

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 884

By: Paxton

AS INTRODUCED

An Act relating to insurance reporting; amending 36 O.S. 2011, Sections 311A.1, 311A.2, 311A.3, 311A.9, 311A.11, 311A.12, 311A.14, 311A.16, 311A.17 and 311A.18, which relate to the Oklahoma Annual Financial Report Act, purpose of act, definitions, conduct of audit of financial statements, unremediated material weaknesses, accountant letter to insurer, audit committee, report of the insurer's internal control over financial reporting, exemptions from compliance, and letters of conformity; modifying definitions; adding definition; adding duty of audit committee; providing for certain exemption; instructing insurers to establish an internal audit function; requiring independence of audit function; requiring certain reporting; providing for methods of compliance with act; authorizing Insurance Commissioner to grant exemption; deleting obsolete language; establishing time limit for certain compliance after expiration of exception; updating statutory references; providing for codification; and providing an effective date.

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

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

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

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

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

9 1. An annual audit of financial statements reporting the
10 financial position and the results of operations of insurers by
11 independent certified public accountants;

12 2. Communication of Internal Control Related Matters Noted in
13 an Audit; and

14 3. Management's Report of Internal Control over Financial
15 Reporting.

16 B. Every insurer as defined in Section ~~5~~ 311A.3 of this ~~act~~
17 title shall be subject to the Oklahoma Annual Financial Report Act.
18 Insurers having direct premiums written in this state of less than
19 One Million Dollars (\$1,000,000.00) in any calendar year and less
20 than one thousand policy holders or certificate holders of direct
21 written policies nationwide at the end of the calendar year shall be
22 exempt from the Oklahoma Annual Financial Report Act for the year
23 unless the Commissioner makes a specific finding that compliance is
24 necessary for the Commissioner to carry out statutory

1 responsibilities. Insurers having assumed premiums pursuant to
2 contracts and treaties of reinsurance of One Million Dollars
3 (\$1,000,000.00) or more will not be so exempt.

4 C. Foreign or alien insurers filing the audited financial
5 reports in another state, pursuant to the requirement of that state
6 for filing of audited financial reports, which has been found by the
7 Commissioner to be substantially similar to the requirements of the
8 Oklahoma Annual Financial Report Act, are exempt from Sections ~~6~~
9 ~~through 15~~ 311A.4 through 311A.13 of this ~~act~~ title if:

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

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

21 D. Foreign or alien insurers required to file Management's
22 Report of Internal Control over Financial Reporting in another state
23 are exempt from filing the Report in this state provided the other
24 state has substantially similar reporting requirements as determined

1 by the Commissioner and the Report is filed with the Commissioner of
2 the other state within the time specified.

3 E. The Oklahoma Annual Financial Report Act shall not prohibit,
4 preclude, or in any way limit the Commissioner from ordering or
5 conducting or performing examinations of insurers under the rules of
6 the Insurance Department and the practices and procedures of the
7 Insurance Department.

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

10 Section 311A.3. As used in the Oklahoma Annual Financial Report
11 Act:

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

18 2. An "affiliate" of, or person "affiliated" with, a specific
19 person, is a person that directly, or indirectly through one or more
20 intermediaries, controls, or is controlled by, or is under common
21 control with, the person specified;

22 3. "Audit committee" means a committee or equivalent body
23 established by the board of directors of an entity for the purpose
24 of overseeing the accounting and financial reporting processes of an
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1 insurer or group of insurers, and audits of financial statements of
2 the insurer or group of insurers, the internal audit function of an
3 insurer or group of insurers, if applicable, and external audits of
4 financial statements of the insurer or group of insurers. The audit
5 committee of any entity that controls a group of insurers may be
6 deemed to be the audit committee for one or more of these controlled
7 insurers solely for the purposes of the Oklahoma Annual Financial
8 Report Act at the election of the controlling person. The exercise
9 of this election shall be pursuant to subsection ~~F~~ G of Section ~~16~~
10 311A.14 of this ~~act~~ title. If an audit committee is not designated
11 by the insurer, the entire board of directors of the insurer shall
12 constitute the audit committee;

