

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 SENATE BILL 1916

By: Reinhardt

6 AS INTRODUCED

7 An Act relating to the Insurance Department; amending
8 36 O.S. 2021, Sections 301, 1802, 1804, and 1805,
9 which relate to supervisors and conservators of
10 insurers; creating certain division within the
11 Insurance Department; defining terms; modifying
12 definitions; establishing certain powers for certain
13 supervisor; updating statutory language; establishing
14 certain powers for certain conservator; updating
15 statutory references; allowing the Insurance
16 Commissioner to employ or contract with certain
17 persons; establishing certain expenses as fixed by
18 the Commissioner; allowing the Commissioner to audit
19 certain persons or books; establishing certain
20 expenses as cost of administration; prohibiting
21 records to be considered certain records; prohibiting
22 disclosure of certain records in certain situations;
23 construing provisions; establishing immunity of
24 certain persons; amending 36 O.S. 2021, Sections
1901, as last amended by Section 1, Chapter 371,
O.S.L. 2023, and 1914 (36 O.S. Supp. 2025, Section
1901), which relate to rehabilitation and
liquidation; defining terms; modifying definitions;
prohibiting records to be considered certain records;
prohibiting disclosure of certain records in certain
situations; construing provisions; allowing the
Commissioner to employ or contract with certain
persons; establishing certain expenses as fixed by
the Commissioner; allowing the Commissioner to audit
certain persons or books; establishing certain
expenses as cost of administration; construing
provisions; authorizing the Oklahoma Receivership
Office to deposit certain funds; allowing combining
of certain funds; establishing use of certain funds;
establishing certain immunity and indemnification;
amending 36 O.S. 2021, Sections 1927.1 and 1937,

which relate to rehabilitation and liquidation; updating statutory language; updating statutory references; establishing purpose of certain funds for certain immunity and indemnification obligations; establishing certain protections for certain contracted persons; making language gender neutral 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. 2021, Section 301, is amended to read as follows:

Section 301. A. The Insurance Department of the State of Oklahoma is hereby created, and shall consist of such divisions, sections, bureaus, offices, and positions as may be established by the Insurance Commissioner, or by law. The Insurance Commissioner shall be the chief executive officer of the Insurance Department. The powers and duties of the Insurance Commissioner shall be those created by the Oklahoma Insurance Code. The Insurance Department shall be situated in one area in the State Capitol or some other location conveniently accessible to the general public subject to the provisions of Sections 63 and 94 of Title 74 of the Oklahoma Statutes and Section 580:20-13-5 of the Oklahoma Administrative Code.

B. There is hereby established a division within the Department to handle the administration and operation of supervisions, conservatorships, and receiverships in accordance with the

provisions of Sections 1801 through 1938 of this title. The division shall be under the direction of the Commissioner and any appointed supervisor or conservator. The Commissioner shall take all appropriate actions necessary to ensure a smooth conversion of all existing supervisions, conservatorships, and receiverships to the division by no later than January 1, 2028.

SECTION 2. AMENDATORY 36 O.S. 2021, Section 1802, is amended to read as follows:

Section 1802. As used in ~~Article 18 of the Insurance Code~~, the following words and terms set forth below shall have the meanings ascribed to them unless the context otherwise indicates this act:

1. "Commissioner" means the Insurance Commissioner of this state;

2. "Consent" means any agreement by the insurer to either supervision or conservatorship;

3. "Conservator" means the Commissioner or his or her designee;

4. "Exceeded its powers" includes, but is not limited to, the following circumstances:

a. an insurer's refusal to permit examination of its books, papers, accounts, records, or affairs by the Commissioner, his or her designee, or duly commissioned examiners; or if such insurer being organized in the State of Oklahoma removes from the

state such books, papers, accounts, or records

necessary for an examination of such insurer,

- b. an insurer's failure to promptly answer inquiries authorized by paragraph 7 of Section 1905 of this title,
- c. an insurer's neglect or refusal to observe an order of the Commissioner to make good, within the time prescribed by law, any prohibited deficiency in its capital or surplus,
- d. an insurer, without first obtaining written approval of the Commissioner, by contract or otherwise:
 - (1) totally reinsuring its entire outstanding business, or
 - (2) merging or consolidating substantially its entire property or business with another approved insurer, or
- e. an insurer continuing to write business after its license has been revoked or suspended;

5. "Insolvent" or "insolvency" means any actual or threatened

insurer delinquency including, but not limited to, any one or more

of the following circumstances:

a. an insurer's required surplus or capital is impaired to an extent prohibited by law,

1 b. an insurer continues to write new business when it is
2 not possessed of the surplus or capital required of it
3 by law,
4 c. the business of any such insurer is being conducted
5 fraudulently,
6 d. any such insurer attempts to dissolve or liquidate
7 without first having made provisions, satisfactory to
8 the Commissioner, for liabilities arising from
9 policies of insurance issued by such insurer, or
10 e. the insurer has made investments in violation of the
11 Oklahoma Insurance Code or has knowingly over-valued
12 insurer's assets;

13 6. "Insurer" is a person, organization, association or company,
14 authorized or unauthorized, admitted or nonadmitted, acting as an
15 insurer, or as principal or agent of an insurer, including any
16 domestic, foreign or alien insurer, as defined in Article 6 of the
17 Insurance Code, and including stock companies, reciprocals or
18 insurance exchanges, Lloyds Associations, fraternal benefit
19 societies, stipulated premium companies, and mutual companies of all
20 kinds, including statewide mutual assessment corporations, local
21 mutual aids, burial associations, county mutual insurance companies
22 and farm mutual insurance companies, and health maintenance
23 organizations;

