

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1193

By: Brown

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 2011, Sections 309.4, as amended by Section 1, Chapter 298, which relates to insurance examinations; clarifying status of privileges or claims of confidentiality; O.S.L. 2015 (36 O.S. Supp. 2015, Section 309.4); 607.1, as last amended by Section 1, Chapter 296, O.S.L. 2015 (36 O.S. Supp. 2015, Section 607.1), which relates to certain entities considered insurers; providing certain exception; 1452, as last amended by Section 2, Chapter 145, O.S.L. 2014 (36 O.S. Supp. 2015, Section 1452), which relates to annual reporting; clarifying type of report to be filed by an administrator; allowing for submission of certain application; modifying deadline of submission; 1510, as amended by Section 1, Chapter 50, O.S.L. 2014 (36 O.S. Supp. 2015, Section 1510), which relates to valuations; clarifying reference to exemption; deleting certain entities referenced in exemption; 1654, as amended by Section 9, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2015, Section 1654), which relates to registration of insurers; modifying method of insurer registration; providing deadline for annual enterprise risk report; 4101.1, which relates to group life insurance; modifying meaning of certain term; 6060.4, which relates to child immunization coverage; clarifying exclusion to health benefit plan; 6121 and 6124, which relate to prepaid funeral benefits; adding certain reasons for denial of certain permits; clarifying entitlement to new permit procedure; 6220, as amended by Section 5, Chapter 297, O.S.L. 2015, and 6223, as amended by Section 7, Chapter 297, O.S.L. 2015 (36 O.S. Supp. 2015, Sections 6220 and 6223), which relate to insurance adjusters licensing; modifying method of censure, suspension, revocation or refusal of renewal

1 license; modifying certain responsibility of public
2 adjustor; 6670, as last amended by Section 22,
3 Chapter 15, O.S.L. 2013, which relates to insurance
4 coverage for portable electronics; updating certain
5 references; 6470.2, as last amended by Section 14,
6 Chapter 298, O.S.L. 2015, and 6470.3, as last amended
7 by Section 15, Chapter 298, O.S.L. 2015 (36 O.S.
8 Supp. 2015, Sections 6470.2 and 6470.3) which relate
9 to captive insurance company; modifying certain
10 definition; modifying certain limitation of pure
11 captive insurance companies; and providing an
12 effective date.

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

14 SECTION 1. AMENDATORY 36 O.S. 2011, Section 309.4, as
15 amended by Section 1, Chapter 298, O.S.L. 2015 (36 O.S. Supp. 2015,
16 Section 309.4), is amended to read as follows:

17 Section 309.4. A. All examination reports shall be comprised
18 of only facts appearing upon the books, records, or other documents
19 of the company, its agents or other persons examined, or as
20 ascertained from the testimony of its officers or agents or other
21 persons examined concerning its affairs, and such conclusions and
22 recommendations as the examiners find reasonably warranted from such
23 facts.

24 B. No later than thirty (30) days following completion of the
25 examination, the examiner in charge shall file with the Insurance
26 Department a verified written report of examination under oath.
27 Upon receipt of the verified report, the Department shall transmit

1 the report to the company examined, together with a notice which
2 shall afford such company examined a reasonable opportunity of not
3 more than twenty (20) days to make a written submission or written
4 rebuttal with respect to any matters contained in the examination
5 report.

6 C. Within twenty (20) days of the end of the period allowed for
7 the receipt of written submissions or written rebuttals, the
8 Insurance Commissioner shall fully consider and review the report,
9 together with any written submissions or written rebuttals and any
10 relevant portions of the examiners' work papers and enter an order:

11 1. Adopting the examination report as filed or with
12 modification or corrections. If the examination report reveals that
13 the company is operating in violation of any law, regulation or
14 prior order of the Commissioner, the Commissioner may order the
15 company to take any action the Commissioner considers necessary and
16 appropriate to cure such violation;

17 2. Rejecting the examination report with directions to the
18 examiners to reopen the examination for purposes of obtaining
19 additional data, documentation or information, and refiling pursuant
20 to subsection A of this section; or

21 3. Calling for an investigatory hearing with notice pursuant to
22 the Administrative Procedures Act to the company for purposes of
23 obtaining additional documentation, data, information and testimony.
24

1 D. 1. All orders entered pursuant to paragraph 1 of subsection
2 C of this section shall be accompanied by findings and conclusions
3 resulting from the Commissioner's consideration and review of the
4 examination report, relevant examiner work papers and any written
5 submissions or rebuttals. Any such order shall be considered a
6 final administrative decision and may be appealed pursuant to the
7 Administrative Procedures Act, and shall be served upon the company
8 by certified mail, together with a copy of the adopted examination
9 report. Within thirty (30) days of the issuance of the adopted
10 report, the company shall file affidavits executed by each of its
11 directors stating under oath that they have received a copy of the
12 adopted report and related orders.

13 2. Any hearing conducted pursuant to paragraph 3 of subsection
14 C of this section by the Commissioner or authorized representative,
15 shall be conducted as a nonadversarial confidential investigatory
16 proceeding as necessary for the resolution of any inconsistencies,
17 discrepancies or disputed issues apparent upon the face of the filed
18 examination report or raised by or as a result of the Commissioner's
19 review of relevant work papers or by the written submission or
20 rebuttal of the company. Within thirty (30) days of the conclusion
21 of any such hearing, the Commissioner shall enter an order pursuant
22 to paragraph 1 of subsection C of this section.

23 3. The Commissioner shall not appoint an examiner as an
24 authorized representative to conduct the hearing. The Commissioner

1 or a representative of the Commissioner may issue subpoenas for the
2 attendance of any witnesses or the production of any documents
3 deemed relevant to the investigation whether under the control of
4 the Department, the company or other persons. The documents
5 produced shall be included in the record, and testimony taken by the
6 Commissioner or representative of the Commissioner shall be under
7 oath and preserved for the record.

8 4. Nothing contained in this section shall require the
9 Department to disclose any information or records which would
10 indicate or show the existence or content of any investigation or
11 activity of a criminal justice agency.

12 5. The hearing shall proceed with the Commissioner or a
13 representative of the Commissioner posing questions to the persons
14 subpoenaed. Thereafter the company and the Department may present
15 testimony relevant to the investigation. The company and the
16 Department shall be permitted to make closing statements and may be
17 represented by counsel of their choice.

18 E. 1. Upon the adoption of the examination report under
19 paragraph 1 of subsection C of this section, the Commissioner shall
20 continue to hold the content of the examination report as private
21 and confidential information for a period of two (2) days except to
22 the extent provided in subsection B of this section and subsection F
23 of Section 309.3 of this title. Thereafter, the Commissioner may
24

1 open the report for public inspection so long as no court of
2 competent jurisdiction has stayed its publication.

3 2. Nothing contained in Sections 309.1 through 309.7 of this
4 title shall prevent or be construed as prohibiting the Commissioner
5 from disclosing the content of an examination report, preliminary
6 examination report or results, or any matter relating thereto, to
7 the insurance department of this or any other state or country, or
8 to law enforcement officials of this or any other state or agency of
9 the federal government at any time, so long as such agency or office
10 receiving the report or matters relating thereto agrees in writing
11 to hold it confidential and in a manner consistent with Sections
12 309.1 through 309.7 of this title.

13 3. In the event the Commissioner determines that regulatory
14 action is appropriate as a result of any examination, the
15 Commissioner may initiate any proceedings or actions as provided by
16 law.

17 4. No waiver of any applicable privilege or claim of
18 confidentiality in the documents, materials or information provided
19 to the Commissioner shall occur as a result of disclosure to the
20 Commissioner under this section or as a result of sharing as
21 authorized in E(2) of this section.

22 F. All working papers, recorded information, documents and
23 copies thereof produced by, obtained by or disclosed to the
24 Commissioner or any other person in the course of an examination

1 made under Sections 309.1 through 309.7 of this title, or in the
2 course of analysis by the Commissioner or any other person of the
3 financial condition or market conduct of a company, shall be given
4 confidential treatment and are not subject to subpoena and may not
5 be made public by the Commissioner or any other person, except to
6 the extent provided in subsection E of this section and subsection F
7 of Section 309.3 of this title. Access may also be granted to the
8 National Association of Insurance Commissioners. Such parties shall
9 agree in writing prior to receiving the information to provide to it
10 the same confidential treatment as required by this section, unless
11 the prior written consent of the company to which it pertains has
12 been obtained.

13 SECTION 2. AMENDATORY 36 O.S. 2011, Section 607.1, as
14 last amended by Section 1, Chapter 296, O.S.L. 2015 (36 O.S. Supp.
15 2015, Section 607.1), is amended to read as follows:

16 Section 607.1. A. An entity organized pursuant to the
17 Interlocal Cooperation Act (an "Interlocal Entity") for the purpose
18 of transacting insurance, except those Interlocal Entities created
19 pursuant to the terms of The Governmental Tort Claims Act, shall be
20 considered an insurer at such time that the entity has within a
21 twelve-month period received aggregate premiums of One Million
22 Dollars (\$1,000,000.00) for all kinds of insurance that the entity
23 transacts. Such an entity shall be eligible to qualify for and hold
24 a certificate of authority to transact insurance in this state.

1 B. Notwithstanding the provisions of subsection A of this
2 section, any entity organized pursuant to the Interlocal Cooperation
3 Act that insures an Oklahoma educational institution and has within
4 a twelve-month period received premiums or contributions of any
5 amount for any kind of insurance that the Interlocal Entity
6 transacts shall have an annual audit by an independent certified
7 public accountant and shall file an audited financial report by an
8 independent certified public accountant with the Insurance
9 Commissioner within one hundred eighty (180) days immediately
10 following the close of the Interlocal Entity's fiscal year. The
11 annual audited financial report shall be presented in conformity
12 with accounting principles generally accepted in the United States
13 of America and include:

14 1. The report of an independent certified public accountant in
15 accordance with accounting principles generally accepted in the
16 United States of America;

17 2. A balance sheet reporting assets, liabilities and equity;

18 3. A statement of operations;

19 4. A statement of cash flows;

20 5. A statement of changes in assets, liabilities and equity;

21 6. Footnotes to financial statements; and

22 7. An unqualified opinion from the certified public accountant
23 that the audited financial report represents a fair presentation of
24 the Interlocal Entity's financial position in conformity with

1 accounting principles generally accepted in the United States of
2 America.

3 C. Any entity subject to the provisions of subsection B of this
4 section, except those entities which purchase full insurance
5 coverage as determined by the Commissioner, shall file with the
6 Insurance Commissioner an actuarial opinion prepared by a qualified
7 actuary within one hundred eighty (180) days immediately following
8 the close of the Interlocal Entity's fiscal year. The actuarial
9 opinion should certify the amount and adequacy of the Interlocal
10 Entity's reserves for loss and loss adjustment expenses, including
11 amounts for Incurred But Not Reported (IBNR) Claims, and the
12 adequacy of the Interlocal Entity's premiums. The actuarial opinion
13 shall be consistent with the appropriate Actuarial Standards of
14 Practice (ASOP) as promulgated by the Actuarial Standards Board.

15 As used in this section, "qualified actuary" means an individual
16 who is a member of the American Academy of Actuaries and who has met
17 the Qualification Standards for Actuaries Issuing Statements of
18 Actuarial Opinions in the United States promulgated by the American
19 Academy of Actuaries.