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

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

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

23 7. "Insurer" means a licensed insurer as defined in Section 103
24 of Title 36 of the Oklahoma Statutes. For purposes of the Oklahoma
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1 Annual Financial Report Act, insurer includes but is not limited to
2 fraternal benefit societies, health maintenance organizations,
3 multiple employer welfare arrangements, title insurers, and similar
4 organizations licensed by the Insurance Commissioner;

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

10 9. "Internal audit function" means a person or persons that
11 provide independent, objective and reasonable assurances of added
12 value and improvement to the operations of an organization and
13 accomplish its objectives by bringing a systemic, disciplined
14 approach to evaluate and improve the effectiveness of risk
15 management, control and governance processes;

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

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

1 b. provide reasonable assurance that transactions are
2 recorded as necessary to permit preparation of the
3 financial statements, i.e., those items specified in
4 paragraphs 2 through 7 of subsection B of Section 7
5 311A.5 of this ~~act~~ title and that receipts and
6 expenditures are being made only in accordance with
7 authorizations of management and directors, and

8 c. provide reasonable assurance regarding prevention or
9 timely detection of unauthorized acquisition, use, or
10 disposition of assets that could have a material
11 effect on the financial statements, i.e., those items
12 specified in paragraphs 2 through 7 of subsection B of
13 Section 7 311A.5 of this ~~act~~ title;

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

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

19 ~~12.~~ 13. "Section 404 Report" means the report on internal
20 control over financial reporting of management as defined by the SEC
21 and the related attestation report of the independent certified
22 public accountant; and
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1 ~~13.~~ 14. "SOX Compliant Entity" means an entity that either is
2 required to be compliant with, or voluntarily is compliant with, all
3 of the following provisions of the Sarbanes-Oxley Act of 2002:

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

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

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

1 pursuant to Section ~~48~~ 311A.16 of this ~~act~~ title, the independent
2 certified public accountant should consider, as that term is defined
3 in Statement on Auditing Standards (SAS) No. 102, Defining
4 Professional Requirements in Statements on Auditing Standards or its
5 replacement, the most recently available report in planning and
6 performing the audit of the statutory financial statements.
7 Consideration shall be given to the procedures illustrated in the
8 Financial Condition Examiners Handbook promulgated by the National
9 Association of Insurance Commissioners as the independent certified
10 public accountant deems necessary.

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

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

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

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

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

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

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

20 2. The background and experience in general, and the experience
21 in audits of insurers of the staff assigned to the engagement and
22 whether each is an independent certified public accountant. Nothing
23 within the Oklahoma Annual Financial Report Act shall be construed
24 as prohibiting the accountant from utilizing such staff as the
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1 accountant deems appropriate where use is consistent with the
2 standards prescribed by generally accepted auditing standards;

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

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

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

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

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

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

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

6 C. The audit committee of an insurer or group of insurers shall
7 be responsible for overseeing the internal audit function of the
8 insurer and granting the person or persons performing the function
9 suitable authority and resources to fulfill their responsibilities.

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

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

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

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

18 ~~G.~~ H. 1. The audit committee shall require the accountant that
19 performs for an insurer any audit required by the Oklahoma Annual
20 Financial Report Act to timely report to the audit committee in
21 accordance with the requirements of SAS 61, Communication with Audit
22 Committees, or its replacement, including:

- 23 a. all significant accounting policies and material
24 permitted practices,

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

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

16 ~~H.~~ I. The proportion of independent audit committee members
17 shall meet or exceed the following criteria set out in paragraphs 1,
18 2 and 3 of this subsection:

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

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

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

7 ~~I.~~ J. The Commissioner may require improvements to the
8 independence of the audit committee membership of any insurer if the
9 insurer is in a RBC action level event, meets one or more of the
10 standards of an insurer deemed to be in hazardous financial
11 condition, or otherwise exhibits qualities of a troubled insurer.

12 ~~J.~~ K. For purposes of this section, prior calendar year direct
13 written and assumed premiums shall be the combined total of direct
14 premiums and assumed premiums from non-affiliates for the reporting
15 entities.