1 3. "Insolvent" or "insolvency" means any actual or threatened
2 insurer delinquency including, but not limited to, any one or more
3 of the following circumstances:

4 a. an insurer's required surplus or capital is impaired
5 to an extent prohibited by law,
6 b. an insurer continues to write new business when it is
7 not possessed of the surplus or capital required of it
8 by law,
9 c. the business of any such insurer is being conducted
10 fraudulently,
11 d. any such insurer attempts to dissolve or liquidate
12 without first having made provisions, satisfactory to
13 the Commissioner, for liabilities arising from
14 policies of insurance issued by such insurer; or
15 e. the insurer has made investments in violation of the
16 Insurance Code or has knowingly over-valued insurer's
17 assets;

18 4. "Exceeded its powers" includes, but is not limited to, the
19 following circumstances:

20 a. an insurer's refusal to permit examination of its
21 books, papers, accounts, records or affairs by the
22 Commissioner, his or her deputy or duly commissioned
23 examiners; or if such insurer being organized in the
24 State of Oklahoma removes from the state such books,

~~papers, accounts or records necessary for an examination of such insurer,~~

b. an insurer's failure to promptly answer inquiries

~~authorized by Section 1905(6) of this title,~~

e. an insurer's neglect or refusal to observe an order of

the Commissioner to make good, within the time

prescribed by law, any prohibited deficiency in its

~~capital or surplus,~~

d. an insurer, without first obtaining written approval

~~of the Commissioner, by contract or otherwise:~~

(1) ~~totally reinsuring its entire outstanding~~

~~business, or~~

(2) merging or consolidating substantially its entire

~~property or business with another approved~~

~~insurer, or~~

e. an insurer continuing to write business after its

~~license has been revoked or suspended; and~~

5. "Consent" means any agreement by the insurer to either

~~supervision or conservatorship~~

7. "Oklahoma Receivership Office" means a division within the

Insurance Department that handles the administration and operation

of supervisions, conservatorships, and receiverships in accordance

with the provisions of Sections 1801 through 1938 of this title; and

8. "Supervisor" means the Commissioner or his or her designee.

1 SECTION 3. AMENDATORY 36 O.S. 2021, Section 1804, is

2 amended to read as follows:

3 Section 1804. A. During any period of supervision, the
4 Commissioner may appoint a supervisor for such insurer and provide
5 that the insurer may not do any of the following things without the
6 prior approval of the Commissioner or ~~his~~ the supervisor:

7 1. Dispose, convey or encumber any of its assets or its
8 business in force;

9 2. Withdraw funds from bank accounts;

10 3. Lend funds;

11 4. Invest funds;

12 5. Transfer property;

13 6. Incur any debt, obligation or liability;

14 7. Merge or consolidate with another company; or

15 8. Enter into any new reinsurance contract or treaty.

16 B. In addition, the Commissioner or the supervisor may require
17 of the insurer, the following:

18 1. Periodic actuarial reviews; and

19 2. That the insurer limit or cease writing certain lines of
20 insurance.

21 C. Within the limits of duties imposed upon them, appointed
22 supervisors shall possess all the powers given to a supervisor and,
23 in the exercise of those powers, shall be subject to all duties,
24 powers, and limitations imposed upon the supervisor.

1 SECTION 4. AMENDATORY 36 O.S. 2021, Section 1805, is

2 amended to read as follows:

3 Section 1805. A. If, after notice and hearing, at the
4 conclusion of the ~~90-day~~ ninety-day period the Insurance
5 Commissioner determines that the insurer has failed to comply with
6 ~~his~~ the Commissioner's lawful requirements, or upon consent of the
7 insurer, ~~he~~ the Commissioner may appoint a conservator, ~~who~~. Within
8 the limits of the duties imposed upon the conservator, the
9 conservator shall possess all the powers given to a conservator and,
10 in the exercise of those powers, shall be subject to all of the
11 duties, powers, and limitations imposed upon the conservator. The
12 conservator shall immediately:

13 1. Take charge of such insurer and all of the property, books,
14 records and effects;

15 2. Conduct its business; and

16 3. Take such other steps toward the removal of the causes and
17 conditions which have necessitated such order, as the Commissioner
18 may direct.

19 B. During the pendency of conservatorship, the conservator
20 shall make such reports as may be required by the Commissioner, and
21 may:

22 1. Take all necessary measures to preserve, protect and recover
23 any assets or property of such insurer including claims or causes of

1 action belonging to ~~or which~~ or which may be asserted by such insurer
2 in his or her own name as conservator; and

3 2. File, prosecute and defend any legal actions which have been
4 filed, or which may thereafter be filed, by or against such insurer,
5 as ~~he~~ the conservator deems necessary to protect all of the
6 interested parties or any property affected ~~thereby~~. The
7 conservator shall file all quarterly and annual reports required by
8 the Oklahoma Insurance Code and in the same manner as the insurer.

9 C. If upon appointment of a conservator or at any time during
10 the pendency of such conservatorship it appears that the insurer can
11 best be protected by reinsuring the same, the conservator may, with
12 the approval of the Commissioner, after appraisal of all assets of
13 the insurer:

14 1. Reinsure all or part of such insurer's policies or
15 certificates of insurance with any solvent insurers authorized to
16 transact business in this state; and

17 2. To the extent that such insurer is possessed of reserves
18 attributable to such policies or certificates of insurance, transfer
19 to the reinsuring company such reserves or any portion thereof as
20 may be required to consummate the reinsurance of such policies,
21 which transfer of reserves shall not be deemed a preference of
22 creditors.