20 D. Extensions of the filing date may be granted by the
21 Commissioner for thirty-day periods upon a showing by the Interlocal
22 Entity and its independent certified public accountant or qualified
23 actuary of the reasons for requesting an extension and determination
24 by the Commissioner of good cause for an extension. The request for

1 extension must be submitted in writing not less than ten (10) days
2 prior to the due date in sufficient detail to permit the
3 Commissioner to make an informed decision with respect to the
4 requested extension.

5 E. The Commissioner may assess a fine for failure to file the
6 required annual audit or actuarial opinion in an amount of not more
7 than Five Hundred Dollars (\$500.00) per day.

8 F. The audited financial reports and actuarial opinions
9 required herein are subject to public inspection pursuant to the
10 Oklahoma Open Records Act.

11 SECTION 3. AMENDATORY 36 O.S. 2011, Section 1452, as
12 last amended by Section 2, Chapter 145, O.S.L. 2014 (36 O.S. Supp.
13 2015, Section 1452), is amended to read as follows:

14 Section 1452. A. On or before June 1 of each year, all
15 licensed administrators shall file an annual report for the previous
16 calendar year. The report shall have been reviewed by a certified
17 public accountant who shall be independent of the administrator.
18 ~~The~~ Any report filed by an administrator with accumulated year-to-
19 date premiums collected or claims paid of Fifty Thousand Dollars
20 (\$50,000.00) or more, whichever is greater, shall be subscribed and
21 sworn to by the president and attested to by the secretary or other
22 proper officers substantiating that the information contained in the
23 report is true and factual concerning each of the plans they
24 administer which are governed pursuant to the provisions of the

1 Third-party Administrator Act. The report shall include the name
2 and address of each fund and a statement of fund equity, paid claims
3 by the covered unit, the accumulated year-to-date paid claims, and
4 the year-to-date reserve status. Failure of any third-party
5 administrator to execute and file the annual reports as required by
6 this section shall constitute cause, after notice and opportunity
7 for hearing, for censure, suspension, or revocation of administrator
8 licensure to transact business in this state, or a civil penalty of
9 not less than One Hundred Dollars (\$100.00) or more than One
10 Thousand Dollars (\$1,000.00) for each occurrence, or both censure,
11 suspension, or revocation and civil penalty.

12 B. If a licensed administrator has had no business or activity
13 in the past calendar year, has not administered any insurance plans
14 or business in the past calendar year and no funds are under the
15 licensed administrator's oversight and administration, then the
16 licensed administrator shall submit an application for a waiver of
17 the annual report described in subsection A of this section ~~may be~~
18 ~~waived upon application to the Insurance Commissioner by the~~
19 ~~administrator~~ on a form prescribed by the Commissioner. Upon
20 applying for a waiver, the administrator shall state under oath that
21 the administrator has had no business, has not administered any
22 funds and the licensee's administration of premiums and claims has
23 been dormant for the past calendar year. The application must be
24

1 submitted no later than ~~May~~ April 1 on the form prescribed by the
2 Commissioner.

3 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1510, as
4 amended by Section 1, Chapter 50, O.S.L. 2014 (36 O.S. Supp. 2015,
5 Section 1510), is amended to read as follows:

6 Section 1510. A. Definitions. For the purposes of this
7 section the following definitions shall apply on or after the
8 operative date of the valuation manual:

9 1. "Accident and health insurance" means contracts that
10 incorporate morbidity risk and provide protection against economic
11 loss resulting from accident, sickness, or medical conditions and as
12 may be specified in the valuation manual;

13 2. "Company" means an entity which:

- 14 a. has written, issued, or reinsured life insurance
15 contracts, accident and health insurance contracts, or
16 deposit-type contracts in this state and has at least
17 one such policy in force or on claim, or
18 b. has written, issued, or reinsured life insurance
19 contracts, accident and health insurance contracts, or
20 deposit-type contracts in any state and is required to
21 hold a certificate of authority to write life
22 insurance, accident and health insurance, or deposit-
23 type contracts in this state;

1 3. "Deposit-type contract" means contracts that do not
2 incorporate mortality or morbidity risks and as may be specified in
3 the valuation manual;

4 4. "Life insurance" means contracts that incorporate mortality
5 risk, including annuity and pure endowment contracts, and as may be
6 specified in the valuation manual;

7 5. "NAIC" means the National Association of Insurance
8 Commissioners;

9 6. "Policyholder behavior" means any action a policyholder,
10 contract holder or any other person with the right to elect options,
11 such as a certificate holder, may take under a policy or contract
12 subject to this section, including, but not limited to, lapse,
13 withdrawal, transfer, deposit, premium payment, loan, annuitization,
14 or benefit elections prescribed by the policy or contract but
15 excluding events of mortality or morbidity that result in benefits
16 prescribed in their essential aspects by the terms of the policy or
17 contract;

18 7. "Principle-based valuation" means a reserve valuation that
19 uses one or more methods or one or more assumptions determined by
20 the insurer and is required to comply with subsection Q of this
21 section as specified in the valuation manual;

22 8. "Tail risk" means a risk that occurs either where the
23 frequency of low probability events is higher than expected under a
24

1 normal probability distribution or where there are observed events
2 of very significant size or magnitude; and

3 9. "Valuation manual" means the manual of valuation
4 instructions adopted by the NAIC as specified in this section or as
5 subsequently amended.

6 B. Reserve Valuation.

7 1. Policies and Contracts Issued Prior to the Operative Date of
8 the Valuation Manual.

9 (a) The Insurance Commissioner shall annually make
10 calculations of all outstanding policies, additions
11 thereto, unpaid dividends, annuity and pure endowment
12 contracts and all other obligations of every life
13 insurance corporation doing business in this state
14 issued prior to the operative date of the valuation
15 manual. In lieu of the valuation of the reserves
16 required of a foreign or alien company, the Insurance
17 Commissioner may accept a valuation made, or caused to
18 be made, by the insurance supervisory official of any
19 state or other jurisdiction when the valuation
20 complies with the minimum standard provided in this
21 section.

22 (b) The provisions set forth in subsections C, D, E, F, G,
23 H, J, K, L, M, N and O of this section shall apply to
24 all policies and contracts, as appropriate, subject to

1 this section issued prior to the operative date of the
2 valuation manual and the provisions set forth in
3 subsections P and Q of this section shall not apply to
4 any such policies and contracts.

5 2. Policies and Contracts Issued On and After the Operative
6 Date of the Valuation Manual.

7 (a) The Insurance Commissioner shall annually make
8 calculations of all outstanding policies, additions
9 thereto, unpaid dividends, annuity and pure endowment
10 contracts, accident and health contracts, deposit-type
11 contracts, and all other obligations of every company
12 doing business in this state issued on or after the
13 operative date of the valuation manual. In lieu of
14 the valuation of the reserves required of a foreign or
15 alien company, the Insurance Commissioner may accept a
16 valuation made, or caused to be made, by the insurance
17 supervisory official of any state or other
18 jurisdiction when the valuation complies with the
19 minimum standard provided in this section.

20 (b) The provisions set forth in subsections P and Q of
21 this section shall apply to all policies and contracts
22 issued on or after the operative date of the valuation
23 manual.
24

1 C. 1. Valuations made by the Insurance Commissioner shall be
2 made upon the net premium basis. In the case of alien insurers,
3 such valuation shall be limited to its United States business. The
4 legal minimum standard for valuation of contracts issued before the
5 first day of January, 1910, shall be the Actuaries or Combined
6 Experience Table of Mortality, with interest at four percent (4%)
7 per annum, and for valuation of contracts issued on or after said
8 date and before June 6, 1949, shall be the American Experience Table
9 of Mortality, or the American Men Table of Mortality, with interest
10 at three and one-half percent (3 1/2%) per annum. Except as
11 otherwise provided policies issued on or after the operative date of
12 paragraph 4 of subsection I of Section 4029 of this title, policies
13 issued on or after June 6, 1949, shall be valued, collectively as to
14 all such policies or severally as to policies of any plan or form at
15 the option of the company according to the American Experience Table
16 of Mortality, the American Men Table of Mortality, the Commissioners
17 1941 Standard Ordinary Mortality Table or on and after July 1, 1962,
18 the Commissioners 1958 Standard Ordinary Mortality Table for
19 policies of ordinary insurance, and the Standard Industrial
20 Mortality Table (1907), or the 1941 Standard Industrial Mortality
21 Table or the Commissioners 1961 Standard Industrial Mortality Table
22 for policies of industrial insurance, with interest at not more than
23 three and one-half percent (3 1/2%) per annum, or four percent (4%)
24 per annum in the case of policies issued on or after April 11, 1974,

1 and prior to March 17, 1978, and four and one-half percent (4 1/2%)
2 per annum for policies issued on or after March 17, 1978; provided,
3 however, that policies issued to substandard risks or other special
4 classes may be valued according to such other mortality tables, with
5 interest at not more than three and one-half percent (3 1/2%) per
6 annum, or four percent (4%) per annum in the case of policies issued
7 on or after April 11, 1974, and prior to March 17, 1978, and four
8 and one-half percent (4 1/2%) per annum for policies issued on or
9 after March 17, 1978, as may be approved by the Insurance
10 Commissioner.

11 2. For individual annuity and pure endowment contracts,
12 excluding any disability and accidental death benefits in such
13 policies, the 1937 Standard Annuity Mortality Table, or, at the
14 option of the company, the Annuity Mortality Table for 1949,
15 Ultimate, or any modification of either of these tables approved by
16 the Commissioner.

17 3. For group annuity and pure endowment contracts, excluding
18 any disability and accidental death benefits in such policies, the
19 Group Annuity Mortality Table for 1951, any modification of such
20 table approved by the Commissioner, or, at the option of the
21 company, any of the tables or modifications of tables specified for
22 individual annuity and pure endowment contracts.

23 4. The mortality table used in determining the minimum standard
24 for the valuation of ordinary life insurance policies issued on or

1 after the operative date of paragraph 4 of subsection I of Section
2 4029 of this title shall be (i) the Commissioners 1980 Standard
3 Ordinary Mortality Table, or (ii) at the election of the company for
4 any one or more specified plans of life insurance, the Commissioners
5 1980 Standard Ordinary Mortality Table with Ten-Year Select
6 Mortality Factors, or (iii) any ordinary mortality table, adopted
7 after 1980 by the NAIC, that is approved by regulation promulgated
8 by the Commissioner for use in determining the minimum standard of
9 valuation for such policies.