16 ~~K.~~ L. An insurer with direct written and assumed premium,
17 excluding premiums reinsured with the Federal Crop Insurance
18 Corporation and Federal Flood Program, of less than Five Hundred
19 Million Dollars (\$500,000,000.00) may make application to the
20 Commissioner for a waiver from the requirements of this section
21 based upon hardship. The insurer shall file, with its annual
22 statement filing, the approval for relief from this section with the
23 states that it is licensed in or doing business in and the NAIC. If
24 the nondomestic state accepts electronic filing with the NAIC, the

1 insurer shall file the approval in an electronic format acceptable
2 to the NAIC.

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

6 A. An insurer is exempt from the requirements of this section
7 if:

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

13 2. The insurer is a member of a group of insurers that has
14 annual direct written and unaffiliated assumed premium including
15 international direct and assumed premium, but excluding premiums
16 reinsured with the Federal Crop Insurance Corporation and Federal
17 Flood Program, less than One Billion Dollars (\$1,000,000,000.00).

18 B. The insurer or group of insurers shall establish an internal
19 audit function providing independent, objective and reasonable
20 assurances to the audit committee and the management of the insurer
21 regarding the governance, risk management and internal controls of
22 the insurer. This assurance shall be provided by performing general
23 and specific audits, reviews and tests and by employing other
24 techniques deemed necessary to protect assets, evaluate control

1 effectiveness and efficiency and evaluate compliance with policies
2 and regulations.

3 C. In order to ensure that internal auditors remain objective,
4 the internal audit function shall be independent of the
5 organization. The internal audit function shall not defer ultimate
6 judgment on audit matters to any other person or persons, and shall
7 appoint an individual to head the internal audit function, who will
8 have direct and unrestricted access to the board of directors of the
9 insurer. Organizational independence does not preclude dual-
10 reporting relationships.

11 D. The head of the internal audit function shall report to the
12 audit committee no less than annually on the periodic audit plan,
13 factors that may adversely impact the independence or effectiveness
14 of the internal audit function, material findings from completed
15 audits and the appropriateness of corrective actions implemented by
16 management as a result of the audit findings.

17 E. If an insurer is a member of an insurance holding company
18 system or included in a group of insurers, the insurer may satisfy
19 the internal audit function requirements set forth in this section
20 at the ultimate controlling parent level, an intermediate holding
21 company level or the individual legal entity level.

22 F. Upon written request and with good cause shown, the
23 Insurance Commissioner may grant an exemption from the internal
24 audit function.

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

Section 311A.16. A. Every insurer required to file an audited financial report pursuant to the Oklahoma Annual Financial Report Act that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of Five Hundred Million Dollars (\$500,000,000.00) or more shall prepare a report of the insurer's or group of insurers' internal control over financial reporting. The report shall be filed with the Insurance Commissioner along with the Communication of Internal Control Related Matters Noted in an Audit described under Section ~~43~~ 311A.11 of this ~~act~~ title. Management's Report of Internal Control over Financial Reporting shall be as of December 31 immediately preceding.

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

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

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

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

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

3 D. Management's Report of Internal Control over Financial
4 Reporting shall include:

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

7 2. A statement that management has established internal control
8 over financial reporting and an assertion, to the best of the
9 knowledge and belief of management, after diligent inquiry, as to
10 whether its internal control over financial reporting is effective
11 to provide reasonable assurance regarding the reliability of
12 financial statements in accordance with statutory accounting
13 principles;

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

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

19 5. Disclosure of any unremediated material weaknesses in the
20 internal control over financial reporting identified by management
21 as of December 31 immediately preceding. Management is not
22 permitted to conclude that the internal control over financial
23 reporting is effective to provide reasonable assurance regarding the
24 reliability of financial statements in accordance with statutory

1 accounting principles if there is one or more unremediated material
2 weaknesses in its internal control over financial reporting;

3 6. A statement regarding the inherent limitations of internal
4 control systems; and

5 7. Signatures of the chief executive officer and the chief
6 financial officer or equivalent positions or titles.

