounting and financial reporting processes of an  
21 insurer or group of insurers, the internal audit function of an  
22 insurer or group of insurers, if applicable, and external audits of  
23 financial statements of the insurer or group of insurers, and audits  
24 of financial statements of the insurer or group of insurers. The

1 audit committee of any entity that controls a group of insurers may  
2 be deemed to be the audit committee for one or more of these  
3 controlled insurers solely for the purposes of the Oklahoma Annual  
4 Financial Report Act at the election of the controlling person. The  
5 exercise of this election shall be pursuant to subsection ~~F~~ G of  
6 Section ~~16 of this act~~ 311A.14 of this title. If an audit committee  
7 is not designated by the insurer, the entire board of directors of  
8 the insurer shall constitute the audit committee;

9 4. "Audited financial report" means and includes those items  
10 specified in Section ~~7 of this act~~ 311A.5 of this title;

11 5. "Indemnification" means an agreement of indemnity or a  
12 release from liability where the intent or effect is to shift or  
13 limit in any manner the potential liability of the person or firm  
14 for failure to adhere to applicable auditing or professional  
15 standards, whether or not resulting in part from knowing of other  
16 misrepresentations made by the insurer or its representatives;

17 6. "Independent board member" has the same meaning as described  
18 in subsection ~~D~~ E of Section ~~16 of this act~~ 311A.14 of this title;

19 7. "Insurer" means a licensed insurer as defined in Section 103  
20 of ~~Title 36 of the Oklahoma Statutes~~ this title. For purposes of  
21 the Oklahoma Annual Financial Report Act, insurer includes but is  
22 not limited to fraternal benefit societies, health maintenance  
23 organizations, multiple employer welfare arrangements, title  
24

1 insurers, and similar organizations licensed by the Insurance  
2 Commissioner;

3 8. "Group of insurers" means those licensed insurers included  
4 in the reporting requirements of Article 16A of the Oklahoma  
5 Insurance Code, or a set of insurers as identified by management,  
6 for the purpose of assessing the effectiveness of internal control  
7 over financial reporting;

8 9. "Internal audit function" means a person or persons that  
9 provide independent, objective and reasonable assurance designed to  
10 add value and improve an organization's operations and accomplish  
11 its objectives by bringing a systematic, disciplined approach to  
12 evaluate and improve the effectiveness of risk management, control  
13 and governance processes;

14 10. "Internal control over financial reporting" means a process  
15 effected by the board of directors, management, and other personnel  
16 of an entity designed to provide reasonable assurance regarding the  
17 reliability of the financial statements, i.e., those items specified  
18 in paragraphs 2 through 7 of subsection B of Section ~~7 of this act~~  
19 311A.5 of this title and includes those policies and procedures  
20 that:

21 a. pertain to the maintenance of records that, in  
22 reasonable detail and accurately, fairly reflect the  
23 transactions and dispositions of assets,

24

- 1           b. provide reasonable assurance that transactions are  
2 recorded as necessary to permit preparation of the  
3 financial statements, i.e., those items specified in  
4 paragraphs 2 through 7 of subsection B of Section ~~7 of~~  
5 ~~this act~~ 311A.5 of this title and that receipts and  
6 expenditures are being made only in accordance with  
7 authorizations of management and directors, and
- 8           c. provide reasonable assurance regarding prevention or  
9 timely detection of unauthorized acquisition, use, or  
10 disposition of assets that could have a material  
11 effect on the financial statements, i.e., those items  
12 specified in paragraphs 2 through 7 of subsection B of  
13 Section ~~7 of this act~~ 311A.5 of this title;

14       ~~10.~~ 11. "SEC" means the United States Securities and Exchange  
15 Commission;

16       ~~11.~~ 12. "Section 404" means Section 404 of the Sarbanes-Oxley  
17 Act of 2002 and the rules and regulations of the SEC promulgated  
18 thereunder;