10 5. Except as provided in subsection D of this section, the
11 minimum standard of valuation for individual annuity and pure
12 endowment contracts issued on or after the operative date of this
13 section and for annuities and pure endowments purchased on or after
14 such operative date under group annuity and pure endowment contracts
15 shall be the Commissioner's reserve valuation methods defined in
16 subsections G and H of this section and the following tables and
17 interest rates:

- 18 (a) For individual annuity and pure endowment contracts
19 issued prior to August 29, 1977, excluding any
20 disability and accidental death benefit in such
21 contracts, the 1971 Individual Annuity Mortality
22 Table, or any modification of this table approved by
23 the Commissioner, and six percent (6%) interest for
24 single premium immediate annuity contracts, and four

1 percent (4%) interest for all other individual annuity
2 and pure endowment contracts,

3 (b) For individual single premium immediate annuity
4 contracts issued on or after August 29, 1977,
5 excluding any disability and accidental death benefits
6 in such contracts, the 1971 Individual Annuity
7 Mortality Table or any individual annuity mortality
8 table adopted after 1980 by the NAIC that is approved
9 by regulation promulgated by the Commissioner for use
10 in determining the minimum standard of valuation for
11 such contracts, or any modification of these tables
12 approved by the Commissioner, and seven and one-half
13 percent (7 1/2%) interest,

14 (c) For individual annuity and pure endowment contracts
15 issued on or after August 29, 1977, other than single
16 premium immediate annuity contracts, excluding any
17 disability and accidental death benefits in such
18 contracts, the 1971 Individual Annuity Mortality Table
19 or any individual annuity mortality table adopted
20 after 1980 by the NAIC that is approved by regulation
21 promulgated by the Commissioner for use in determining
22 the minimum standard of valuation for such contracts,
23 or any modification of these tables approved by the
24 Commissioner, and five and one-half percent (5 1/2%)

1 interest for single premium deferred annuity and pure
2 endowment contracts and four and one-half percent (4
3 1/2%) interest for all other such individual annuity
4 and pure endowment contracts,

5 (d) For all annuities and pure endowments purchased prior
6 to August 29, 1977, under group annuity and pure
7 endowment contracts, excluding any disability and
8 accidental death benefits purchased under such
9 contracts, the 1971 Group Annuity Mortality Table, or
10 any modification of this table approved by the
11 Commissioner, and six percent (6%) interest, and

12 (e) For all annuities and pure endowments purchased on or
13 after August 29, 1977, under group annuity and pure
14 endowment contracts, excluding any disability and
15 accidental death benefits purchased under such
16 contracts, the 1971 Group Annuity Mortality Table or
17 any group annuity mortality table adopted after 1980
18 by the NAIC that is approved by regulation promulgated
19 by the Commissioner for use in determining the minimum
20 standard of valuation for such annuities and pure
21 endowments, or any modification of these tables
22 approved by the Commissioner, and seven and one-half
23 percent (7 1/2%) interest.
24

1 After June 14, 1973, any company may file with the Commissioner
2 a written notice of its election to comply with the provisions of
3 this section after a specified date before January 1, 1985, which
4 shall be the operative date of this section for such company,
5 provided, a company may elect a different operative date for
6 individual annuity and pure endowment contracts from that elected
7 for group annuity and pure endowment contracts. If a company makes
8 no such election, the operative date of this section for such
9 company shall be January 1, 1985.

10 D. 1. The interest rates used in determining the minimum
11 standard for the valuation of all life insurance policies issued in
12 a particular calendar year on or after the operative date of
13 paragraph 4 of subsection I of Section 4029 of this title shall be
14 the calendar year statutory valuation interest rates as defined in
15 this section.

16 2. The interest rates used in determining the minimum standard
17 valuation of individual annuity and pure endowment contracts issued
18 in a particular calendar year on or after January 1, 1985, and
19 annuities and pure endowments purchased in a particular calendar
20 year on or after January 1, 1985, under group annuity and pure
21 endowment contracts shall be the calendar year statutory valuation
22 interest rates as defined in this section.

1 E. 1. The calendar year statutory valuation interest rates, I,
2 shall be determined as follows and the results rounded to the
3 nearest one-fourth of one percent (1/4 of 1%):

4 (a) For life insurance,

5
$$I = .03 + W (R_a - .03) + (W/2) (R_b - .09)$$

6 where R_a is the lesser of R and .09, R_b is the greater
7 of R and .09, R is the reference interest rate defined
8 in this section, and W is the weighting factor defined
9 in this section,

10 (b) For single premium immediate annuities and for annuity
11 benefits involving life contingencies arising from
12 other annuities with cash settlement options and from
13 guaranteed interest contracts with cash settlement
14 options,

15
$$I = .03 + W(r - .03)$$

16 where R_1 is the lesser of R and .09, R_2 is the
17 greater of R and .09, R is the reference interest rate
18 defined in this section, and W is the weighting factor
19 defined in this section,

20 (c) For other annuities with cash settlement options and
21 guaranteed interest contracts with cash settlement
22 options, valued on an issue year basis, except as
23 stated in subparagraph (b) of this paragraph, the
24 formula for life insurance stated in subparagraph (a)

1 of this paragraph shall apply to annuities and
2 guaranteed interest contracts with guarantee durations
3 in excess of ten (10) years and the formula for single
4 premium immediate annuities stated in subparagraph (b)
5 of this paragraph shall apply to annuities and
6 guaranteed interest contracts with guarantee duration
7 of ten (10) years or less,

8 (d) For other annuities with no cash settlement options
9 and for guaranteed interest contracts with no cash
10 settlement options, the formula for single premium
11 immediate annuities stated in subparagraph (b) of this
12 paragraph shall apply, and

13 (e) For other annuities with cash settlement options and
14 guaranteed interest contracts with cash settlement
15 options, valued on a change in fund basis, the formula
16 for single premium immediate annuities stated in
17 subparagraph (b) of this paragraph shall apply.

18 2. However, if the calendar year statutory valuation interest
19 rate for any life insurance policies issued in any calendar year
20 determined without reference to this sentence differs from the
21 corresponding actual rate for similar policies issued in the
22 immediately preceding calendar year by less than one-half of one
23 percent ($1/2$ of 1%), the calendar year statutory valuation interest
24 rate for such life insurance policies shall be equal to the

1 corresponding actual rate for the immediately preceding calendar
2 year. For purposes of applying the immediately preceding sentence,
3 the calendar year statutory valuation interest rate for life
4 insurance policies issued in a calendar year shall be determined for
5 1980, using the reference interest rate defined for 1979, and shall
6 be determined for each subsequent calendar year.

7 F. 1. The weighting factors referred to in the formulas stated
8 above are given in the following table:

9 (a) Weighting Factors for Life Insurance:

Guarantee	
Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not	
more than 20	.45
More than 20	.35

1 0
1 1
1 2
1 3
1 4
1 5
1 6
1 7 For life insurance, the guarantee duration is the
1 8 maximum number of years the life insurance can remain
1 9 in force on a basis guaranteed in the policy or under
2 0 options to convert to plans of life insurance with
2 1 premium rates or nonforfeiture values or both which
2 2 are guaranteed in the original policy.

2 3 (b) Weighting factor for single premium immediate
2 4 annuities and for annuity benefits involving life

contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph (b) of this paragraph, shall be as specified in tables (1), (2) and (3) below, according to the rules and definitions in (4) and (5) below:

(1) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee	Weighting Factor		
Duration	for Plan Type		
(Years)	A	B	C
5 or less	.80	.60	.50
More than 5, but not			
more than 10	.75	.60	.50
More than 10, but not			
more than 20	.65	.50	.45
More than 20	.45	.35	.35

(2) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (1) above increased by:

Plan Type		
A	B	C

.15 .25 .05

- (3) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one (1) year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve (12) months beyond the valuation date, the factors shown in (1) or derived in (2) increased by:

Plan Type

A B C

.05 .05 .05

- (4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty (20) years. For other annuities with no cash settlement options and for

1 guaranteed interest contracts with no cash
2 settlement options, the guarantee duration is the
3 number of years from the date of issue or date of
4 purchase to the date annuity benefits are
5 scheduled to commence.

6 (5) Plan type as used in the above tables is defined
7 as follows:

8 Plan Type A: At any time policyholder may
9 withdraw funds only (1) with an adjustment to
10 reflect changes in interest rates or asset values
11 since receipt of the funds by the insurance
12 company, or (2) without such adjustment but in
13 installments over five (5) years or more, or (3)
14 as an immediate life annuity, or (4) no
15 withdrawal permitted.

16 Plan Type B: Before expiration of the interest
17 rate guarantee, policyholder may withdraw funds
18 only (1) with adjustment to reflect changes in
19 interest rates or asset values since receipt of
20 the funds by the insurance company, or (2)
21 without such adjustment but in installments over
22 five (5) years or more, or (3) no withdrawal
23 permitted. At the end of interest rate
24 guarantee, funds may be withdrawn without such

1 adjustment in a single sum or installments over
2 less than five (5) years.

3 Plan Type C: Policyholder may withdraw funds
4 before expiration of interest rate guarantee in a
5 single sum or installments over less than five
6 (5) years either (1) without adjustment to
7 reflect changes in interest rates or asset values
8 since receipt of the funds by the insurance
9 company, or (2) subject only to a fixed surrender
10 charge stipulated in the contract as a percentage
11 of the fund.

12 2. A company may elect to value guaranteed interest contracts
13 with cash settlement options and annuities with cash settlement
14 options on either an issue year basis or on a change in fund basis.
15 Guaranteed interest contracts with no cash settlement options and
16 other annuities with no cash settlement options shall be valued on
17 an issue year basis. As used in this section, an issue year basis
18 of valuation refers to a valuation basis under which the interest
19 rate used to determine the minimum valuation standard for the entire
20 duration of the annuity or guaranteed interest contract is the
21 calendar year valuation interest rate for the year of issue or year
22 of purchase of the annuity or guaranteed interest contract, and the
23 change in fund basis of valuation refers to a valuation basis under
24 which the interest rate used to determine the minimum valuation

1 standard applicable to each change in the fund held under the
2 annuity or guaranteed interest contract is the calendar year
3 valuation interest rate for the year of the change in the fund.

4 G. 1. The reference interest rate referred to above shall be
5 defined as follows:

6 (a) For life insurance, the lesser of the average over a
7 period of thirty-six (36) months and the average over
8 a period of twelve (12) months, ending on June 30 of
9 the calendar year next preceding the year of issue, of
10 Moody's Corporate Bond Yield Average - Monthly Average
11 Corporates, as published by Moody's Investors Service,
12 Inc.,

13 (b) For single premium immediate annuities and for annuity
14 benefits involving life contingencies arising from
15 other annuities with cash settlement options and
16 guaranteed interest contracts with cash settlement
17 options, the average over a period of twelve (12)
18 months, ending on June 30 of the calendar year of
19 issue or year of purchase of the Monthly Average of
20 the Composite Yield on Seasoned Corporate Bonds, as
21 published by Moody's Investors Service, Inc.,

22 (c) For other annuities with cash settlement options and
23 guaranteed interest contracts with cash settlement
24 options, valued on an issue year basis, except as

1 stated in subparagraph (b) of this paragraph, with
2 guarantee duration in excess of ten (10) years, the
3 lesser of the average over a period of thirty-six (36)
4 months and the average over a period of twelve (12)
5 months, ending on June 30 of the calendar year of
6 issue or purchase, of the Monthly Average of the
7 Composite Yield on Seasoned Corporate Bonds, as
8 published by Moody's Investors Service, Inc.,

9 (d) For other annuities with cash settlement options and
10 guaranteed interest contracts with cash settlement
11 options, valued on an issue year basis, except as
12 stated in subparagraph (b) of this paragraph, with
13 guarantee duration of ten (10) years or less, the
14 average over a period of twelve (12) months, ending on
15 June 30 of the calendar year of issue or purchase, of
16 the Monthly Average of the Composite Yield on Seasoned
17 Corporate Bonds, as published by Moody's Investors
18 Service, Inc.,

19 (e) For other annuities with no cash settlement options
20 and for guaranteed interest contracts with no cash
21 settlement options, the average over a period of
22 twelve (12) months, ending on June 30 of the calendar
23 year of issue or purchase, of the Monthly Average of
24

1 the Composite Yield on Seasoned Corporate Bonds, as
2 published by Moody's Investors Service, Inc., and
3 (f) For other annuities with cash settlement options and
4 guaranteed interest contracts with cash settlement
5 options, valued on a change in fund basis, except as
6 stated in subparagraph (b) of this paragraph, the
7 average over a period of twelve (12) months, ending on
8 June 30 of the calendar year of the change in the
9 fund, of the Monthly Average of the Composite Yield on
10 Seasoned Corporate Bonds, as published by Moody's
11 Investors Service, Inc.