23 D. If the Commissioner is satisfied that the insurer is not in
24 condition to continue business in the interest of its policy or

1 certificate holders, under the conservator, the Commissioner shall
2 apply to the appropriate court for an order appointing him or her as
3 receiver for the insurer, under the provisions of Article 18
4 Sections 1801 through 1938 of this title. It shall be in the
5 discretion of the Commissioner to determine whether or not he or she
6 will operate the insurance company through a conservator, as
7 provided above, or apply for an order appointing him the
8 Commissioner receiver.

9 ~~E. The cost incident to the supervisor's and conservator's~~
10 ~~service~~ The Commissioner may employ or contract with an appointed
11 supervisor or conservator, legal counsel, actuaries, accountants,
12 appraisers, consultants, clerks, assistants, or other personnel as
13 may be deemed necessary. Any appointed supervisor or conservator
14 with whom the Commissioner contracts pursuant to this subsection
15 shall be considered to be an agent of the Commissioner only in the
16 Commissioner's capacity as supervisor or conservator and shall not
17 be considered an agent of the state.

18 F. All expenses of the supervision or conservatorship shall be
19 fixed by the Commissioner and paid from the assets and funds of the
20 insurer as the Commissioner may determine. The cost of the
21 supervisor's or conservator's service must shall be reasonable under
22 the circumstances and shall continue no longer than necessary to
23 preserve the assets of the insurer, certificate holders and the
24 policyholders. All legal work required under this act shall be

1 performed by the Commissioner, his the appointed supervisor or
2 conservator, the Commissioner's employees, or special attorneys
3 employed by the Commissioner. The cost of such attorneys' services
4 must shall be reasonable under the circumstances and shall be paid
5 from the assets and funds of the insurer to the Commissioner.

6 G. The Commissioner, in his or her discretion, may require
7 audits to be made of the books of any appointed supervisor or
8 conservator relating to any supervision or conservatorship
9 established under this act, and a report of each audit shall be
10 filed with the Commissioner. The books, records, and other
11 documents of the supervision or conservatorship shall be made
12 available to the auditor at any time without notice. The expenses
13 of each audit shall be considered a cost of administration of the
14 supervision or conservatorship.

15 H. The records of an insurer held by the Commissioner,
16 supervisor, conservator, and his or her employees shall not be:

- 17 1. Considered records of the Insurance Department;
- 18 2. Public records;
- 19 3. Subject to subpoena; and
- 20 4. Disclosed, except in connection with administrative or
21 receivership proceedings by the Commissioner.

22 I. The provisions of any law governing the procurement of goods
23 and services by the state or an official of the executive branch
24 shall not apply to any contract entered into by the Commissioner or

1 the Commissioner's authorized signatory as conservator or
2 supervisor.

3 F. J. The supervision or conservation may continue until the
4 Commissioner ~~(1)~~ feels certain that the insurer has corrected any
5 deficiencies that caused the supervision or conservation, or ~~(2)~~ a
6 receivership has been granted by the Court.

7 SECTION 5. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1813 of Title 36, unless there
9 is created a duplication in numbering, reads as follows:

10 The Insurance Commissioner, his or her employees, current or
11 former appointed supervisor or conservator, or the supervisor's or
12 conservator's contractors shall:

13 1. Have no liability and no cause of action of any nature shall
14 arise against such person for any action taken in performance of his
15 or her powers and duties pursuant to this act; and

16 2. Be indemnified to the same extent as a receiver and the
17 receiver's employees and contractors are indemnified pursuant to
18 Section 1937 of Title 36 of the Oklahoma Statutes.

19 SECTION 6. AMENDATORY 36 O.S. 2021, Section 1901, as
20 last amended by Section 1, Chapter 371, O.S.L. 2023 (36 O.S. Supp.
21 2025, Section 1901), is amended to read as follows:

22 Section 1901. ~~For the purpose of Article 19 of the Oklahoma~~
23 ~~Insurance Code~~ As used in this act:

1 1. "Ancillary state" means any state other than a domiciliary
2 state;

3 2. "Delinquency proceeding" means any proceeding commenced
4 against an insurer pursuant to this act for the purpose of
5 liquidating, rehabilitating, reorganizing, or conserving such
6 insurer;

7 3. "Domiciliary state" means the state in which an insurer is
8 incorporated or organized, or in the case of an insurer incorporated
9 or organized in a foreign country, the state in which such insurer,
10 having become authorized to do business in such state, has at the
11 commencement of delinquency proceedings the largest amount of its
12 assets held in trust and assets held on deposit for the benefit of
13 its policyholders or policyholders and creditors in the United
14 States, and any such insurer deemed to be domiciled in such state;

15 4. "Foreign country" means territory not in any state;

16 5. "General assets" means all property, real, personal, or
17 otherwise, not specifically mortgaged, pledged, deposited, or
18 otherwise encumbered for the security or benefit of specified
19 persons or a limited class or classes of persons, and as to such
20 specifically encumbered property, the term includes all such
21 property or its proceeds in excess of the amount necessary to
22 discharge the sum or sums secured. Assets held in trust and assets
23 held on deposit for the security or benefit of all policyholders or

1 all policyholders and creditors in the United States shall be deemed
2 general assets;

3 6. "Insurer" means any person, firm, corporation, health
4 maintenance organization, association, or aggregation of persons
5 doing an insurance business and subject to the insurance supervisory
6 authority of, or to liquidation, rehabilitation, reorganization, or
7 conservation by the Insurance Commissioner or the equivalent
8 insurance supervisory official of another state;