7 E. Management shall document and make available upon financial
8 condition examination the basis upon which its assertions, required
9 in subsection D of this section, are made. Management may base its
10 assertions, in part, upon its review, monitoring, and testing of
11 internal controls undertaken in the normal course of its activities.

12 1. Management shall have discretion as to the nature of the
13 internal control framework used, and the nature and extent of
14 documentation, in order to make its assertion in a cost-effective
15 manner and, as such, may include assembly of or reference to
16 existing documentation.

17 2. Management's Report of Internal Control over Financial
18 Reporting, required by subsection A of this section and any
19 documentation provided in support thereof during the course of a
20 financial condition examination, shall be kept confidential by the
21 Insurance Department.

22 SECTION 10. AMENDATORY 36 O.S. 2011, Section 311A.17, is
23 amended to read as follows:
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1 Section 311A.17. A. Upon written application of any insurer,
2 the Insurance Commissioner may grant an exemption from compliance
3 with any and all provisions of the Oklahoma Annual Financial Report
4 Act if the Commissioner finds, upon review of the application, that
5 compliance with the Oklahoma Annual Financial Report Act would
6 constitute a financial or organizational hardship upon the insurer.
7 An exemption may be granted at any time and from time to time for a
8 specified period or periods. Within ten (10) days from a denial of
9 the written request of an insurer for an exemption from the Oklahoma
10 Annual Financial Report Act, the insurer may request in writing a
11 hearing on its application for an exemption. The hearing shall be
12 held in accordance with the Administrative Procedures Act and the
13 laws and rules of the Insurance Department.

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

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

23 1. ~~As of December 31, 2010, file~~ File with the Commissioner an
24 audited financial report; and
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1 2. ~~For the year ending December 31, 2010, and each~~ Each year
2 ~~thereafter~~, such insurers shall file with the Commissioner all
3 reports and communication required by the Oklahoma Annual Financial
4 Report Act.

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

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

11 F. ~~The requirements of Section 311A.14 of this title are to be~~
12 ~~in effect January 1, 2010.~~ An insurer or group of insurers that is
13 not required to have independent audit committee members or only a
14 majority of independent audit committee members, as opposed to a
15 supermajority, because the total written and assumed premium is
16 below the threshold and subsequently becomes subject to one of the
17 independence requirements due to changes in premium shall have one
18 (1) year following the year the threshold is exceeded, ~~but not~~
19 ~~earlier than January 1, 2010,~~ to comply with the independence
20 requirements. An insurer acquired as a result of a business
21 combination shall have one (1) calendar year following the date of
22 acquisition or combination to comply with the independence
23 requirements.
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1 G. ~~The requirements of Section 311A.16 of this title are~~
2 ~~effective beginning with the reporting period ending December 31,~~
3 ~~2010, and each year thereafter.~~ An insurer or group of insurers
4 that are not required to file a report because the total written
5 premium is below the threshold and subsequently becomes subject to
6 the reporting requirements shall have two (2) years following the
7 year the threshold is exceeded, ~~but not earlier than December 31,~~
8 ~~2010,~~ to file a report. Likewise, an insurer acquired in a business
9 combination shall have two (2) calendar years following the date of
10 acquisition or combination to comply with the reporting
11 requirements.

12 H. If an insurer or group of insurers is exempt from the
13 requirements of Section 8 of this act and no longer qualifies for
14 the exemption, they shall have one (1) year after the year the
15 threshold is exceeded to comply with the requirements of this
16 section.

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

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

1 B. For such insurers, the letter required in subsection B of
2 Section ~~§~~ 311A.6 of this ~~act~~ title shall state that the accountant
3 is aware of the requirements relating to the annual audited
4 financial report filed with the Insurance Commissioner pursuant to
5 Section ~~§~~ 311A.4 of this ~~act~~ title and shall affirm that the opinion
6 expressed is in conformity with those requirements.

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

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9 57-1-1653 CB 2/6/2019 9:33:16 AM
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