12 H. In the event that the Moody's Corporate Bond Yield Average -
13 Monthly Average Corporates is no longer published by Moody's
14 Investors Service, Inc., or in the event that the NAIC determines
15 that the Moody's Corporate Bond Yield Average - Monthly Average
16 Corporates as published by Moody's Investors Service, Inc., is no
17 longer appropriate for the determination of the reference interest
18 rate, then an alternative method for determination of the reference
19 interest rate, which is adopted by the NAIC and approved by
20 regulation promulgated by the Commissioner, may be substituted.

21 I. The Commissioner may vary the standards of interest and
22 mortality in particular cases of invalid life and other extra
23 hazards and value policies in groups, use approximate averages for
24 fractions of a year and otherwise, and accept the valuation of the

1 Department of Insurance of any other state or country, if made upon
2 a basis and according to standards not lower than herein required or
3 authorized, in place of the valuation herein required.

4 J. If in any contract year the gross premium charged by any
5 company on any policy or contract is less than the valuation net
6 premium for the policy or contract calculated by the method used in
7 computing the reserve liability thereon but using the minimum
8 valuation standards of mortality and rate of interest, the minimum
9 reserve required for such policy or contract shall be the greater of
10 either the reserve calculated according to the mortality table, rate
11 of interest and method actually used for such policy or contract, or
12 the reserve calculated by the method actually used for such policy
13 or contract, but using the minimum valuation standards of mortality
14 and rate of interest and replacing the valuation net premium by the
15 actual gross premium in each contract year for which the valuation
16 net premium exceeds the actual gross premium. The minimum valuation
17 standards of mortality and rate of interest referred to in this
18 subsection are those standards stated in this section.

19 Provided that for any life insurance policy issued on or after
20 January 1, 1986, for which the gross premium in the first policy
21 year exceeds that of the second year and for which no comparable
22 additional benefit is provided in the first year for such excess,
23 and which provides an endowment benefit or a cash surrender value or
24 a combination thereof in an amount greater than such excess premium,

1 the foregoing provisions of this subsection shall be applied as if
2 the method actually used in calculating the reserve for such policy
3 were the method described in paragraph 2 of subsection L of this
4 section, ignoring subparagraph (c) of that paragraph. The minimum
5 reserve at each policy anniversary of such a policy shall be the
6 greater of the minimum reserve calculated in accordance with
7 paragraph 2 of subsection L of this section, including subparagraph
8 (c) of that paragraph, and the minimum reserve calculated in
9 accordance with this subsection.

10 K. Term Insurance.

11 Policies issued by life insurance companies doing business in
12 this state may provide for not more than one (1) year preliminary
13 term insurance, purchased by the whole or part of the premium to be
14 received during the first policy year, under the conditions
15 prescribed in this section.

16 L. Reserves.

17 1. Reserves on policies of ordinary insurance which are valued
18 in accordance with the American Experience Table of Mortality, or
19 the American Men Table of Mortality, and policies of industrial
20 insurance which are valued in accordance with the Standard
21 Industrial Mortality Table (1907), which are issued on or after June
22 6, 1949, may be computed as follows: If the premium charged for
23 term insurance under a limited payment life preliminary term policy
24 providing for the payment of all premiums thereon in less than

1 twenty (20) years from the date of the policy or under an endowment
2 preliminary term policy, exceeds that charged for life insurance,
3 under twenty-year payment life preliminary term policies of the same
4 company, the reserve thereon at the end of any year, including the
5 first, shall not be less than the reserve on a twenty-payment life
6 preliminary term policy issued in the same year and at the same age,
7 together with an amount which shall be equivalent to the
8 accumulation of a net level premium sufficient to provide for a pure
9 endowment at the end of the premium payment period equal to the
10 difference between the value at the end of such period of such a
11 twenty-payment life preliminary term policy and the full reserve at
12 such time of such a limited payment life or endowment policy. The
13 premium payment period is the period during which premiums are
14 concurrently payable under such twenty-payment life preliminary term
15 policy and such limited payment life or endowment policy. Any
16 policy valued in accordance with this paragraph shall specify the
17 mortality table, rate of interest, and method used in calculating
18 the reserves on the policy.

19 2. Reserves on policies of ordinary insurance which are valued
20 in accordance with the Commissioners 1941 Standard Ordinary
21 Mortality Table, the Commissioners 1958 Standard Ordinary Mortality
22 Table, or the Commissioners 1980 Standard Ordinary Mortality Table,
23 policies of industrial insurance which are valued in accordance with
24 the 1941 Standard Industrial Mortality Table or the Commissioners

1 1961 Standard Industrial Mortality Table and policies valued in
2 accordance with any substandard mortality table approved by the
3 Commissioner pursuant to this section, issued on or after June 6,
4 1949, may be computed in accordance with the Commissioners Reserve
5 Valuation method, defined as follows: Reserves for the life
6 insurance and endowment benefits of policies providing for a uniform
7 amount of insurance and requiring the payment of uniform premiums
8 shall be the excess, if any, of the present value, at the date of
9 valuation, of such future guaranteed benefits provided for by such
10 policies, over the then present value of any future modified net
11 premiums therefor. The modified net premiums for any such policy
12 shall be such uniform percentage of the respective contract premiums
13 for such benefits that the present value, at the date of issue of
14 the policy, of all such modified net premiums shall be equal to the
15 sum of the then present value of such benefits provided for by the
16 policy and the excess of subparagraph (a) over subparagraph (b) as
17 follows:

- 18 (a) a net level annual premium equal to the present value,
19 at the date of issue, of such benefits provided for
20 after the first policy year, divided by the present
21 value, at the date of issue, of an annuity of one per
22 annum payable on the first and each subsequent
23 anniversary of such policy on which a premium falls
24 due; provided, however, that such level annual premium

1 shall not exceed the net level annual premium on the
2 nineteen-year premium whole life plan for insurance of
3 the same amount at the age one (1) year higher than
4 the age at issue of such policy,

5 (b) a net one-year term premium for such benefits provided
6 for in the first policy year, and

7 (c) provided that for any life insurance policy issued on
8 or after January 1, 1986, for which the contract
9 premium in the first policy year exceeds that of the
10 second year and for which no comparable additional
11 benefit is provided in the first year for such excess
12 and which provides an endowment benefit or a cash
13 surrender value or a combination thereof in an amount
14 greater than such excess premium, the reserve
15 according to the commissioners reserve valuation
16 method as of any policy anniversary occurring on or
17 before the assumed ending date defined herein as the
18 first policy anniversary on which the sum of any
19 endowment benefit and any cash surrender value then
20 available is greater than such excess premium shall,
21 except as otherwise provided in subsection J of this
22 section, be the greater of the reserve as of such
23 policy anniversary calculated as described in this
24 paragraph and the reserve as of such policy

1 anniversary calculated as described in subparagraph
2 (a) of this paragraph, but with (i) the value defined
3 in subparagraph (a) of that paragraph being reduced by
4 fifteen percent (15%) of the amount of such excess
5 first-year premium, (ii) all present values of
6 benefits and premiums being determined without
7 reference to premiums or benefits provided for by the
8 policy after the assumed ending date, (iii) the policy
9 being assumed to mature on such date as an endowment,
10 and (iv) the cash surrender value provided on such
11 date being considered as an endowment benefit. In
12 making the above comparison, the mortality and
13 interest bases stated in this section shall be used.

14 Reserves for life insurance policies providing for a varying
15 amount of insurance or requiring the payment of varying premiums
16 shall be calculated by a method consistent with the principles of
17 paragraph 2 of this subsection, provided that any extra premiums
18 charged because of impairments or special hazards shall be
19 disregarded in the determination of modified net premiums. All
20 modified net premiums and present values referred to in this
21 section, except those based on sex-distinct mortality tables, may be
22 calculated according to an age not more than six (6) years younger
23 than the actual age of the insured in the case of any category of
24 ordinary policies issued on female risks.

1 M. 1. Reserves on policies of any category may be computed, at
2 the option of the company, according to any valuation standard which
3 produces greater aggregate reserves than those computed according to
4 the minimum standard provided in this section.

5 2. In the case of any plan of life insurance which provides for
6 future premium determination, the amounts of which are to be
7 determined by the insurance company based on then estimates of
8 future experience, or in the case of any plan of life insurance or
9 annuity which is of such a nature that the minimum reserves cannot
10 be determined by the methods described in subsections C, I, J, K,
11 and N of this section, the reserves which are held under any such
12 plan must:

13 (a) be appropriate in relation to the benefits and the
14 pattern of premiums for that plan, and

15 (b) be computed by a method which is consistent with the
16 principles of this Standard Valuation Law,

17 as determined by regulations promulgated by the Commissioner.

18 N. This section shall apply to all annuity and pure endowment
19 contracts other than group annuity and pure endowment contracts
20 purchased under a retirement plan or plan of deferred compensation,
21 established or maintained by an employer (including a partnership or
22 sole proprietorship) or by an employee organization, or by both,
23 other than a plan providing individual retirement accounts or
24

1 individual retirement annuities under Section 408 of the Internal
2 Revenue Code, as now or hereafter amended.

3 Reserves according to the Commissioners Annuity Reserve method
4 for benefits under annuity or pure endowment contracts, excluding
5 any disability and accidental death benefits in such contracts,
6 shall be the greatest of the respective excesses of the present
7 values, at the date of valuation, of the future guaranteed benefits,
8 including guaranteed nonforfeiture benefits, provided for by such
9 contracts at the end of each respective contract year, over the
10 present value, at the date of valuation, of any future valuation
11 considerations derived from future gross considerations, required by
12 the terms of such contract, that become payable prior to the end of
13 such respective contract year. The future guaranteed benefits shall
14 be determined by using the mortality table, if any, and the interest
15 rate, or rates, specified in such contracts for determining
16 guaranteed benefits. The valuation considerations are the portions
17 of the respective gross considerations applied under the terms of
18 such contracts to determine nonforfeiture values.

19 O. For accident and health insurance contracts issued on or
20 after the operative date of the valuation manual, the standard
21 prescribed in the valuation manual is the minimum standard of
22 valuation required under paragraph 2 of subsection B of this
23 section. For accident and health insurance contracts issued prior
24

1 to the operative date of the valuation manual, the minimum standard
2 of valuation is the standard adopted by the commissioner by rule.

3 P. Valuation Manual for Policies Issued On or After the
4 Operative Date of the Valuation Manual.

5 1. For policies issued on or after the operative date of the
6 valuation manual, the standard prescribed in the valuation manual is
7 the minimum standard of valuation required under paragraph 2 of
8 subsection B of this section, except as provided under paragraphs 5
9 or 7 of this subsection.