9 7. "Impairment" or "insolvency" means the capital of a stock
10 insurer, or limited stock life, accident and health insurer, the net
11 assets of a Lloyds association, or the surplus of a mutual or
12 reciprocal insurer, shall be deemed to be impaired and the insurer
13 shall be deemed to be insolvent, when such insurer shall not be
14 possessed of assets at least equal to all liabilities and required
15 reserves together with its total issued and outstanding capital
16 stock if a stock insurer, the net assets if a Lloyds association, or
17 the minimum surplus if a mutual or reciprocal insurer required by
18 this Code to be maintained for the kind or kinds of insurance it is
19 then authorized to transact;

20 2. "Insurer" means any person, firm, corporation, health
21 maintenance organizations, association or aggregation of persons
22 doing an insurance business and subject to the insurance supervisory
23 authority of, or to liquidation, rehabilitation, reorganization or

1 conservation by the Insurance Commissioner or the equivalent
2 insurance supervisory official of another state;

3 3. "Delinquency proceeding" means any proceeding commenced
4 against an insurer pursuant to this article for the purpose of
5 liquidating, rehabilitating, reorganizing or conserving such
6 insurer;

7 4. "State" means any state of the United States and also the
8 District of Columbia and Puerto Rico;

9 5. "Foreign country" means territory not in any state;

10 6. "Domiciliary state" means the state in which an insurer is
11 incorporated or organized, or in the case of an insurer incorporated
12 or organized in a foreign country, the state in which such insurer,
13 having become authorized to do business in such state, has at the
14 commencement of delinquency proceedings, the largest amount of its
15 assets held in trust and assets held on deposit for the benefit of
16 its policyholders or policyholders and creditors in the United
17 States, and any such insurer is deemed to be domiciled in such
18 state;

19 7. "Ancillary state" means any state other than a domiciliary
20 state;

21 8. "Reciprocal state" means any state other than this state
22 that has enacted a law that sets forth a scheme for the
23 administration of an insurer in receivership by the state's
24 insurance commissioner or comparable insurance regulatory official;

1 9. "General assets" means all property, real, personal or
2 otherwise, not specifically mortgaged, pledged, deposited or
3 otherwise encumbered for the security or benefit of specified
4 persons or a limited class or classes of persons, and as to such
5 specifically encumbered property the term includes all such property
6 or its proceeds in excess of the amount necessary to discharge the
7 sum or sums secured thereby. Assets held in trust and assets held
8 on deposit for the security or benefit of all policyholders or all
9 policyholders and creditors in the United States shall be deemed
10 general assets;

11 10. "Preferred claim" means any claim with respect to which the
12 law of the state or of the United States accords priority of
13 payments from the general assets of the insurer;

14 8. "Oklahoma Receivership Office" means a division within the
15 Insurance Department that handles the administration and operation
16 of supervisions, conservatorships, and receiverships in accordance
17 with the provisions of Sections 1801 through 1938 of this title;

18 9. "Preferred claim" means any claim with respect to which the
19 laws of the state or of the United States accords priority of
20 payments from the general assets of the insurer;

21 10. "Receiver" means a receiver, liquidator, rehabilitator, or
22 conservator as the context may require;

23 11. "Reciprocal state" means any state other than this state
24 that has enacted a law that sets forth a scheme for the

1 administration of an insurer in receivership by the state's
2 insurance commissioner or comparable insurance regulatory official;

3 12. "Secured claim" means any claim secured by mortgage, trust
4 deed, pledge, deposit as security, escrow, or otherwise, but not
5 including special deposit claim or claims against general assets.

6 The term also includes claims that more than four (4) months prior
7 to the commencement of delinquency proceedings in the state of the
8 insurer's domicile have become liens upon specific assets by reason
9 of judicial process;

10 11. 13. "Special deposit claim" means any claim secured by a
11 deposit made pursuant to statute for the security or benefit of a
12 limited class or classes of persons, but not including any general
13 assets;

14 12. "Secured claim" means any claim secured by mortgage, trust
15 deed, pledge, deposit as security, escrow, or otherwise, but not
16 including special deposit claim or claims against general assets.

17 The term also includes claims which more than four (4) months prior
18 to the commencement of delinquency proceedings in the state of the
19 insurer's domicile have become liens upon specific assets by reason
20 of judicial process;

21 13. "Receiver" means receiver, liquidator, rehabilitator, or
22 conservator as the context may require; and

1 14. "State" means any state, territory, or district of the
2 United States including, but not limited to, the District of
3 Columbia and Puerto Rico; and

4 15. "Qualified financial contract" means a commodity contract,
5 forward contract, repurchase agreement, securities contract, swap
6 agreement, and any similar agreement the Commissioner determines by
7 rule, regulation, resolution, or order to be a qualified financial
8 contract.

9 SECTION 7. AMENDATORY 36 O.S. 2021, Section 1914, is
10 amended to read as follows:

11 Section 1914. A. Whenever under ~~this article~~ Section 1901
12 through 1938 of this title a receiver is to be appointed in
13 delinquency proceedings for a domestic or alien insurer, the court
14 shall appoint the Insurance Commissioner as the receiver. The court
15 shall order the ~~Insurance~~ Commissioner forthwith to take possession
16 of the assets of the insurer and to administer the same under the
17 orders of the court.