19       ~~12.~~ 13. "Section 404 Report" means the report on internal  
20 control over financial reporting of management as defined by the SEC  
21 and the related attestation report of the independent certified  
22 public accountant; and

1       ~~13.~~ 14. "SOX Compliant Entity" means an entity that either is  
2 required to be compliant with, or voluntarily is compliant with, all  
3 of the following provisions of the Sarbanes-Oxley Act of 2002:

- 4           a. the preapproval requirements of Section 201 (Section  
5           10A(i) of the Securities Exchange Act of 1934),
- 6           b. the audit committee independence requirements of  
7           Section 301 (Section 10A(m)(3) of the Securities  
8           Exchange Act of 1934), and
- 9           c. the internal control over financial reporting  
10           requirements of Section 404 (Item 308 of SEC  
11           Regulation S-K).

12       SECTION 4.        AMENDATORY        36 O.S. 2011, Section 311A.9, is  
13 amended to read as follows:

14       Section 311A.9 Financial statements furnished pursuant to  
15 Section ~~7 of this act~~ 311A.5 of this title shall be examined by the  
16 independent certified public accountant. The audit of the financial  
17 statements of the insurer shall be conducted in accordance with  
18 generally accepted auditing standards. In accordance with AU Section  
19 319 of the Professional Standards of the AICPA, Consideration of  
20 Internal Control in a Financial Statement Audit, the independent  
21 certified public accountant should obtain an understanding of  
22 internal control sufficient to plan the audit. To the extent  
23 required by AU 319, for those insurers required to file a  
24 Management's Report of Internal Control over Financial Reporting

1 pursuant to Section ~~18 of this act~~ 311A.16 of this title, the  
2 independent certified public accountant should consider, as that  
3 term is defined in Statement on Auditing Standards (SAS) No. 102,  
4 Defining Professional Requirements in Statements on Auditing  
5 Standards or its replacement, the most recently available report in  
6 planning and performing the audit of the statutory financial  
7 statements. Consideration shall be given to the procedures  
8 illustrated in the Financial Condition Examiners Handbook  
9 promulgated by the National Association of Insurance Commissioners  
10 as the independent certified public accountant deems necessary.

11 SECTION 5. AMENDATORY 36 O.S. 2011, Section 311A.11, is  
12 amended to read as follows:

13 Section 311A.11 A. In addition to the annual audited financial  
14 report, each insurer shall furnish the Insurance Commissioner with a  
15 written communication as to any unremediated material weaknesses in  
16 its internal controls over financial reporting noted during the  
17 audit. Such communication shall be prepared by the accountant  
18 within sixty (60) days after the filing of the annual audited  
19 financial report, and shall contain a description of any  
20 unremediated material weakness, as the term material weakness is  
21 defined by Statement on Auditing Standard 60, Communication of  
22 Internal Control Related Matters Noted in an Audit, or its  
23 replacement, as of December 31 immediately preceding, so as to  
24 coincide with the audited financial report discussed in subsection A

1 of Section ~~4 of this act~~ 311A.2 of this title in the internal  
2 control over financial reporting of the insurer noted by the  
3 accountant during the course of their audit of the financial  
4 statements. If no unremediated material weaknesses were noted, the  
5 communication should so state.

6 B. The insurer is required to provide a description of remedial  
7 actions taken or proposed to correct unremediated material  
8 weaknesses if the actions are not described in the communication of  
9 the accountant.