10 2. The operative date of the valuation manual is January 1 of
11 the first calendar year following the first July 1 as of which all
12 of the following have occurred:

- 13 a. the valuation manual has been adopted by the NAIC by
14 an affirmative vote of at least forty-two members, or
15 three-fourths of the members voting, whichever is
16 greater,
- 17 b. the Standard Valuation Law, as amended by the NAIC in
18 2009, or legislation including substantially similar
19 terms and provisions, has been enacted by states
20 representing greater than seventy-five percent (75%)
21 of the direct premiums written as reported in the
22 following annual statements submitted for 2008: life,
23 accident and health annual statements; health annual
24 statements; or fraternal annual statements, and

1 c. the Standard Valuation Law, as amended by the NAIC in
2 2009, or legislation including substantially similar
3 terms and provisions, has been enacted by at least
4 forty-two of the following fifty-five jurisdictions:
5 the fifty states of the United States, American Samoa,
6 the American Virgin Islands, the District of Columbia,
7 Guam, and Puerto Rico.

8 3. Unless a change in the valuation manual specifies a later
9 effective date, changes to the valuation manual shall be effective
10 on January 1 following the date when all of the following have
11 occurred:

12 a. the change to the valuation manual has been adopted by
13 the NAIC by an affirmative vote representing:

14 (1) at least three-fourths (3/4) of the members of
15 the NAIC voting, but not less than a majority of
16 the total membership, and

17 (2) members of the NAIC representing jurisdictions
18 totaling greater than seventy-five percent (75%)
19 of the direct premiums written as reported in the
20 following annual statements most recently
21 available prior to the vote in division (1) of
22 this subparagraph: life, accident and health
23 annual statements; health annual statements; or
24 fraternal annual statements, and

1 b. the valuation manual becomes effective pursuant to
2 order adopted by the commissioner.

3 4. The valuation manual must specify all of the following:

4 a. minimum valuation standards for and definitions of the
5 policies or contracts subject to paragraph 2 of
6 subsection B of this section. Such minimum valuation
7 standards shall be:

8 (1) the commissioner's reserve valuation method for
9 life insurance contracts, other than annuity
10 contracts, subject to paragraph 2 of subsection B
11 of this section,

12 (2) the commissioner's annuity reserve valuation
13 method for annuity contracts subject to paragraph
14 2 of subsection B of this section, and

15 (3) minimum reserves for all other policies or
16 contracts subject to paragraph 2 of subsection B
17 of this section,

18 b. which policies or contracts or types of policies or
19 contracts that are subject to the requirements of a
20 principle-based valuation in paragraph 1 of subsection
21 Q of this section and the minimum valuation standards
22 consistent with those requirements,

23 c. for policies and contracts subject to a principle-
24 based valuation under subsection Q of this section:

- (1) requirements for the format of reports to the commissioner under subparagraph (c) of paragraph 2 of subsection Q of this section and which shall include information necessary to determine if the valuation is appropriate and in compliance with this section,
- (2) assumptions shall be prescribed for risks over which the company does not have significant control or influence, and
- (3) procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures,

d. for policies not subject to a principle-based valuation under subsection Q of this section, the minimum valuation standard shall either

- (1) be consistent with the minimum standard of valuation prior to the operative date of the valuation manual, or
- (2) develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that

1 include unfavorable events that have a reasonable
2 probability of occurring,

3 e. other requirements, including, but not limited to,
4 those relating to reserve methods, models for
5 measuring risk, generation of economic scenarios,
6 assumptions, margins, use of company experience, risk
7 measurement, disclosure, certifications, reports,
8 actuarial opinions and memorandums, transition rules
9 and internal controls, and

10 f. the data and form of the data required under
11 subsection R of this section, with whom the data must
12 be submitted, and may specify other requirements,
13 including data analyses and reporting of analyses.

14 5. In the absence of a specific valuation requirement or if a
15 specific valuation requirement in the valuation manual is not, in
16 the opinion of the commissioner, in compliance with this subsection,
17 then the company shall, with respect to such requirements, comply
18 with minimum valuation standards prescribed by the commissioner by
19 regulation.

20 6. The commissioner may engage a qualified actuary, at the
21 expense of the company, to perform an actuarial examination of the
22 company and opine on the appropriateness of any reserve assumption
23 or method used by the company, or to review and opine on a company's
24 compliance with any requirement set forth in this section. The

1 commissioner may rely upon the opinion, regarding provisions
2 contained within this section, of a qualified actuary engaged by the
3 commissioner of another state, district or territory of the United
4 States. As used in this paragraph, the term "engage" includes
5 employment and contracting.

6 7. The commissioner may require a company to change any
7 assumption or method that in the opinion of the commissioner is
8 necessary in order to comply with the requirements of the valuation
9 manual or this section; and the company shall adjust the reserves as
10 required by the commissioner. The commissioner may take other
11 disciplinary action as permitted pursuant to rule.

12 Q. Requirements of a Principle-Based Valuation.

13 1. A company must establish reserves using a principle-based
14 valuation that meets the following conditions for policies or
15 contracts as specified in the valuation manual:

- 16 a. quantify the benefits and guarantees, and the funding,
17 associated with the contracts and their risks at a
18 level of conservatism that reflects conditions that
19 include unfavorable events that have a reasonable
20 probability of occurring during the lifetime of the
21 contracts. For policies or contracts with significant
22 tail risk, reflects conditions appropriately adverse
23 to quantify the tail risk,
24

- 1 b. incorporate assumptions, risk analysis methods and
2 financial models and management techniques that are
3 consistent with, but not necessarily identical to,
4 those utilized within the company's overall risk
5 assessment process, while recognizing potential
6 differences in financial reporting structures and any
7 prescribed assumptions or methods,
- 8 c. incorporate assumptions that are derived in one of the
9 following manners:
- 10 (1) the assumption is prescribed in the valuation
11 manual,
- 12 (2) for assumptions that are not prescribed, the
13 assumptions shall:
- 14 (i) be established utilizing the company's
15 available experience, to the extent it is
16 relevant and statistically credible, or
17 (ii) to the extent that company data is not
18 available, relevant, or statistically
19 credible, be established utilizing other
20 relevant, statistically credible experience,
21 and
- 22 d. provide margins for uncertainty including adverse
23 deviation and estimation error, such that the greater
24

1 the uncertainty the larger the margin and resulting
2 reserve.

3 2. A company using a principle-based valuation for one or more
4 policies or contracts subject to this subsection as specified in the
5 valuation manual shall:

6 a. establish procedures for corporate governance and
7 oversight of the actuarial valuation function
8 consistent with those described in the valuation
9 manual,

10 b. provide to the commissioner and the board of directors
11 an annual certification of the effectiveness of the
12 internal controls with respect to the principle-based
13 valuation. Such controls shall be designed to assure
14 that all material risks inherent in the liabilities
15 and associated assets subject to such valuation are
16 included in the valuation, and that valuations are
17 made in accordance with the valuation manual. The
18 certification shall be based on the controls in place
19 as of the end of the preceding calendar year, and

20 c. develop, and file with the commissioner upon request,
21 a principle-based valuation report that complies with
22 standards prescribed in the valuation manual.

23 3. A principle-based valuation may include a prescribed
24 formulaic reserve component.

1 R. Experience Reporting for Policies In Force On or After the
2 Operative Date of the Valuation Manual.

3 A company shall submit mortality, morbidity, policyholder
4 behavior, or expense experience and other data as prescribed in the
5 valuation manual.

6 S. When the actual funds of any life insurance company doing
7 business in this state, exclusive of its capital, are not of a net
8 cash value equal to its liabilities including the net value of its
9 policies according to the basis and minimum standards prescribed or
10 authorized by the laws of this state, it shall be the duty of the
11 Insurance Commissioner to give notice to such company and its agents
12 to discontinue issuing new policies within this state, until such
13 time as its funds have become equal to its liabilities as aforesaid.
14 Any officer or agent who, after such notice has been given, issues
15 or delivers a new policy from and on behalf of such company before
16 its funds have become equal to its liabilities, as aforesaid, shall
17 forfeit to the state for each offense a sum not less than One
18 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
19 (\$5,000.00) for each occurrence.

20 T. Single State Exemption.

21 1. The Commissioner may exempt specific product forms or
22 product lines of a domestic company that is licensed and doing
23 business only in Oklahoma from the requirements of subsection P of
24 this section provided:

- 1 a. the Commissioner has issued an exemption in writing to
2 the company and has not subsequently revoked the
3 exemption in writing, and
4 b. the company computes reserves using assumptions and
5 methods used prior to the operative date of the
6 valuation manual in addition to any requirements
7 established by the commissioner and promulgated by
8 regulation.

9 2. ~~A domestic company that has less than Three Hundred Million~~
10 ~~Dollars (\$300,000,000.00) of ordinary life premiums and is licensed~~
11 ~~and doing business in Oklahoma is exempt from the requirements of~~
12 ~~subsection P provided:~~

- 13 ~~a. if the company is a member of a group of life~~
14 ~~insurers, the group has combined ordinary life~~
15 ~~premiums of less than One Billion Dollars~~
16 ~~(\$1,000,000,000.00),~~
17 ~~b. the company has an RBC ratio of at least four hundred~~
18 ~~and fifty percent (450%) of authorized control level~~
19 ~~RBC, and~~
20 ~~c. the appointed actuary has provided an unqualified~~
21 ~~opinion on the reserves in accordance with subsections~~
22 ~~A and B of Section 4061 of this title.~~

1 ~~3. For purposes of subsection 2 above, ordinary life premiums~~
2 ~~are measured as direct plus reinsurance assumed from an unaffiliated~~
3 ~~company from the prior calendar year annual statement.~~

4 ~~4. For any company that is exempt or is granted an exemption~~
5 under this section, subsections B and C of Section 4061 of this
6 title and subsections C, D, E, F, G, H, J, K, L, M, N and O of this
7 section shall be applicable. With respect to any company applying
8 this exemption, any reference to subsection P found in subsections B
9 and C of Section 4061 and subsections C, D, E, F, G, H, J, K, L, M,
10 N and O of this section not be applicable.

11 U. Conflict of law.

12 If any provision of law is inconsistent with the provisions of
13 this section, this section shall prevail.

14 SECTION 5. AMENDATORY 36 O.S. 2011, Section 1654, as
15 amended by Section 9, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2015,
16 Section 1654), is amended to read as follows:

17 Section 1654. A. Every insurer which is authorized to do
18 business in this state and which is a member of an insurance holding
19 company system and every individual who controls an insurer shall
20 annually register with the Insurance Commissioner, except a foreign
21 insurer subject to disclosure requirements and standards adopted by
22 statute or regulation in the jurisdiction of its domicile which are
23 substantially similar to those contained in this section. Any
24 insurer which is subject to registration under this section shall

1 register thirty (30) days after it becomes subject to registration,
2 and annually thereafter by May 1 of each year for the previous
3 calendar year, unless the Commissioner for good cause shown extends
4 the time for registration, and then within such extended time. The
5 Commissioner may require any authorized insurer which is a member of
6 a holding company system which is not subject to registration under
7 this section to furnish a copy to the Commissioner of the
8 registration statement or other information filed by such insurance
9 company with the insurance regulatory authority of domiciliary
10 jurisdiction.