18 B. 1. As domiciliary receiver, the ~~Insurance~~ Commissioner
19 shall be vested by operation of law with the title to all of the
20 property, contracts, and rights of action and all of the books and
21 records of the insurer, wherever located, as of the date of entry of
22 the order directing the Commissioner to rehabilitate or liquidate a
23 domestic insurer or to liquidate the United States branch of an
24 alien insurer domiciled in this state, and the Commissioner shall

1 have the right to recover the same and reduce the same to
2 possession; except that ancillary receivers in reciprocal states
3 shall have, as to assets located in their respective states, the
4 rights and powers which are herein prescribed for ancillary
5 receivers appointed in this state as to assets located in this
6 state.

7 2. The records of an insurer held by the Commissioner as
8 receiver, the assistant receiver, and his or her employees, shall
9 not be:

- 10 a. considered records of the Insurance Department,
- 11 b. public records,
- 12 c. subject to subpoena, and
- 13 d. disclosed except in connection with administrative or
14 receivership proceedings by the Commissioner.

15 C. The recording of a certified copy of the order directing
16 possession to be taken in the office of the county clerk of the
17 county where the proceedings are pending shall impart the same
18 notice as would be imparted by a deed, bill of sale, or other
19 evidence of title duly recorded or filed.

20 D. The ~~Insurance~~ Commissioner as domiciliary receiver shall be
21 responsible for the proper administration of all assets coming into
22 the Commissioner's possession or control. The court may at any time
23 require a bond from the Commissioner or any assistants or deputies
24 if deemed desirable for the protection of the assets.

1 E. Upon taking possession of the assets of an insurer, the
2 domiciliary receiver shall, subject to the direction of the court,
3 immediately proceed to conduct the business of the insurer or to
4 take such steps as are authorized by this article for the purpose of
5 rehabilitating, liquidating, or conserving the affairs or assets of
6 the insurer.

7 F. 1. In connection with delinquency proceedings, the
8 Insurance Commissioner may appoint one or more assistant
9 ~~commissioners receivers~~ to act for the Commissioner ~~and may employ~~
10 ~~such counsel, clerks, and assistants as are deemed necessary.~~ The
11 Commissioner may employ or contract with an assistant receiver,
12 legal counsel, actuaries, accountants, appraisers, consultants,
13 clerks, assistants, or other contractors as may be deemed necessary.
14 Any appointed assistant receiver with whom the Commissioner
15 contracts pursuant to this subsection shall be considered to be an
16 agent of the Commissioner only in the Commissioner's capacity as
17 receiver and shall not be considered an agent of the state.

18 2. The compensation of the assistant ~~commissioners receivers~~,
19 counsel, actuaries, accountants, consultants, clerks, assistants, or
20 deputies other contractors and all expenses of taking possession of
21 the insurer and of conducting the proceedings shall be fixed by the
22 receiver, subject to the approval of the court, and shall be paid
23 out of the funds or assets of the insurer. Within the limits of
24 duties imposed upon them, assistant ~~commissioners receivers~~ shall

1 possess all the powers given to the receiver and, in the exercise of
2 those powers, shall be subject to all of the duties, powers, and
3 limitations imposed upon the receiver with respect to such
4 proceedings.

5 2. 3. The Commissioner, as receiver, ~~is~~ shall be prohibited
6 from appointing any person who is related to the Commissioner within
7 the third degree of consanguinity or affinity. Any appointment in
8 violation of this paragraph ~~is~~ shall be void.

9 3. 4. The Commissioner, as receiver, ~~is~~ shall be prohibited
10 from entering into any contract with any person who is related to
11 the Commissioner within the third degree of consanguinity or
12 affinity. Any contract in violation of this paragraph ~~is~~ shall be
13 void.

14 G. The court, as it seems desirable, may require audits to be
15 made of the books of the receiver relating to any receivership
16 established pursuant to this act, and a report of each audit shall
17 be filed with the receiver and the court. The books, records, and
18 other documents of the receivership shall be made available to the
19 auditor at any time without notice. The expenses of each audit
20 shall be considered a cost of administration of the receivership.

21 H. The provisions of any law governing the procurement of goods
22 and services by the state or an official of the executive branch
23 shall not apply to any contract entered into by the Commissioner or
24 the Commissioner's authorized signatory as receiver.

1 SECTION 8. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 1914.1 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Oklahoma Receivership Office shall be authorized to
5 deposit funds and assets held prior to the effective date of this
6 act pursuant to Sections 1901 through 1938 of Title 36 of the
7 Oklahoma Statutes into one or more accounts or investment accounts,
8 in one or more state or national banks, saving banks, savings and
9 loan associations, trust companies, investment firms, or other
10 appropriate financial institutions. Funds deposited pursuant to
11 this section may be:

12 1. Combined to yield the highest rate of return on deposits, or
13 in any other way to facilitate the efficient operation of the
14 Oklahoma Receivership Office and the respective receiverships under
15 its jurisdiction; and

16 2. Used for the purpose of operating the division, for the
17 expenses of the respective jurisdiction in accordance with the
18 provisions of Sections 1901 through 1938 of Title 36 of the Oklahoma
19 Statutes.

20 B. Funds deposited pursuant to subsection A of this section
21 shall be continuing funds, are not funds of this state, the
22 Insurance Department, or any other agency of this state, and shall
23 be in no way commingled or combined with funds of this state.

1 SECTION 9. AMENDATORY 36 O.S. 2021, Section 1927.1, is

2 amended to read as follows:

3 Section 1927.1. A. The priority of distribution of claims from
4 the insurer's estate shall be in accordance with the order in which
5 each class of claims is set forth in this section. Before the
6 members of the next class receive any payment, every claim in each
7 class shall be:

8 1. Paid in full; or

9 2. Protected by adequate funds retained for such payment.