10 SECTION 6. AMENDATORY 36 O.S. 2011, Section 311A.12, is  
11 amended to read as follows:

12 Section 311A.12 The accountant shall furnish the insurer in  
13 connection with, and for inclusion in, the filing of the annual  
14 audited financial report, a letter stating:

15 1. That the accountant is independent with respect to the  
16 insurer and conforms to the standards of the profession as contained  
17 in the Code of Professional Ethics and pronouncements of the ~~AICPA~~  
18 American Institute of Certified Public Accountants (AICPA) and the  
19 Rules of Professional Conduct of the Oklahoma Board of Public  
20 Accountancy, or similar code;

21 2. The background and experience in general, and the experience  
22 in audits of insurers of the staff assigned to the engagement and  
23 whether each is an independent certified public accountant. Nothing  
24 within the Oklahoma Annual Financial Report Act shall be construed

1 as prohibiting the accountant from utilizing such staff as the  
2 accountant deems appropriate where use is consistent with the  
3 standards prescribed by generally accepted auditing standards;

4 3. That the accountant understands the annual audited financial  
5 report and the opinion of the accountant thereon will be filed in  
6 compliance with the Oklahoma Annual Financial Report Act and that  
7 the Insurance Commissioner will be relying on this information in  
8 the monitoring and regulation of the financial position of insurers;

9 4. That the accountant consents to the requirements of ~~Section~~  
10 ~~15 of this act~~ 311A.13 of this title and that the accountant  
11 consents and agrees to make available for review by the Commissioner  
12 the work papers, as defined in Section ~~15 of this act~~ 311A.13 of  
13 this title;

14 5. A representation that the accountant is properly licensed by  
15 an appropriate state licensing authority and is a member in good  
16 standing in the AICPA; and

17 6. A representation that the accountant is in compliance with  
18 the requirements of Section ~~9 of this act~~ 311A.7 of this title.

19 SECTION 7. AMENDATORY 36 O.S. 2011, Section 311A.14, is  
20 amended to read as follows:

21 Section 311A.14 A. This section shall not apply to foreign or  
22 alien insurers licensed in this state or an insurer that is a SOX  
23 Compliant Entity or a direct or indirect wholly-owned subsidiary of  
24 a SOX Compliant Entity.

1 B. The audit committee shall be directly responsible for the  
2 appointment, compensation, and oversight of the work of any  
3 accountant, including resolution of disagreements between management  
4 and the accountant regarding financial reporting, for the purpose of  
5 preparing or issuing the audited financial report or related work  
6 pursuant to the Oklahoma Annual Financial Report Act. Each  
7 accountant shall report directly to the audit committee.

8 C. The audit committee of an insurer or group of insurers shall  
9 be responsible for overseeing the insurer's internal audit function  
10 and granting the person or persons performing the function suitable  
11 authority and resources to fulfill their responsibilities if  
12 required by Section 311A.15 of this title.

13 D. Each member of the audit committee shall be a member of the  
14 board of directors of the insurer or a member of the board of  
15 directors of an entity elected pursuant to subsection ~~F~~ G of this  
16 section and paragraph 3 of Section ~~5~~ 311A.3 of this ~~act~~ title.

17 ~~D.~~ E. In order to be considered independent for purposes of  
18 this section, a member of the audit committee may not, other than in  
19 the capacity as a member of the audit committee, the board of  
20 directors, or any other board committee, accept any consulting,  
21 advisory, or other compensatory fee from the entity or be an  
22 affiliated person of the entity or subsidiary thereof. However, if  
23 law requires board participation by otherwise non-independent  
24 members, that law shall prevail and such members may participate in

1 the audit committee and be designated as independent for audit  
2 committee purposes, unless they are an officer or employee of the  
3 insurer or one of its affiliates.

4 ~~F.~~ F. If a member of the audit committee ceases to be  
5 independent for reasons outside the reasonable control of the  
6 member, that person, with notice by the responsible entity to the  
7 state, may remain an audit committee member of the responsible  
8 entity until the earlier of the next annual meeting of the  
9 responsible entity or one year from the occurrence of the event that  
10 caused the member to be no longer independent.

11 ~~F.~~ G. To exercise the election of the controlling person to  
12 designate the audit committee for purposes of the Oklahoma Annual  
13 Finance Report Act, the ultimate controlling person shall provide  
14 written notice to the Insurance Commissioner of the affected  
15 insurers. Notification shall be made timely prior to the issuance  
16 of the statutory audit report and include a description of the basis  
17 for the election. The election can be changed through notice to the  
18 Commissioner by the insurer, which shall include a description of  
19 the basis for the change. The election shall remain in effect for  
20 perpetuity, until rescinded.

