

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 ENGROSSED SENATE
5 BILL NO. 1050

 By: Paxton of the Senate

 and

 Moore of the House

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9 An Act relating to insurance agents; amending 36 O.S.
10 2011, Section 1435.2, as amended by Section 7,
11 Chapter 298, O.S.L. 2015 (36 O.S. Supp. 2017, Section
12 1435.2), which relates to definitions; amending the
13 definition of insurance agent; repealing 36 O.S.
14 2011, Sections 1461, 1462, 1463, 1464, as amended by
15 Section 3, Chapter 269, O.S.L. 2013 (36 O.S. Supp.
16 2017, Section 1464), 1465, and 1466, which relate to
17 the Oklahoma Life, Accident and Health Brokers Act;
18 and providing an effective date.

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

23 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1435.2, as
24 amended by Section 7, Chapter 298, O.S.L. 2015 (36 O.S. Supp. 2017,
25 Section 1435.2), is amended to read as follows:

26 Section 1435.2. As used in the Oklahoma Producer Licensing Act:

27 1. "Commissioner" means the Insurance Commissioner;

28 2. "Business entity" means a corporation, association,
29 partnership, limited liability company, limited partnership, or
30 other legal entity;

1 3. "Customer service representative" means an individual
2 appointed by an insurance producer, surplus lines insurance broker,
3 managing general agent, or insurance agency to assist the insurance
4 producer, broker, or agency in transacting the business of insurance
5 from the office of the insurance producer, broker, or agency and
6 whose salary may vary based on the production or volume of
7 applications or premiums;

8 4. "Home state" means the District of Columbia and any state or
9 territory of the United States in which an insurance producer
10 maintains the producer's principal place of residence or principal
11 place of business and is licensed to act as an insurance producer;

12 5. "Insurance" means any of the lines of authority in this
13 title, including workers' compensation insurance. Any insurer
14 approved to offer workers' compensation insurance may appoint
15 insurance producers. All producers appointed for workers'
16 compensation insurance products must be licensed as insurance
17 producers by the Oklahoma Insurance Department;

18 6. "Insurance consultant" means an individual or legal entity
19 who, for a fee, is held out to the public as engaged in the business
20 of offering any advice, counsel, opinion or service with respect to
21 the benefits, advantages, or disadvantages promised under any policy
22 of insurance that could be issued or delivered in this state;

23 7. "Insurance producer" means a person required to be licensed
24 under the laws of this state to sell, solicit or negotiate

1 insurance. Any person not duly licensed as an insurance producer,
2 surplus lines insurance broker, or limited lines producer who
3 solicits a policy of insurance on behalf of an insurer shall be
4 deemed to be acting as an insurance agent within the meaning of the
5 Oklahoma Producer Licensing Act, and shall thereby become liable for
6 all the duties, requirements, liabilities, and penalties to which an
7 insurance producer of the company is subject, and the company by
8 issuing the policy of insurance shall thereby accept and acknowledge
9 the person as its agent in the transaction. For purposes of the
10 laws of this state and the Oklahoma Insurance Code, the term
11 "insurance agent" ~~shall have the same meaning as the term "insurance~~
12 ~~producer"~~ means an insurance producer properly appointed by an
13 insurance carrier to act as an agent for that insurance carrier,
14 pursuant to Section 1435.15 of this title;

15 8. "Insurer" has the meaning set out in Section 103 of this
16 title;

17 9. "License" means a document issued by the Insurance
18 Commissioner of this state authorizing a person to act as an
19 insurance producer for the lines of authority specified in the
20 document. The license itself does not create any authority, actual,
21 apparent or inherent, in the holder to represent or commit an
22 insurance carrier;

23 10. "Limited line credit insurance" includes credit life,
24 credit disability, credit property, credit unemployment, involuntary

1 unemployment, mortgage life, mortgage guaranty, mortgage disability,
2 guaranteed automobile protection insurance, known as "gap"
3 insurance, and any other form of insurance offered in connection
4 with an extension of credit that is limited to partially or wholly
5 extinguishing that credit obligation that the Insurance Commissioner
6 determines should be designated a form of limited line credit
7 insurance;

8 11. "Limited line credit insurance producer" means a person who
9 sells, solicits or negotiates one or more forms of limited line
10 credit insurance coverage to individuals through a master,
11 corporate, group or individual policy;

12 12. "Limited lines insurance" means limited line credit and
13 those lines of insurance defined in Section 1435.20 of this title or
14 any other line of insurance the Insurance Commissioner deems
15 necessary to recognize for the purposes of complying with subsection
16 E of Section 1435.9 of this title;

17 13. "Limited lines producer" means a person who is authorized
18 by the Commissioner to sell, solicit or negotiate limited lines
19 insurance. For purposes of the laws of this state and the Oklahoma
20 Insurance Code, the term "limited insurance representative" shall
21 have the same meaning as the term "limited lines producer";

22 14. "Managing general agent" means an individual or legal
23 entity appointed, as an independent contractor, by one or more
24 insurers to exercise general supervision over the business of the

insurer in this state, with authority to appoint insurance producers for the insurer, and to terminate appointments for the insurer;

15. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchaser;

16. "Person" means an individual or a business entity;

17. "Sell" means to exchange a contract of insurance, by any means, for money or its equivalent, on behalf of an insurance company;

18. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company;

19. "Surplus lines insurance broker" means an individual or legal entity who solicits, negotiates, or procures a policy of insurance in an insurance company not licensed to transact business in this state which cannot be procured from insurers licensed to do business in this state. All transactions under such license shall be subject to Article 11 of the Oklahoma Insurance Code;

20. "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance;

1 21. "Uniform Business Entity Application" means the current
2 version of the National Association of Insurance Commissioners
3 (NAIC) Uniform Business Entity Application for resident and
4 nonresident business entities; and

5 22. "Uniform Application" means the current version of the NAIC
6 Uniform Application for resident and nonresident producer licensing.

7 SECTION 2. REPEALER 36 O.S. 2011, Sections 1461, 1462,
8 1463, 1464, as amended by Section 3, Chapter 269, O.S.L. 2013 (36
9 O.S. Supp. 2017, Section 1464), 1465 and 1466, are hereby repealed.

10 SECTION 3. This act shall become effective November 1, 2018.

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12 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/03/2018 - DO
13 PASS.

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