10 Once such funds are approved by the court and paid or retained by
11 the liquidator, the insurer's estate shall have no further liability
12 to members of that class except to the extent of the retained funds
13 and any other undistributed funds. Payment of retained funds
14 pursuant to court order under this section extinguishes the
15 potential liability of the receiver to the United States or any
16 other governmental entity. No subclasses shall be established
17 within any class except as otherwise provided by law. No claim by a
18 shareholder, policyholder or other creditor shall be permitted to
19 circumvent the priority classes through the use of equitable
20 remedies. The order of distribution of claims shall be as provided
21 in subsection B of this section.

22 B. 1. Class 1. The reasonable costs and expenses of
23 administration expressly approved by the receiver, including but not
24 limited to the following:

- 1 a. the actual and necessary costs of preserving or
- 2 recovering the assets of the insurer,
- 3 b. compensation for all authorized services rendered in
- 4 the conservation, rehabilitation or liquidation,
- 5 c. any necessary filing or recordation fees,
- 6 d. the fees and mileage payable to witnesses, including
- 7 experts, and other litigation costs and expenses,
- 8 e. authorized reasonable attorney fees and other
- 9 professional services rendered in the conservation,
- 10 rehabilitation or liquidation, and
- 11 f. any reasonable expenses that were incurred in
- 12 furtherance of activities that provided a material
- 13 economic benefit to the estate.

14 2. Class 2. The administrative expenses of guaranty

15 associations. For purposes of this section these expenses shall be

16 the reasonable expenses incurred by guaranty associations where the

17 expenses are not payments or expenses which are required to be

18 incurred as direct policy benefits in fulfillment of the terms of

19 the insurance contract or policy, and that are of the type and

20 nature that, but for the activities of the guaranty association

21 otherwise would have been incurred by the receiver, including but

22 not limited to evaluations of policy coverage, activities involved

23 in the adjustment and settlement of claims under policies, including

24 those of in-house or outside adjusters, and the reasonable expenses

1 incurred in connection with the arrangements for ongoing coverage
2 through transfer to other insurers, policy exchanges or maintaining
3 policies in force. The receiver may in his or her sole discretion
4 approve as an administrative expense under this section any other
5 reasonable expenses of the guaranty association if the receiver
6 finds:

- 7 a. the expenses are not expenses required to be paid or
8 incurred as direct policy benefits by the terms of the
9 policy, and
- 10 b. the expenses were incurred in furtherance of
11 activities that provided a material economic benefit
12 to the estate as a whole, irrespective of whether the
13 activities resulted in additional benefits to covered
14 claimants.

15 The court shall approve such expenses unless it finds the receiver
16 abused his or her discretion in approving the expenses. If the
17 receiver determines that any administrative expenses of a guaranty
18 association were not reasonable expenses, but were nevertheless paid
19 out of a statutory deposit or the proceeds of any bond or other
20 asset located in another state or foreign country, then the court
21 shall adjudge the Class 3 claims of that association to have been
22 paid to the extent of the amount of unreasonable expenses thus paid
23 from those assets.

1 If the receiver determines that the assets of the estate will be
2 sufficient to pay all Class 1 claims in full, Class 2 claims shall
3 be paid, provided that the liquidator shall secure from each of the
4 associations receiving disbursements pursuant to this section an
5 agreement to return to the liquidator such disbursements, together
6 with investment income actually earned on such disbursements, as may
7 be required to pay Class 1 claims. No bond shall be required of any
8 such association.

9 3. Class 3. All claims under policies including claims of the
10 federal or any state or local government for losses incurred ("loss
11 claims") including third-party claims, claims for unearned premiums,
12 all claims of a guaranty association for payment of covered claims
13 or covered obligations of the insurer and all claims of a guaranty
14 association for reasonable expenses other than those included in
15 Class 2. All claims under life and health insurance and annuity
16 policies, whether for death proceeds, health benefits, annuity
17 proceeds, or investment values shall be treated as loss claims.
18 That portion of any loss, indemnification for which is provided by
19 other benefits or advantages recovered by the claimant, shall not be
20 included in this class, other than benefits or advantages recovered
21 or recoverable in discharge of familial obligation of support or by
22 way of succession at death or as proceeds of life insurance, or as
23 gratuities. No payment by an employer to his employee shall be
24 treated as a gratuity.

1 Notwithstanding the foregoing, the following claims shall be
2 excluded from Class 3 priority:

- 3 a. obligations of the insolvent insurer arising out of
4 reinsurance contracts,
- 5 b. obligations incurred after the expiration date of the
6 insurance policy or after the policy has been replaced
7 by the insured or canceled at the insured's request or
8 after the policy has been canceled as provided in this
9 act. Notwithstanding the provisions of this
10 paragraph, earned premium claims on policies, other
11 than reinsurance agreements, shall not be excluded,
- 12 c. obligations to insurers, insurance pools or
13 underwriting associations and their claims for
14 contribution, indemnity or subrogation, equitable or
15 otherwise,
- 16 d. any claim which is in excess of any applicable limits
17 provided in the insurance policy issued by the
18 insolvent insurer,
- 19 e. any amount accrued as punitive or exemplary damages
20 unless expressly covered under the terms of the
21 policy, and
- 22 f. tort claims of any kind against the insurer, and
23 claims against the insurer for bad faith or wrongful
24 settlement practices.

1 4. Class 4. Claims of the federal government other than those
2 claims included in Class 3.