21 ~~G.~~ H. 1. The audit committee shall require the accountant that  
22 performs for an insurer any audit required by the Oklahoma Annual  
23 Financial Report Act to timely report to the audit committee in  
24

1 accordance with the requirements of SAS 61, Communication with Audit  
2 Committees, or its replacement, including:

- 3 a. all significant accounting policies and material  
4 permitted practices,
- 5 b. all material alternative treatments of financial  
6 information within statutory accounting principles  
7 that have been discussed with management officials of  
8 the insurer, ramifications of the use of the  
9 alternative disclosures and treatments, and the  
10 treatment preferred by the accountant, and
- 11 c. other material written communications between the  
12 accountant and the management of the insurer, such as  
13 any management or schedule of unadjusted differences;

14 2. If an insurer is a member of an insurance holding company  
15 system, the reports required by paragraph 1 of this subsection may  
16 be provided to the audit committee on an aggregate basis for  
17 insurers in the holding company system, provided that any  
18 substantial differences among insurers in the system are identified  
19 to the audit committee.

20 ~~H.~~ I. The proportion of independent audit committee members  
21 shall meet or exceed the following criteria set out in paragraphs 1,  
22 2 and 3 of this subsection:  
23  
24

1 1. No Minimum Requirements. There are no minimum requirements  
2 for insurers with prior calendar year direct written and assumed  
3 premiums of Three Hundred Million Dollars (\$300,000,000.00) or less;

4 2. Majority of Members. Fifty percent (50%) or more of members  
5 of the independent audit committee for insurers with prior calendar  
6 year direct written and assumed premiums of between Three Hundred  
7 Million Dollars (\$300,000,000.00) and Five Hundred Million Dollars  
8 (\$500,000,000.00); or

9 3. Supermajority of Members. Seventy-five percent (75%) or  
10 more of members of the independent audit committee for insurers with  
11 prior calendar year direct written and assumed premiums of over Five  
12 Hundred Million Dollars (\$500,000,000.00).

13 ~~F.~~ J. The Commissioner may require improvements to the  
14 independence of the audit committee membership of any insurer if the  
15 insurer is in a RBC action level event, meets one or more of the  
16 standards of an insurer deemed to be in hazardous financial  
17 condition, or otherwise exhibits qualities of a troubled insurer.

18 ~~J.~~ K. For purposes of this section, prior calendar year direct  
19 written and assumed premiums shall be the combined total of direct  
20 premiums and assumed premiums from non-affiliates for the reporting  
21 entities.

22 ~~K.~~ L. An insurer with direct written and assumed premium,  
23 excluding premiums reinsured with the Federal Crop Insurance  
24 Corporation and Federal Flood Program, of less than Five Hundred

1 Million Dollars (\$500,000,000.00) may make application to the  
2 Commissioner for a waiver from the requirements of this section  
3 based upon hardship. The insurer shall file, with its annual  
4 statement filing, the approval for relief from this section with the  
5 states that it is licensed in or doing business in and the ~~NAIC~~  
6 National Association of Insurance Commissioners (NAIC). If the  
7 nondomestic state accepts electronic filing with the NAIC, the  
8 insurer shall file the approval in an electronic format acceptable  
9 to the NAIC.

10 SECTION 8. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 311A.14.1 of Title 36, unless  
12 there is created a duplication in numbering, reads as follows:

13 A. Exemption - An insurer is exempt from the requirements of  
14 this section if:

15 1. The insurer has annual direct written and unaffiliated  
16 assumed premium, including international direct and assumed premium,  
17 but excluding premiums reinsured with the Federal Crop Insurance  
18 Corporation and Federal Flood Program less than Five Hundred Million  
19 Dollars (\$500,000,000.00); or

20 2. If the insurer is a member of a group of insurers that has  
21 annual direct written and unaffiliated assumed premium, including  
22 international direct and assumed premium, but excluding premiums  
23 reinsured with the Federal Crop Insurance Corporation and Federal  
24 Flood Program, less than One Billion Dollars (\$1,000,000,000.00).