11 B. Every insurer subject to registration shall file a
12 registration statement on a form prescribed by the National
13 Association of Insurance Commissioners, which shall contain current
14 information about:

15 1. The capital structure, general financial condition,
16 ownership and management of the insurer and any person controlling
17 the insurer;

18 2. The identity and relationship of every member of the
19 insurance holding company system;

20 3. The following agreements in force, relationships subsisting,
21 and transactions currently outstanding or which have occurred during
22 the previous calendar year between such insurer and its affiliates:
23
24

- a. loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates,
- b. purchases, sales or exchanges of assets,
- c. transactions not in the ordinary course of business,
- d. guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business,
- e. all management and service contracts and all cost-sharing arrangements,
- f. reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company,
- g. dividends and other distributions to shareholders, and
- h. consolidated tax allocation agreements;

4. Other matters concerning transactions between registered insurers or fraternal benefit society and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner; and

5. Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

1 C. No information need be disclosed on the registration
2 statement filed pursuant to subsection B of this section if such
3 information is not material for the purposes of this section.
4 Unless the Commissioner by rule, regulation or order provides
5 otherwise, sales purchases, exchanges, loans or extensions of
6 credit, or investments, involving one-half of one percent (1/2 of
7 1%) or less of an insurer's admitted assets as of December 31 next
8 preceding shall not be deemed material for purposes of this section.

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

18 E. The Commissioner shall terminate the registration of any
19 insurer which demonstrates that it no longer is a member of an
20 insurance holding company system.

21 F. The Commissioner may require two or more affiliated insurers
22 subject to registration hereunder to file a consolidated
23 registration statement or consolidated reports amending their
24 consolidated registration statement, so long as such consolidated

1 filings correctly reflect the condition of and transactions between
2 such persons.

3 G. The Commissioner may allow an insurer which is authorized to
4 do business in this state and which is a part of an insurance
5 holding company system to register on behalf of any affiliated
6 insurer which is required to register under subsection A of this
7 section and to file all information and material required to be
8 filed under Sections 1651 through 1662 of this title.

9 H. The provisions of this section shall not apply to any
10 insurer, information or transaction if and to the extent that the
11 Commissioner by rule, regulation, or order shall exempt the same
12 from the provisions of this section.

13 I. Any person may file with the Commissioner a disclaimer of
14 affiliation with any authorized insurer or such a disclaimer may be
15 filed by such insurer or any member of an insurance holding company
16 system. The disclaimer shall fully disclose all material
17 relationships and bases for affiliation between such person and such
18 insurer as well as the basis for disclaiming such affiliation.
19 After a disclaimer has been filed, the insurer shall be relieved of
20 any duty to register or report under this section which may arise
21 out of the insurer's relationship with such person unless and until
22 the Commissioner disallows such a disclaimer. The Commissioner
23 shall disallow such a disclaimer only after furnishing all parties
24

1 in interest with notice and opportunity to be heard and after making
2 specific findings of fact to support such disallowance.

3 J. All registration statements shall contain a summary
4 outlining all items in the current registration statement
5 representing changes from the prior registration statement.

6 K. Every domestic insurer that is a member of a holding company
7 system shall report to the Insurance Department all dividends to
8 shareholders within five (5) business days following declaration and
9 at least ten (10) days, commencing from date of receipt by the
10 Department, prior to payment thereof.

11 L. The ultimate controlling person of every insurer subject to
12 registration shall also file an annual enterprise risk report by May
13 1 of each year for the previous calendar year. The report shall, to
14 the best of the ultimate controlling person's knowledge and belief,
15 identify the material risks within the insurance holding company
16 system that could pose enterprise risk to the insurer. The report
17 shall be filed with the lead state commissioner of the insurance
18 holding company system as determined by the procedures within the
19 Financial Analyst Handbook adopted by the National Association of
20 Insurance Commissioners.

21 M. Any person within an insurance holding company system
22 subject to registration shall be required to provide complete and
23 accurate information to an insurer where such information is
24

1 reasonably necessary to enable the insurer to comply with the
2 provisions of this article.

3 N. The failure to file a registration statement, any summary of
4 the registration statement thereto, or any additional information
5 required by this section within the time specified for such filing
6 shall be a violation of this section.

7 SECTION 6. AMENDATORY 36 O.S. 2011, Section 4101.1, is
8 amended to read as follows:

9 Section 4101.1. A. Insurance under any group life insurance
10 policy issued pursuant to subsections A, C, and D, of Section 4101
11 of this title, may be extended to insure the dependents, or any
12 class or classes thereof, of each insured employee or member who so
13 elects in amounts in accordance with a plan which precludes
14 individual selection. The term "dependent" is the spouse of the
15 insured employee or member and an insured employee's or member's
16 child under ~~twenty-one (21)~~ twenty-six (26) years of age or his or
17 her child ~~twenty-one (21)~~ twenty-six (26) years or older who is
18 attending an educational institution and relying upon the insured
19 employee or member for financial support.

20 B. Premiums for the insurance on such dependents shall be paid
21 by the policyholder either wholly from policyholder's funds, or from
22 funds contributed wholly by the employees or members, or partly from
23 funds contributed by the policyholder and partly by the employees or
24 members.

1 C. A dependent pursuant to this section shall have the same
2 conversion right as to the insurance on his or her life as is vested
3 in the employee or union member.

4 D. Notwithstanding the provisions of paragraph 7 of Section
5 4103 of this title, only one certificate need be issued for each
6 family unit if a statement concerning any dependent's coverage is
7 included in such certificate.

8 SECTION 7. AMENDATORY 36 O.S. 2011, Section 6060.4, is
9 amended to read as follows:

10 Section 6060.4. A. A health benefit plan delivered, issued for
11 delivery or renewed in this state on or after January 1, 1998, that
12 provides benefits for the dependents of an insured individual shall
13 provide coverage for each child of the insured, from birth through
14 the date the child is eighteen (18) years of age for:

15 1. Immunization against:

- 16 a. diphtheria,
- 17 b. hepatitis B,
- 18 c. measles,
- 19 d. mumps,
- 20 e. pertussis,
- 21 f. polio,
- 22 g. rubella,
- 23 h. tetanus,
- 24 i. varicella,

1 j. haemophilus influenzae type B, and

2 k. hepatitis A; and

3 2. Any other immunization subsequently required for children by
4 the State Board of Health.

5 B. Benefits required pursuant to subsection A of this section
6 shall not be subject to a deductible, co-payment, or coinsurance
7 requirement.

8 C. 1. For purposes of this section, "health benefit plan"
9 means a plan that:

10 a. provides benefits for medical or surgical expenses
11 incurred as a result of a health condition, accident,
12 or sickness, and

13 b. is offered by any insurance company, group hospital
14 service corporation, the State and Education Employees
15 Group Insurance Board, or health maintenance
16 organization that delivers or issues for delivery an
17 individual, group, blanket, or franchise insurance
18 policy or insurance agreement, a group hospital
19 service contract, or an evidence of coverage, or, to
20 the extent permitted by the Employee Retirement Income
21 Security Act of 1974, 29 U.S.C., Section 1001 et seq.,
22 by a multiple employer welfare arrangement as defined
23 in Section 3 of the Employee Retirement Income
24 Security Act of 1974, or any other analogous benefit

1 arrangement, whether the payment is fixed or by
2 indemnity.

3 2. The term "health benefit plan" shall not include:

4 a. a plan that provides coverage:

5 (1) only for a specified disease or diseases or under
6 an individual limited benefit policy,

7 (2) only for accidental death or dismemberment,

8 (3) only for dental or vision care,

9 (4) a hospital confinement indemnity policy,

10 (5) disability income insurance or a combination of
11 accident-only and disability income insurance, or

12 (6) as a supplement to liability insurance,

13 b. a Medicare supplemental policy as defined by Section
14 1882(g)(1) of the Social Security Act (42 U.S.C.,
15 Section 1395ss),

16 c. worker's compensation insurance coverage,

17 d. medical payment insurance issued as part of a motor
18 vehicle insurance policy,

19 e. a long-term care policy, including a nursing home
20 fixed indemnity policy, unless a determination is made
21 that the policy provides benefit coverage so
22 comprehensive that the policy meets the definition of
23 a health benefit plan, or
24

1 f. short-term health insurance issued on a nonrenewable
2 basis with a duration of six (6) months or less.

3 SECTION 8. AMENDATORY 36 O.S. 2011, Section 6121, is
4 amended to read as follows:

5 Section 6121. A. Any individual, firm, partnership,
6 corporation, or association (hereinafter called "organization")
7 which shall accept money or anything of value for prearranged, or
8 prepaid funeral services, or funeral service merchandise as defined
9 in the Funeral Services Licensing Act or for any contract providing
10 future funeral services or funeral merchandise at a fixed price or
11 at a cost plus a percentage, or at retail price less a percentage
12 discount, or providing for any special consideration of any kind to
13 be granted or made available to the purchaser or holder of such
14 contract, in this state, under any sales contract, bond, certificate
15 or other form of written document providing for prepaid, discounted
16 or otherwise specially priced funeral or burial benefits or services
17 or funeral merchandise to be delivered at an undetermined future
18 date dependent upon the death of a contracting party or other person
19 designated by a contracting party (hereinafter called "prepaid
20 funeral benefits") shall first obtain a permit from the Insurance
21 Commissioner authorizing the transaction of this type of business
22 before entering into any such contract. It shall be unlawful to
23 sell prepaid funeral benefits unless the seller holds a valid,
24 current permit at the time the contract is made.

1 B. The Insurance Commissioner may deny the issuance of a permit
2 ~~if~~ when the organization:

3 1. Makes a material misstatement or misrepresentation in an
4 application for a permit; ~~or~~

5 2. Fraudulently or deceptively obtains or attempts to obtain a
6 permit for another; or

7 3. If any of its officers, owners, partners or directors are
8 determined by the Commissioner to not be competent, trustworthy,
9 financially responsible and of good personal and business reputation
10 and character.

11 C. The Insurance Commissioner may approve an application of an
12 organization for a permit and deny the request of the organization
13 to act as a trustor if the organization does not satisfy all
14 qualifications. This shall not hinder an organization from entering
15 into contracts funded by assignments of insurance.

16 D. All permits issued pursuant to the provisions of this
17 section shall be displayed in a conspicuous place at all times on
18 the premises of the organization. No organization may consent to,
19 or allow the use or display of, the permit by a person other than
20 the persons authorized to represent the organization in contracting
21 prepaid funeral benefits.

22 E. The organization shall not be entitled to enforce a contract
23 made in violation of the act, but the purchaser or the heirs of the
24 purchaser, or legal representative, shall be entitled to recover

1 triple the amounts paid to the organization with interest thereon at
2 the rate of six percent (6%) per annum under any contract made in
3 violation hereof.

4 SECTION 9. AMENDATORY 36 O.S. 2011, Section 6124, is
5 amended to read as follows:

6 Section 6124. A. Each organization desiring to accept money or
7 anything of value for prepaid funeral benefits or an agreement to
8 provide funeral benefits in the future at a fixed or predetermined
9 cost, shall file an application for a permit with the Insurance
10 Commissioner, and shall at the time of filing an application pay one
11 initial filing fee of Fifty Dollars (\$50.00). The Insurance
12 Commissioner shall issue a permit upon:

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

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

17 3. Making a finding that the organization has complied with the
18 rules promulgated under this act by the Insurance Commissioner. All
19 applications shall be signed by the organization requesting the
20 permit, and shall contain a statement that the organization will
21 comply with all the requirements as established by this act. All
22 permits shall expire on December 31 of the year the permit is first
23 issued, unless renewed; permits may be renewed for a period not to
24 exceed the succeeding December 31 upon the payment of a renewal fee

1 of Fifty Dollars (\$50.00). Late application for renewal of a permit
2 shall require a fee of double the renewal fee. No application for
3 renewal of a permit shall be accepted after January 31 of each year.
4 The Insurance Commissioner may authorize acceptance of a new permit
5 application pursuant to this section prior to the expiration of the
6 one-year period upon good cause shown.