3 5. Class 5. Debts due employees for services, benefits,
4 contractual or otherwise due arising out of such reasonable
5 compensation to employees for services performed to the extent that
6 they do not exceed two (2) months of monetary compensation and
7 represent payment for services performed within six (6) months
8 before the filing of the petition for liquidation or, if
9 rehabilitation preceded liquidation, within one (1) year before the
10 filing of the petition for rehabilitation. Principal officers and
11 directors shall not be entitled to the benefit of this priority
12 except as otherwise approved by the liquidator and the court. This
13 priority shall be in lieu of any other similar priority which may be
14 authorized by law as to wages or compensation of employees.

15 6. Class 6. Claims of any person, including claims of state or
16 local governments, except those specifically classified elsewhere in
17 this section.

18 7. Class 7. Claims for commissions and service fees, and
19 claims of attorneys for fees and expenses owed them by a person for
20 services rendered in opposing a formal delinquency proceeding. In
21 order to prove the claim, the claimant ~~must~~ shall show that the
22 insurer which is the subject of the delinquency proceeding incurred
23 such fees and expenses based on its best knowledge, information and
24 belief, formed after reasonable inquiry indicating opposition was in

1 the best interests of the person, was well grounded in fact and was
2 warranted by existing law or a good-faith argument for the
3 extension, modification or reversal of existing law, and that
4 opposition was not pursued for any improper purpose, such as to
5 harass or to cause unnecessary delay or needless increase in the
6 cost of the litigation.

7 8. Class 8. Claims of any state or local government for a
8 penalty or forfeiture, but only to the extent of the pecuniary loss
9 sustained from the act, transaction or proceeding out of which the
10 penalty or forfeiture arose, with reasonable and actual costs
11 occasioned thereby. The remainder of such claims shall be postponed
12 to the class of claims under paragraph 9 of this subsection.

13 9. Class 9. Surplus or contribution notes or similar
14 obligations, premium refunds on assessable policies, interest on
15 claims of Classes 1 through 8 and any other claims specifically
16 subordinated to this class.

17 10. Class 10. a. Claims of shareholders or other owners
18 arising out of their capacity as shareholders or other owners, or
19 arising in any other capacity or facts except as they may be
20 qualified in Class 3 or 4 above; provided, however, that no
21 shareholder, member or other owner shall be entitled to, or receive,
22 any distribution from the insolvent insurer's estate under this
23 paragraph, if:

(1) a. the intentional wrongdoing, fraud, gross negligence, negligence or other act, failure to act, transaction or proceeding of such shareholder, member or owner, alone or in concert with others, or of a director or officer of the insolvent insurer, is found by a court of competent jurisdiction or by the receiver in his or her reasonable discretion, to have caused, or to have been a contributing factor to, the insolvency of the insolvent insurer,

(2) b. funds were collected from the shareholder, member or other owner, either directly or through an insurance carrier, fidelity bond issuer or other entity, as a consequence of, or related to, a claim made or brought by the receiver of said insurer, or

(3) c. any of the funds available for distribution consist of punitive damages recovered by the receiver of said estate from any source based upon any claim made or brought by the receiver.

1. In the event there is no eligible shareholder, member or
holder entitled to distribution in accordance with this
+ section, the remaining funds and other property of the
+ insurer's estate, if any, shall be distributed to a fund
+ named and held in the name of, and for the use and benefit of,
+ a receiver, through the Oklahoma Receivership Office ~~or any~~

1 similar entity established by the receiver, which shall be used in
2 the administration of other insurers in rehabilitation or
3 liquidation.

4 b. 2. All funds distributed to the receiver under this
5 paragraph shall be advanced to and utilized by the receiver's staff
6 engaged in the rehabilitation or liquidation of insolvent insurance
7 business companies for the following purposes:

8 (1) a. the administration of liquidations of estates which
9 temporarily or permanently do not have the financial
10 capability to administer the liquidation, including
11 the prosecution of claims of the receiver, or
12 (2) b. the prosecution of petitions to place insurers in
13 rehabilitation or liquidation, or
14 c. the immunity and indemnification obligations of the
15 insurer pursuant to Section 1937 of this title.

16 ~~In the event such 3. Such funds are distributed to or for an~~
17 ~~insolvent insurer, the receiver shall obtain from the insurer a~~
18 ~~promissory note or other evidence of indebtedness, secured by~~
19 ~~collateral if possible, for the amount distributed, which shall be~~
20 treated as a Class 1 expense under paragraph 1 of this subsection.
21 The receiver shall make good-faith efforts to collect reimbursement
22 of any such loans. ~~No funds distributed to the receiver under this~~
23 ~~paragraph shall be used to pay claims other than Class 1 claims~~
24 ~~under paragraph 1 of this subsection.~~ The funds are not funds of

1 the State of Oklahoma this state and are not funds of the Oklahoma
2 Insurance Department or any other agency of the State of Oklahoma
3 this state.

4 ~~This paragraph shall apply to the administration of all receivership~~
5 ~~estates open and ongoing as of November 1, 2014, and to all~~
6 ~~receivership proceedings commenced after November 1, 2014.~~

7 C. D. If any claimant of this state, another state or foreign
8 country shall be entitled to or shall receive a dividend upon his or
9 her claim out of a statutory deposit or the proceeds of any bond or
10 other asset located in another state or foreign country, unless such
11 deposit or proceeds shall have been delivered to the domiciliary
12 liquidator, then the claimants shall not be entitled to any further
13 dividend from the receiver until and unless all other claimants of
14 the same class, irrespective of residence or place of the acts or
15 contracts upon which their claims are based, shall have received an
16 equal dividend upon their claims, and after such equalization, such
17 claimants shall be entitled to share in the distribution of further
18 dividends by the receiver, along with and like all other creditors
19 of the same class, wheresoever residing.