1 B. Function - the insurer or group of insurers shall establish  
2 an internal audit function providing independent, objective and  
3 reasonable assurance to the audit committee and insurer management  
4 regarding the insurer's governance, risk management and internal  
5 controls. This assurance shall be provided by performing general  
6 and specific audits, reviews and tests and by employing other  
7 techniques deemed necessary to protect assets, evaluate control  
8 effectiveness and efficiency and evaluate compliance with policies  
9 and regulations.

10 C. Independence - In order to ensure that internal auditors  
11 remain objective, the internal audit function must be  
12 organizationally independent. Specifically, the internal audit  
13 function will not defer ultimate judgement on audit matters to  
14 others, and shall appoint an individual to head the internal audit  
15 function who will have direct and unrestricted access to the board  
16 of directors. Organizational independence does not preclude dual-  
17 reporting relationships.

18 D. Reporting - The head of the internal audit function shall  
19 report to the audit committee regularly, but no less than annually,  
20 on the periodic audit plan, factors that may adversely impact the  
21 internal audit function's independence or effectiveness, material  
22 findings from completed audits and the appropriateness of corrective  
23 actions implemented by management as a result of audit findings.

24

1 E. Additional Requirements - If an insurer is a member of an  
2 insurance holding company system or included in a group of insurers,  
3 the insurer may satisfy the internal audit function requirements set  
4 forth in this section at the ultimate controlling parent level, an  
5 intermediate holding company level or the individual legal entity  
6 level.

7 F. Upon written request and with good cause shown, the  
8 Insurance Commissioner may grant an exemption from the internal  
9 audit function.

10 SECTION 9. AMENDATORY 36 O.S. 2011, Section 311A.16, is  
11 amended to read as follows:

12 Section 311A.16 A. Every insurer required to file an audited  
13 financial report pursuant to the Oklahoma Annual Financial Report  
14 Act that has annual direct written and assumed premiums, excluding  
15 premiums reinsured with the Federal Crop Insurance Corporation and  
16 Federal Flood Program, of Five Hundred Million Dollars  
17 (\$500,000,000.00) or more shall prepare a report of the insurer's or  
18 group of insurers' internal control over financial reporting. The  
19 report shall be filed with the Insurance Commissioner along with the  
20 Communication of Internal Control Related Matters Noted in an Audit  
21 described under ~~Section 13 of this act~~ 311A.11 of this title.  
22 Management's Report of Internal Control over Financial Reporting  
23 shall be as of December 31 immediately preceding.

24

1 B. Notwithstanding the premium threshold in subsection A of  
2 this section, the Commissioner may require an insurer to file  
3 Management's Report of Internal Control over Financial Reporting if  
4 the insurer is in any RBC level event, or meets any one or more of  
5 the standards of an insurer deemed to be in hazardous financial  
6 condition.

7 C. An insurer or a group of insurers that is:

8 1. Directly subject to Section 404;

9 2. Part of a holding company system whose parent is directly  
10 subject to Section 404;

11 3. Not directly subject to Section 404 but is a SOX Compliant  
12 Entity; or

13 4. A member of a holding company system whose parent is not  
14 directly subject to Section 404 but is a SOX Compliant Entity,  
15 may file its or its parent's Section 404 Report and an addendum in  
16 satisfaction of the requirements of this section provided that those  
17 internal controls of the insurer or group of insurers' audited  
18 statutory financial statements included in paragraphs 2 through 7 of  
19 subsection B of Section ~~7 of this act~~ 311A.5 of this title were  
20 included in the scope of the Section 404 Report. The addendum shall  
21 be a positive statement by management that there are no material  
22 processes with respect to the preparation of the insurer's or group  
23 of insurers' audited statutory financial statements included in  
24 paragraphs 2 through 7 of subsection B of Section ~~7 of this act~~