7 B. The Insurance Commissioner may cancel a permit or refuse to
8 issue a permit or refuse to issue a renewal of a permit for failure
9 to comply with any provision of this act, or any valid rule, which
10 the Insurance Commissioner has promulgated, after reasonable notice
11 to the organization and after hearing if the organization requests a
12 hearing. When the Insurance Commissioner cancels a permit or
13 refuses to issue a renewal of a permit for a violation as provided
14 by this subsection, the Insurance Commissioner shall notify the
15 Oklahoma Funeral Board of the action and the nature of any
16 violations.

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

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

4 SECTION 10. AMENDATORY 36 O.S. 2011, Section 6220, as
5 amended by Section 5, Chapter 297, O.S.L. 2015 (36 O.S. Supp. 2015,
6 Section 6220), is amended to read as follows:

7 Section 6220. A. The Commissioner may censure, suspend,
8 revoke, or refuse to issue or renew a license after hearing for any
9 of the following causes:

10 1. Material misrepresentation or fraud in obtaining an
11 adjuster's license;

12 2. Any cause for which original issuance of a license could
13 have been refused;

14 3. Misappropriation, conversion to the personal use of the
15 licensee, or illegal withholding of monies required to be held by
16 the licensee in a fiduciary capacity;

17 4. Material misrepresentation of the terms and effect of any
18 insurance contract, with intent to deceive, or engaging in, or
19 attempting to engage in, any fraudulent transaction with respect to
20 a claim or loss that the licensee or the trainee is adjusting and,
21 in the case of a public adjuster, misrepresentation of the services
22 offered or the fees or commission to be charged;

1 5. Conviction of or pleading guilty or nolo contendere to a
2 felony pursuant to the laws of this state, any other state, the
3 United States, or any foreign country;

4 6. If in the conduct of business affairs, the licensee or
5 trainee has shown himself to be, and is so deemed by the
6 Commissioner, incompetent, untrustworthy or a source of injury to
7 the public;

8 7. Refusal to comply with any lawful order of the Commissioner;

9 8. Violation of any provision of the Insurance Adjusters
10 Licensing Act;

11 9. Adjusting losses or negotiating claim settlements arising
12 pursuant to provisions of insurance contracts on behalf of an
13 insurer or insured without proper licensing ~~or~~ from the Commissioner
14 and authority from the licensed insurer or the insured party;

15 10. Failing to respond to any inquiry (including electronic
16 communications) from the Department within thirty (30) calendar days
17 of receipt of such inquiry;

18 11. Forging another's name to any document;

19 12. Obtaining or attempting to obtain a license through
20 misrepresentation or fraud;

21 13. Having admitted or been found to have committed any
22 insurance unfair trade practice or insurance fraud;

1 14. Having an insurance adjuster license or its equivalent
2 denied, suspended, censured, placed on probation or revoked in any
3 other state, province, district or territory;

4 15. Failing to inform the Department, by any means acceptable
5 to the Department, of a change of address, change of legal name or
6 change of information submitted on the application within thirty
7 (30) days of the change; or

8 16. Providing services as a public adjuster, company adjuster
9 or independent adjuster on the same claim.

10 B. In addition to or in lieu of any applicable denial,
11 suspension, or revocation of a license, any person violating the
12 provisions of the Insurance Adjusters Licensing Act may be subject
13 to a civil fine of not more than One Thousand Dollars (\$1,000.00)
14 for each violation. This fine may be enforced in the same manner in
15 which civil judgment may be enforced.

16 C. If the license of an adjuster is suspended, revoked, or not
17 renewed, the licensee shall surrender said license to the
18 Commissioner.

19 D. The Commissioner shall not reinstate a license to any person
20 whose license has been suspended, revoked, or refused renewal until
21 the Commissioner determines that the cause or causes for the
22 suspension, revocation, or nonrenewal of said license no longer
23 exist.
24

1 E. The Department shall retain the authority to enforce the
2 provisions of and impose any penalty or remedy authorized by this
3 title against any person who is under investigation for or charged
4 with a violation even if the person's license or registration has
5 been surrendered or has lapsed by operation of law.

6 F. It shall be unlawful for any person, firm, association,
7 company or corporation to act as an adjuster without first obtaining
8 a license pursuant to the Insurance Adjusters Licensing Act. Any
9 person convicted of violating the provisions of this subsection
10 shall be guilty of a misdemeanor and shall be punished as set forth
11 in Section 10 of Title 21 of the Oklahoma Statutes.

12 SECTION 11. AMENDATORY Section 7, Chapter 297, O.S.L.
13 2015 (36 O.S. Supp. 2015, Section 6223), is amended to read as
14 follows:

15 Section 6223. A. A public adjuster shall not misrepresent to a
16 claimant that the public adjuster is an adjuster representing an
17 insurer in any capacity, including acting as an employee of the
18 insurer or acting as an independent adjuster.

19 B. No public adjuster shall split any commission, service fee
20 or other valuable consideration for performing adjusting services
21 with any person or entity unless that person or entity is required
22 to be licensed as a public adjuster under this title and is so
23 licensed.
24

1 C. Prior to the signing of the contract the public adjuster
2 shall provide the insured with a separate disclosure document
3 regarding the claim process that states:

4 1. Property insurance policies obligate the insured to present
5 a claim to his or her insurance company for consideration. There
6 are three types of adjusters that could be involved in that process.
7 The definitions of the three types are as follows:

8 a. "company adjuster" means the insurance adjusters who
9 are employees of an insurance company. They represent
10 the interest of the insurance company and are paid by
11 the insurance company. They will not charge you a
12 fee,

13 b. "independent adjuster" means the insurance adjusters
14 who are hired on a contract basis by an insurance
15 company to represent the insurance company's interest
16 in the settlement of the claim. They are paid by your
17 insurance company. They will not charge you a fee,
18 and

19 c. "public adjuster" means the insurance adjusters who do
20 not work for any insurance company. They work for the
21 insured to assist in the preparation, presentation and
22 settlement of the claim. The insured hires them by
23 signing a contract agreeing to pay them a fee or
24

1 commission based on a percentage of the settlement, or
2 other method of compensation;

3 2. The insured is not required to hire a public adjuster to
4 help the insured meet his or her obligations under the policy, but
5 has the right to do so;

6 3. The public adjuster is not a representative or employee of
7 the ~~insured~~ insurer; and

8 4. The salary, fee, commission or other consideration is the
9 obligation of the insured, not the insurer.

10 D. The public adjuster shall provide the insurer a notification
11 letter which has been signed by the insured authorizing the public
12 adjuster to represent the insured's interest.

13 E. A public adjuster who receives, accepts or holds any funds
14 on behalf of an insured towards the settlement of a claim for loss
15 or damage shall deposit the funds in a non-interest-bearing escrow
16 or trust account in a financial institution that is insured by an
17 agency of the federal government in the public adjuster's home state
18 or where the loss occurred.

19 F. A public adjuster shall maintain a complete record of each
20 transaction as a public adjuster for at least five (5) years after
21 the termination of the transaction and the record shall be open to
22 examination by the Department at all times. The records required by
23 this subsection shall include the following:

24 1. Name of the insured;

1 2. Date, location and amount of the loss;

2 3. Copy of the signed contract between the public adjuster and
3 insured;

4 4. Name of the insurer, amount, expiration date and number of
5 each policy carried with respect to the loss;

6 5. Itemized statement of the insured's recoveries;

7 6. Itemized statement of all compensation received by the
8 public adjuster, from any source whatsoever, in connection with the
9 loss;

10 7. A register of all monies received, deposited, disbursed or
11 withdrawn in connection with a transaction with an insured,
12 including fees, transfers and disbursements from a trust account,
13 and all transactions concerning all interest-bearing accounts;

14 8. Name of the public adjuster who executed the contract; and

15 9. Name of the attorney representing the insured, if
16 applicable, and the name of the claims representatives of the
17 insurance company.

18 G. A public adjuster is obligated under his or her license to
19 serve with objectivity and complete loyalty to the interest of his
20 or her client alone; and to render to the insured such information,
21 counsel and service as within the knowledge, understanding and
22 opinion in good faith of the licensee will best serve the insured's
23 insurance claim needs and interest.
24

1 H. A public adjuster shall not solicit or attempt to solicit an
2 insured during the progress of a loss-producing occurrence.

3 I. A public adjuster shall not permit an unlicensed employee or
4 representative of the public adjuster to conduct business for which
5 a license is required.

6 J. A public adjuster shall not acquire any interest in salvage
7 of property subject to the contract with the insured unless the
8 public adjuster obtains written permission from the insured after
9 settlement of the claim with the insurer.

10 K. The public adjuster shall not refer or direct the insured to
11 obtain needed repairs or services in connection with a loss from any
12 person or entity with whom the public adjuster has a financial
13 interest or from whom the public adjuster may receive direct or
14 indirect compensation for the referral.

15 L. Any compensation or anything of value in connection with an
16 insured's specific loss that will be received by a public adjuster
17 from any third party shall be disclosed by the public adjuster to
18 the insured in writing including the source and amount of any such
19 compensation.

20 M. A public adjuster shall not enter into a contract or accept
21 a power of attorney that vests in the public adjuster the effective
22 authority to choose the persons who shall perform repair work.

23 N. A public adjuster may not agree to any loss settlement
24 without the insured's knowledge and consent.

1 0. On a percentage fee contract, a public adjuster may not
2 require, demand or accept any fee, retainer, compensation, deposit
3 or other thing of value prior to payment of any claim proceeds,
4 whether such payment is partial in nature or payment in full.

5 SECTION 12. AMENDATORY 36 O.S. 2011, Section 6670, as
6 last amended by Section 22, Chapter 15, O.S.L. 2013 (36 O.S. Supp.
7 2015, Section 6670), is amended to read as follows:

8 Section 6670. As used in this section through Section 6676 of
9 this title:

10 1. "Commissioner" means the Insurance Commissioner;

11 2. "Enrolled customer" means a customer who elects coverage
12 under a portable electronics insurance policy issued to a vendor of
13 portable electronics;

14 3. "Customer" means a person who purchases portable electronics
15 or services;

16 4. "Location" means any physical location in the State of
17 Oklahoma or any website, call center site, or similar location
18 directed to residents of the State of Oklahoma;

19 5. "Portable electronics" means electronic devices that are
20 portable in nature, their accessories and services related to the
21 use of the device;

22 6. "Portable electronics insurance" means insurance providing
23 coverage for the repair or replacement of portable electronics which
24 may provide coverage for portable electronics against any one or

1 more of the following causes of loss: loss, theft, inoperability due
2 to mechanical failure, malfunction, damage or other similar causes
3 of loss. "Portable electronics insurance" does not include:

- 4 a. a service contract governed by the Service Warranty
5 Act,
- 6 b. a policy of insurance covering a seller's or a
7 manufacturer's obligations under a warranty,
- 8 c. a homeowner's, renter's, private passenger automobile,
9 commercial multi-peril, or similar policy, or
- 10 d. a contract excluded from the definition of a service
11 warranty as set forth by subparagraphs a through e g
12 of paragraph ~~14~~ 17 of Section ~~6602~~ 141.2 of ~~this title~~
13 Title 15 of the Oklahoma Statutes;

14 7. "Portable electronics transaction" means:

- 15 a. the sale or lease of portable electronics by a vendor
16 to a customer, or
- 17 b. the sale of a service related to the use of portable
18 electronics by a vendor to a customer;

19 8. "Supervising entity" means a business entity that is a
20 licensed insurer or insurance producer; and

21 9. "Vendor" means a person in the business of engaging in
22 portable electronics transactions directly or indirectly.