20 D. E. Upon the declaration of a dividend, the receiver shall
21 apply the amount of the dividend against any indebtedness owed to
22 the insurer by the person entitled to the dividend. There shall be
23 no claim allowed for any deductible charged by a guaranty
24 association or entity performing a similar function.

1 E. F. This section shall apply to pending and future claims in
2 existing delinquency proceedings as well as to claims in delinquency
3 proceedings arising after the effective date of this section.

4 F. G. If any provision of this section or the application
5 thereof to any person or circumstances is held invalid, such
6 invalidity shall not affect other provisions or application of this
7 section to the extent such other provisions or application can be
8 given effect without the invalid provision or application.

9 SECTION 10. AMENDATORY 36 O.S. 2021, Section 1937, is
10 amended to read as follows:

11 Section 1937. A. For the purposes of this section the persons
12 entitled to protection under this section are:

13 1. The receiver, assistant receiver, and retained counsel
14 responsible for the conduct of a delinquency proceeding under
15 Article 19 of the Insurance Code, including present and former
16 receivers; and

17 2. Their employees meaning all present and former assistant
18 receivers and attorneys for the receiver appointed by the Insurance
19 Commissioner and all persons whom the Commissioner, assistant
20 receiver or retained counsel have employed, or contracted with, to
21 assist in a delinquency proceeding ~~under Article 19 of the Insurance~~
22 ~~Code pursuant to Sections 1901 through 1938 of this title.~~

23 Attorneys, accountants, auditors and other professional persons or
24 firms, who are retained by the receiver as independent contractors

1 and their employees shall not be considered employees of the
2 receiver for purposes of this section.

3 B. If any legal action is commenced against the receiver or any
4 employee, whether against him such person personally or in his or
5 her official capacity, alleging property damage, property loss,
6 personal injury or other civil liability caused by or resulting from
7 any alleged act, error or omission of the receiver or any employee
8 arising out of or by reason of their his or her duties or
9 employment, the receiver and any employee shall be indemnified from
10 the assets of the insurer for all expenses, attorneys' fees,
11 judgments, settlements, decrees or amounts due and owing or paid in
12 satisfaction of or incurred in the defense of such legal action
13 unless it is determined upon a final adjudication on the merits that
14 the alleged act, error or omission of the receiver or employee
15 giving rise to the claim did not arise out of or by reason of his
16 duties or employment, or was caused by intentional or willful and
17 wanton misconduct.

18 1. Attorneys' fees and any and all related expenses incurred in
19 defending a legal action for which immunity or indemnity is
20 available under this section shall be paid from the assets of the
21 insurer, as they are incurred, in advance of the final disposition
22 of such action upon receipt of an undertaking by or on behalf of the
23 receiver or employee to repay the attorneys' fees and expenses if it
24 shall ultimately be determined upon a final adjudication on the

1 merits that the receiver or employee is not entitled to immunity or
2 indemnity under this section.

3 2. Any indemnification for expense payments, judgments,
4 settlements, decrees, attorneys' fees, surety bond premiums or other
5 amounts paid or to be paid from the insurer's assets pursuant to
6 this section shall be an administrative expense of the insurer.

7 3. In the event of any actual or threatened litigation against
8 a receiver or any employee for which immunity or indemnity may be
9 available under this section, a reasonable amount of funds which in
10 the judgment of the Insurance Commissioner may be needed to provide
11 immunity or indemnity shall be segregated and reserved from the
12 assets of the insurer as security for the payment of indemnity until
13 such time as all applicable statutes of limitation shall have run
14 and all actual or threatened actions against the receiver or any
15 employee have been completely and finally resolved, and all
16 obligations of the insurer and the Commissioner under this section
17 shall have been satisfied.

18 4. In lieu of segregation and reserving of funds, the ~~Insurance~~
19 Commissioner shall have the discretion to obtain a surety bond or
20 make other arrangements which shall enable the Commissioner to fully
21 secure the payment of all obligations under pursuant to this
22 section.

23 C. If any legal action against an employee for which indemnity
24 may be available under pursuant to this section is settled prior to

1 final adjudication on the merits, the insurer ~~must~~ shall pay the
2 settlement amount on behalf of the employee, or indemnify the
3 employee for the settlement amount, unless the ~~Insurance~~
4 Commissioner determines:

5 1. That the claim did not arise out of or by reason of the
6 employee's duties or employment; or

7 2. That the claim was caused by the intentional or willful and
8 wanton misconduct of the employee.

9 D. In any legal action in which the receiver is a defendant,
10 that portion of any settlement relating to the alleged act, error or
11 omission of the receiver shall be subject to the approval of the
12 court before which the delinquency proceeding is pending. The court
13 shall not approve that portion of the settlement if it determines:

14 1. That the claim did not arise out of or by reason of the
15 receiver's duties or employment; or

16 2. That the claim was caused by the intentional or willful and
17 wanton misconduct of the receiver.

18 E. Nothing contained or implied in this section shall operate,
19 or be construed or applied to deprive the receiver or any employee
20 of any immunity, indemnity, benefits of law, rights or any defense
21 otherwise available.

22 F. 1. No legal action shall lie against the receiver or any
23 employee based in whole or in part on any alleged act, error or
24 omission which took place prior to September 1, 1992, unless suit is

1 filed and valid service of process is obtained prior to September 1,
2 1993.

3 2. Subsections B, C, and D of this section shall apply to any
4 suit which is pending on or filed after September 1, 1992, without
5 regard to when the alleged act, error or omission took place.

6 SECTION 11. This act shall become effective November 1, 2026.

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