1 311A.5 of this title excluded from the Section 404 Report. If there  
2 are internal controls of the insurer or group of insurers that have  
3 a material impact on the preparation of the insurer's or group of  
4 insurers' audited statutory financial statements and those internal  
5 controls were not included in the scope of the Section 404 Report,  
6 the insurer or group of insurers may either file a report pursuant  
7 to this section or the Section 404 Report and a report pursuant to  
8 this section for those internal controls that have a material impact  
9 on the preparation of the insurer's or group of insurers' audited  
10 statutory financial statements not covered by the Section 404  
11 Report.

12 D. Management's Report of Internal Control over Financial  
13 Reporting shall include:

14 1. A statement that management is responsible for establishing  
15 and maintaining adequate internal control over financial reporting;

16 2. A statement that management has established internal control  
17 over financial reporting and an assertion, to the best of the  
18 knowledge and belief of management, after diligent inquiry, as to  
19 whether its internal control over financial reporting is effective  
20 to provide reasonable assurance regarding the reliability of  
21 financial statements in accordance with statutory accounting  
22 principles;

23

24

1 3. A statement that briefly describes the approach or processes  
2 by which management evaluated the effectiveness of its internal  
3 control over financial reporting;

4 4. A statement that briefly describes the scope of work that is  
5 included and whether any internal controls were excluded;

6 5. Disclosure of any unremediated material weaknesses in the  
7 internal control over financial reporting identified by management  
8 as of December 31 immediately preceding. Management is not  
9 permitted to conclude that the internal control over financial  
10 reporting is effective to provide reasonable assurance regarding the  
11 reliability of financial statements in accordance with statutory  
12 accounting principles if there is one or more unremediated material  
13 weaknesses in its internal control over financial reporting;

14 6. A statement regarding the inherent limitations of internal  
15 control systems; and

16 7. Signatures of the chief executive officer and the chief  
17 financial officer or equivalent positions or titles.

18 E. Management shall document and make available upon financial  
19 condition examination the basis upon which its assertions, required  
20 in subsection D of this section, are made. Management may base its  
21 assertions, in part, upon its review, monitoring, and testing of  
22 internal controls undertaken in the normal course of its activities.

23 1. Management shall have discretion as to the nature of the  
24 internal control framework used, and the nature and extent of

1 documentation, in order to make its assertion in a cost-effective  
2 manner and, as such, may include assembly of or reference to  
3 existing documentation.

4 2. Management's Report of Internal Control over Financial  
5 Reporting, required by subsection A of this section and any  
6 documentation provided in support thereof during the course of a  
7 financial condition examination, shall be kept confidential by the  
8 Insurance Department.

9 SECTION 10. AMENDATORY 36 O.S. 2011, Section 311A.17, is  
10 amended to read as follows:

11 Section 311A.17 A. Upon written application of any insurer,  
12 the Insurance Commissioner may grant an exemption from compliance  
13 with any and all provisions of the Oklahoma Annual Financial Report  
14 Act if the Commissioner finds, upon review of the application, that  
15 compliance with the Oklahoma Annual Financial Report Act would  
16 constitute a financial or organizational hardship upon the insurer.  
17 An exemption may be granted at any time and from time to time for a  
18 specified period or periods. Within ten (10) days from a denial of  
19 the written request of an insurer for an exemption from the Oklahoma  
20 Annual Financial Report Act, the insurer may request in writing a  
21 hearing on its application for an exemption. The hearing shall be  
22 held in accordance with the Administrative Procedures Act and the  
23 laws and rules of the Insurance Department.