1 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6470.2, as
2 last amended by Section 14, Chapter 298, O.S.L. 2015 (36 O.S. Supp.
3 2015, Section 6470.2), is amended to read as follows:

4 Section 6470.2. As used in the Oklahoma Captive Insurance
5 Company Act:

6 1. "Alien company" means an insurance company formed and
7 licensed pursuant to the laws of a country or jurisdiction other
8 than the United States of America, or any of its states, districts,
9 commonwealths and possessions;

10 2. "Affiliated company" means a company in the same corporate
11 system as a parent, an industrial insured, or a member organization
12 by virtue of common ownership, control, operation, or management;

13 3. "Association" means a legal association of individuals,
14 corporations, partnerships, or associations that has been in
15 continuous existence for at least one (1) year or such lesser period
16 of time approved by the Commissioner:

- 17 a. the member organizations of which, or which does
18 itself or either of them acting in concert directly or
19 indirectly own, control, or hold with power to vote
20 all of the outstanding voting securities or interests
21 of, or have complete voting control over an
22 association captive insurance company, or
23 b. the member organizations of which collectively
24 constitute all of the subscribers of an association

1 captive insurance company formed as a reciprocal
2 insurer;

3 4. "Association captive insurance company" means a captive
4 insurance company that insures risks of the member organizations of
5 the association and their affiliated companies;

6 5. "Branch business" means any insurance business transacted by
7 a branch captive insurance company in this state;

8 6. "Branch captive insurance company" means an alien captive
9 insurance company licensed by the Insurance Commissioner to transact
10 the business of insurance in this state through a business unit with
11 a principal place of business in this state. A branch captive
12 insurance company must be a pure captive insurance company with
13 respect to operations in this state, unless otherwise permitted by
14 the Insurance Commissioner;

15 7. "Branch operations" means any business operations of a
16 branch captive insurance company in this state;

17 8. "Capital and surplus" means the amount by which the value of
18 all of the assets of the captive insurance company exceeds all of
19 the liabilities of the captive insurance company, as determined
20 under the method of accounting utilized by the captive insurance
21 company in accordance with the applicable provisions of this act;

22 9. "Captive insurance company" means a pure captive insurance
23 company, association captive insurance company, sponsored captive
24 insurance company, special purpose captive insurance company, or

1 industrial insured captive insurance company formed or licensed
2 under the Oklahoma Captive Insurance Company Act;

3 10. "Controlled unaffiliated business" means a company:

- 4 a. that is not in the corporate system of a parent and
5 affiliated companies,
- 6 b. that has an existing contractual relationship with a
7 parent or affiliated company, and
- 8 c. whose risks are managed by a pure captive insurance
9 company in accordance with Section 6470.27 of this
10 title;

11 11. "Insurance Commissioner" means the Insurance Commissioner
12 of the State of Oklahoma or designee of the Insurance Commissioner;

13 12. "Department" means the Oklahoma Department of Insurance;

14 13. "GAAP" means generally accepted accounting principles;

15 14. "Industrial insured" means an insured:

- 16 a. who procures the insurance of any risk or risks by use
17 of the services of a full-time employee acting as an
18 insurance manager or buyer,
 - 19 b. whose aggregate annual premiums for insurance on all
20 risks total at least Twenty-five Thousand Dollars
21 (\$25,000.00), and
 - 22 c. who has at least twenty-five full-time employees;
- 23
24

1 15. "Industrial insured captive insurance company" means a
2 company that insures risks of the industrial insureds that comprise
3 the industrial insured group and their affiliated companies;

4 16. "Industrial insured group" means a group of industrial
5 insureds that collectively directly or indirectly owns, controls, or
6 holds with power to vote all of the outstanding voting securities or
7 other voting interests or has complete control over an industrial
8 insured captive insurance company;

9 17. "Member organization" means any individual, corporation,
10 partnership, or association that belongs to an association;

11 18. "Parent" means any corporation, partnership, or individual
12 that directly or indirectly owns, controls, or holds with power to
13 vote more than fifty percent (50%) of the outstanding voting
14 securities of a pure captive insurance company;

15 19. "Participant" means an entity as defined in Section 6470.31
16 of this title, and any affiliates of that entity, that are insured
17 by a sponsored captive insurance company, where the losses of the
18 participant are limited through a participant contract to the
19 participant's pro rata share of the assets of one or more protected
20 cells identified in the participant contract;

21 20. "Participant contract" means a contract by which a
22 sponsored captive insurance company insures the risks of one or more
23 participants and limits the losses of each participant to its pro
24

1 rata share of the assets of one or more protected cells identified
2 in the participant contract;

3 21. "Protected cell" means a separate and distinct account
4 established and maintained by or on behalf of a sponsored captive
5 insurance company in which assets are accounted for and recorded for
6 one or more participants in accordance with the terms of one or more
7 participant contracts to fund the liability of the sponsored captive
8 insurance company assumed on behalf of the participants as set forth
9 in the participant contracts;

10 22. "Pure captive insurance company" means a company that
11 insures risks of its parent, affiliated companies, of its parent,
12 and any controlled unaffiliated business, or a combination thereof.
13 For purposes of this paragraph, "controlled unaffiliated business"
14 means an entity insured by a pure captive insurance company:

- 15 a. that is not in the corporate system of a parent and
16 affiliated companies,
- 17 b. that has an existing contractual relationship with a
18 parent or affiliated company, and
- 19 c. whose risks are managed by a pure captive insurance
20 company;

21 23. "Reciprocal insurer" has the meaning given that term in
22 Article 29 of the Oklahoma Insurance Code;

1 24. "Risk retention group" means a risk retention group formed
2 pursuant to the Liability Risk Retention Act of 1986 under Section
3 3901 of Title 15 of the United States Code;

4 25. "Special purpose captive insurance company" means a captive
5 insurance company that is formed or licensed under the Oklahoma
6 Captive Insurance Company Act that does not meet the definition of
7 any other type of captive insurance company defined in this section
8 and is designated as a special purpose captive insurance company by
9 the Commissioner;

10 26. "Sponsor" means an entity that meets the requirements of
11 Section 6470.30 of this title and is approved by the Insurance
12 Commissioner to provide all or part of the capital and surplus
13 required by applicable law and to organize and operate a sponsored
14 captive insurance company;

15 27. "Sponsored captive insurance company" means a captive
16 insurance company:

- 17 a. in which the minimum capital and surplus required by
- 18 applicable law is provided by one or more sponsors,
- 19 b. that is formed or licensed under the Oklahoma Captive
- 20 Insurance Company Act,
- 21 c. that insures the risks of its participants only
- 22 through separate participant contracts, and
- 23 d. that funds its liability to each participant through
- 24 one or more protected cells and segregates the assets

1 of each protected cell from the assets of other
2 protected cells and from the assets of the sponsored
3 captive insurance company's general account; and

4 28. "Workers' compensation insurance" means insurance provided
5 in satisfaction of an employer's responsibility as set forth in the
6 Administrative Workers' Compensation Act and the Oklahoma Employee
7 Injury Benefit Act.

8 SECTION 14. AMENDATORY 36 O.S. 2011, Section 6470.3, as
9 last amended by Section 15, Chapter 298, O.S.L. 2015 (36 O.S. Supp.
10 2015, Section 6470.3), is amended to read as follows:

11 Section 6470.3. A. A captive insurance company, when permitted
12 by its articles of incorporation or charter, may apply to the
13 Insurance Commissioner for a license to do any and all insurance
14 authorized by this title; however:

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

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

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

1 4. A special purpose captive insurance company may provide
2 insurance or reinsurance, or both, for risks as approved by the
3 Insurance Commissioner;

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

7 6. Any captive insurance company may provide workers'
8 compensation insurance, insurance in the nature of workers'
9 compensation insurance, and reinsurance of such policies, unless
10 prohibited by federal law or laws of this state or any other state
11 having jurisdiction over the transaction.

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

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

16 2. Maintain a place of business in this state designated as its
17 registered office; and

18 3. Appoint a resident registered agent to accept service of
19 process and to otherwise act on its behalf in this state. Whenever
20 the registered agent cannot with reasonable diligence be found at
21 the registered office of the captive insurance company, the
22 Insurance Commissioner shall be deemed an agent of the captive
23 insurance company upon whom any process, notice, or demand may be
24 served.

1 C. 1. Before receiving a license, a captive insurance company
2 shall file with the Commissioner a certified copy of its
3 organizational documents, a statement under oath of its president or
4 other authorized person showing its financial condition, a
5 feasibility study, a business plan, and any other statements,
6 information or documents required by the Commissioner.

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

- 10 a. the amount and liquidity of its assets relative to the
11 risks to be assumed,
- 12 b. the adequacy of the expertise, experience, and
13 character of the person or persons who will manage it,
- 14 c. the overall soundness of its plan of operation,
- 15 d. the adequacy of the loss prevention programs of its
16 insureds, and
- 17 e. such other factors considered relevant by the
18 Insurance Commissioner in ascertaining whether the
19 proposed captive insurance company will be able to
20 meet its obligations.

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

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

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

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

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

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

21 (1) the public official agrees in writing to maintain
22 the confidentiality of the information, and
23
24

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

4 D. A captive insurance company shall pay to the Department a
5 nonrefundable application fee of Two Hundred Dollars (\$200.00) for
6 reviewing its application to determine whether it is complete and in
7 addition, the Insurance Commissioner may retain legal, financial,
8 and examination services from outside the Department, the reasonable
9 cost of which may be charged against the applicant. Also, a captive
10 insurance company shall pay a license fee for the year of
11 registration and a renewal fee of Three Hundred Dollars (\$300.00).

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

18 F. 1. Notwithstanding any other provision of this act, the
19 Insurance Commissioner may issue a provisional license to any
20 applicant captive insurance company for a period not to exceed sixty
21 (60) days if the Insurance Commissioner deems that the public
22 interest will be served by the issuance of such license.

23 2. As a condition precedent to the issuance of a provisional
24 license under this section, the applicant shall have filed a

1 complete application containing all information required by this
2 section, paid all fees required for licensure and the Insurance
3 Commissioner shall have made a preliminary finding that the
4 expertise, experience and character of the person or persons who
5 will control and manage the applicant captive insurer are
6 acceptable.

7 3. The Insurance Commissioner may by order limit the authority
8 of any provisional licensee in any way deemed necessary to protect
9 insureds and the public. The Insurance Commissioner may by order
10 revoke a provisional license if the interests of insureds or the
11 public are endangered. If the applicant fails to complete the
12 regular licensure application process, the provisional license shall
13 terminate automatically.

14 SECTION 15. This act shall become effective November 1, 2016.

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