

# An Act

ENROLLED HOUSE  
BILL NO. 2403

By: Russ of the House

and

Quinn of the Senate

An Act relating to licenses and certificates; amending 36 O.S. 2011, Section 1435.13, as amended by Section 3, Chapter 294, O.S.L. 2019 (36 O.S. Supp. 2020, Section 1435.13), which relates to the Oklahoma Producer Licensing Act; requiring certain notification before termination of certain license; providing exemption; and providing an effective date.

SUBJECT: Licenses and certificates

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1435.13, as amended by Section 3, Chapter 294, O.S.L. 2019 (36 O.S. Supp. 2020, Section 1435.13), is amended to read as follows:

Section 1435.13. A. The Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew a license issued pursuant to the Oklahoma Producer Licensing Act or may levy a civil penalty in accordance with subsection D of this section or any combination of actions, for any one or more of the following causes:

1. Providing incorrect, misleading, incomplete or materially untrue information in the license application;

2. Violating any insurance laws, or violating any regulation, subpoena or order of the Insurance Commissioner or of another state's Insurance Commissioner;

3. Obtaining or attempting to obtain a license through misrepresentation or fraud;

4. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;

5. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

6. Having been convicted of a felony;

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

8. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

9. Having an insurance producer license, or its equivalent, denied, suspended, censured, placed on probation or revoked in any other state, province, district or territory;

10. Forging another's name to an application for insurance or to any document related to an insurance transaction;

11. Improperly using notes or any other reference material to complete an examination for an insurance license;

12. Knowingly accepting insurance business from an individual who is not licensed;

13. Failing to comply with an administrative or court order imposing a child support obligation;

14. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax;

15. Failing to respond to an inquiry from the Department as required in Section 1250.4 of this title; or

16. Any cause for which an original issuance of a license could have been refused.

B. 1. In the event that the action by the Insurance Commissioner is to nonrenew or to deny an application for a license, the Insurance Commissioner shall notify the applicant or licensee and advise the applicant or licensee, in writing, of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Insurance Commissioner within thirty (30) days of the date of notification of the notification by the Insurance Commissioner for a hearing before the Insurance Commissioner or an independent hearing examiner to determine the reasonableness of the Insurance Commissioner's action. The hearing shall be heard within a reasonable time period and shall be held pursuant to the Oklahoma Administrative Procedures Act.

2. The Insurance Department shall only terminate a license issued pursuant to the Oklahoma Producer Licensing Act that failed to renew after a twelve-month inactive period upon notification by first-class mail ninety (90) days prior to termination of the license. The provisions of this subsection shall not apply to a licensee that willfully and knowingly violates any provision of this Code as to which refusal, suspension or revocation is mandatory.

C. The license of a business entity may be suspended, revoked or refused if the Insurance Commissioner finds, after opportunity for hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the Insurance Commissioner nor corrective action taken.

D. In addition to or in lieu of any applicable denial, probation, censure, suspension or revocation of a license, a person may, after opportunity for hearing, be subject to a civil fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence. The penalty may be enforced in the same manner in which civil judgments may be enforced.

E. Every licensee licensed pursuant to the provisions of the Oklahoma Producer Licensing Act shall keep at the licensee's place of business the usual and customary records pertaining to transactions authorized by the license. All records as to any particular transactions shall be kept available and open to the inspection of the Commissioner at any time during business hours during the three (3) years immediately following the date of completion of the transaction. The Commissioner may require a

financial or market conduct examination during any investigation of a licensee. The cost of such examination shall be apportioned among all of the appointing insurers of the licensee.

F. The Insurance Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Oklahoma Producer Licensing Act and ~~Title 36 of the Oklahoma Statutes~~ this title against any person who is under investigation for or charged with a violation of the Oklahoma Producer Licensing Act or ~~Title 36 of the Oklahoma Statutes~~ this title even if the person's license or registration has been surrendered or has lapsed by operation of law.

G. Files pertaining to investigations or legal matters which contain information concurring a current and ongoing investigation of allegations of violations of the Oklahoma Insurance Code by a licensed agent shall not be available for public inspection without proper judicial authorization; however, a licensee under investigation for alleged violations of the Oklahoma Insurance Code, or against whom an action for alleged violations of the Oklahoma Insurance Code has been commenced, may view evidence and complaints pertaining to the investigation, other than privileged information, at reasonable times at the Commissioner's office. All qualification examination materials, booklets and answers for any license authorized to be issued by the Commissioner under any statute shall not be available for public inspection. The residence address, residence telephone number, birth date, and Social Security number of a licensee shall not be available for public inspection. A separate business or mailing address provided by the licensee shall be considered a public record. If the residence and business addresses or residence and business telephone numbers are the same, such addresses or telephone numbers shall be considered a public record.

H. The Commissioner shall promptly notify all appointing insurers, where applicable, and the licensee regarding any censure, suspension, revocation or termination of license by the Commissioner.

I. Upon suspension, revocation or termination of the license of a resident or nonresident of this state, the Commissioner shall notify the Central Office of the National Association of Insurance Commissioners, or its appropriate nonprofit affiliates and the Insurance Commissioner of each state for whom the Commissioner has executed a certificate of licensure status.

J. The Commissioner may issue a duplicate license for any lost, stolen or destroyed license issued pursuant to the Oklahoma Producer Licensing Act upon an affidavit of the licensee prescribed by the Commissioner concerning the facts of such loss, theft or destruction.

SECTION 2. This act shall become effective November 1, 2021.

Passed the House of Representatives the 28th day of April, 2021.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 14th day of April, 2021.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_