24

1 B. Domestic insurers retaining a certified public accountant  
2 who qualify as independent ~~on the effective date of the Oklahoma~~  
3 ~~Annual Financial Report Act~~ shall comply with the Oklahoma Annual  
4 Financial Report Act ~~for the year ending December 31, 2010,~~ and each  
5 year ~~thereafter~~ unless the Commissioner permits otherwise.

6 C. Domestic insurers not retaining a certified public  
7 accountant on the effective date of the Oklahoma Annual Financial  
8 Report Act who qualifies as independent may meet the following  
9 schedule for compliance unless the Commissioner permits otherwise:

10 1. ~~As of December 31, 2010,~~ file File with the Commissioner an  
11 audited financial report; and

12 2. ~~For the year ending December 31, 2010, and each~~ Each year  
13 ~~thereafter,~~ such insurers shall file with the Commissioner all  
14 reports and communication required by the Oklahoma Annual Financial  
15 Report Act.

16 D. Foreign insurers shall comply with the Oklahoma Annual  
17 Financial Report Act ~~for the year ending December 31, 2010,~~ and each  
18 year ~~thereafter,~~ unless the Commissioner permits otherwise.

19 E. The requirements of subsection D of Section 311A.7 of this  
20 title shall be in effect for audits of ~~the~~ each year ~~beginning~~  
21 ~~January 1, 2010, and thereafter.~~

22 F. ~~The requirements of Section 311A.14 of this title are to be~~  
23 ~~in effect January 1, 2010.~~ An insurer or group of insurers ~~that is,~~  
24 not required to have independent audit committee members or only

1 required to have a majority of independent audit committee members,  
2 ~~as opposed to a supermajority, because~~ due to the total written and  
3 assumed premium ~~is~~ being below the threshold ~~and subsequently~~  
4 ~~becomes subject to one of the independence requirements due to~~  
5 ~~changes in premium,~~ shall have one (1) year following the year the  
6 threshold is exceeded, ~~but not earlier than January 1, 2010,~~ to  
7 comply with the independence requirements. An insurer acquired as a  
8 result of a business combination shall have one (1) calendar year  
9 following the date of acquisition or combination to comply with the  
10 independence requirements.

11 G. ~~The requirements of Section 311A.16 of this title are~~  
12 ~~effective beginning with the reporting period ending December 31,~~  
13 ~~2010, and each year thereafter.~~ An insurer or group of insurers  
14 ~~that are,~~ not required to file a report because the total written  
15 premium is below the threshold ~~and,~~ which subsequently becomes  
16 subject to the reporting requirements, shall have two (2) years  
17 following the year the threshold is exceeded, ~~but not earlier than~~  
18 ~~December 31, 2010,~~ to file a report. Likewise, an insurer acquired  
19 in a business combination shall have two (2) calendar years  
20 following the date of acquisition or combination to comply with the  
21 reporting requirements.

22 H. If an insurer or group of insurers that is exempt from the  
23 requirements of Section 8 of this act no longer qualifies for that  
24

1 exemption, it shall have one (1) year after the year the threshold  
2 is exceeded to comply with the requirements of this act.

3 SECTION 11. AMENDATORY 36 O.S. 2011, Section 311A.18, is  
4 amended to read as follows:

5 Section 311A.18 A. In the case of Canadian and British  
6 insurers, the annual audited financial report shall be defined as  
7 the annual statement of total business on the form filed by such  
8 companies with their supervision authority duly audited by an  
9 independent chartered accountant.

10 B. For such insurers, the letter required in subsection B of  
11 ~~Section 8 of this act~~ 311A.6 of this title shall state that the  
12 accountant is aware of the requirements relating to the annual  
13 audited financial report filed with the Insurance Commissioner  
14 pursuant to ~~Section 6 of this act~~ 311A.4 of this title and shall  
15 affirm that the opinion expressed is in conformity with those  
16 requirements.

17 SECTION 12. This act shall become effective November 1, 2019.

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