

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 455 By: Brown of the Senate
3 and
4 Kirby of the House
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7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 309.4, which relates to examination reports;
9 eliminating requirement that insurance companies
10 deliver certain reports and orders; amending 36 O.S.
11 2011, Section 312A, which relates to enforcement and
12 recording of penalties and fees; specifying types of
13 civil penalties and fees that may be enforced in
14 certain manner; amending 36 O.S. 2011, Section 348.1,
15 as amended by Section 3, Chapter 275, O.S.L. 2014 (36
16 O.S. Supp. 2014, Section 348.1), which relates to
17 fees and licenses; updating citation; amending 36
18 O.S. 2011, Sections 608 and 609, which relate to
19 authorization of insurers; updating and deleting
20 citations; amending 36 O.S. 2011, Section 903.2, as
21 amended by Section 16, Chapter 254, O.S.L. 2013 (36
22 O.S. Supp. 2014, Section 903.2), which relates to the
23 Oklahoma Insurance Rating Act; modifying filing
24 requirements; amending 36 O.S. 2011, Section 1435.2,
which relates to the Oklahoma Producer Licensing Act;
modifying definition; updating citations; amending 36
O.S. 2011, Section 1441.1, which relates to the
Third-Party Administrator Act; updating citations;
amending 36 O.S. 2011, Section 1524, as amended by
Section 6, Chapter 269, O.S.L. 2013 (36 O.S. Supp.
2014, Section 1524), which relates to the Risk-based
Capital for Insurers Act; modifying required contents
of certain required plan; amending 36 O.S. 2011,
Section 1674, which relates to the Business
Transacted with Producer Controlled Insurer Act;
updating reference; amending 36 O.S. 2011, Section
4502, which relates to group accident and health
insurance policies; modifying required policy
provisions; making language gender neutral; amending
36 O.S. 2011, Section 6041, which relates to payments
for emergency living expenses; expanding authorized

1 forms of payments; amending 36 O.S. 2011, Section
2 6103.3, which relates to acts of insurance business;
3 specifying certain persons for which certain remedies
4 will applicable; specifying certain prohibited acts;
5 amending 36 O.S. 2011, Section 6811, which relates to
6 the Medical Professional Liability Insurance Closed
7 Claim Reports Act; authorizing the Insurance
8 Commissioner to require certain filings; requiring
9 certain reports be filed within certain time;
10 eliminating requirement that certain claims be
11 reported; repealing 36 O.S. 2011, Sections 924.4, as
12 amended by Section 1, Chapter 44, O.S.L. 2012 and
13 924.5, as amended by Section 2, Chapter 44, O.S.L.
14 2012 (36 O.S. Supp. 2014, Sections 924.4 and 924.5),
15 which relate to affidavits of exempt status; and
16 providing an effective date.

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AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
and insert

"An Act relating to insurance; amending 36 O.S. 2011,
Section 309.4, which relates to examination reports;
eliminating requirement that insurance companies
deliver certain reports and orders; amending 36 O.S.
2011, Section 312A, which relates to enforcement and
recording of penalties and fees; specifying types of
civil penalties and fees that may be enforced in
certain manner; amending 36 O.S. 2011, Section
348.1, as amended by Section 3, Chapter 275, O.S.L.
2014 (36 O.S. Supp. 2014, Section 348.1), which
relates to fees and licenses; updating citation;
amending 36 O.S. 2011, Sections 608 and 609, which
relate to authorization of insurers; updating and
deleting citations; amending 36 O.S. 2011, Section
903.2, as amended by Section 16, Chapter 254, O.S.L.
2013 (36 O.S. Supp. 2014, Section 903.2), which
relates to the Oklahoma Insurance Rating Act;
modifying filing requirements; amending 36 O.S.
2011, Section 1435.2, which relates to the Oklahoma

1 Producer Licensing Act; modifying definition;
2 updating citations; amending 36 O.S. 2011, Section
3 1441.1, which relates to the Third-Party
4 Administrator Act; updating citations; amending 36
5 O.S. 2011, Section 1524, as amended by Section 6,
6 Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2014,
7 Section 1524), which relates to the Risk-based
8 Capital for Insurers Act; modifying required
9 contents of certain required plan; amending 36 O.S.
10 2011, Section 1674, which relates to the Business
11 Transacted with Producer Controlled Insurer Act;
12 updating reference; amending 36 O.S. 2011, Section
13 4502, which relates to group accident and health
14 insurance policies; modifying required policy
15 provisions; making language gender neutral; amending
16 36 O.S. 2011, Section 6041, which relates to
17 payments for emergency living expenses; expanding
18 authorized forms of payments; amending 36 O.S. 2011,
19 Section 6103.3, which relates to acts of insurance
20 business; specifying certain persons for which
21 certain remedies will be applicable; specifying
22 certain prohibited acts; amending 36 O.S. 2011,
23 Sections 6470.2, as amended by Section 5, Chapter
24 41, O.S.L. 2013, 6470.3, as last amended by Section
6, Chapter 41, O.S.L. 2013, 6470.6, as amended by
Section 7, Chapter 41, O.S.L. 2013, 6470.10, as
amended by Section 8, Chapter 41, O.S.L. 2013,
6470.12, as amended by Section 10, Chapter 41,
O.S.L. 2013, 6470.15, as amended by Section 13,
Chapter 41, O.S.L. 2013, 6470.16, as amended by
Section 14, Chapter 41, O.S.L. 2013, 6470.19, as
last amended by Section 16, Chapter 41, O.S.L. 2013,
6470.20, as amended by Section 17, Chapter 41,
O.S.L. 2013, 6470.25, 6470.27, as amended by Section
19, Chapter 41, O.S.L. 2013, 6470.29, as amended by
Section 21, Chapter 41, O.S.L. 2013 and 6470.30, as
amended by Section 22, Chapter 41, O.S.L. 2013 (36
O.S. Supp. 2014, Sections 6470.2, 6470.3, 6470.6,
6470.10, 6470.12, 6470.15, 6470.16, 6470.19,
6470.20, 6470.27, 6470.29 and 6470.30), which relate
to the Oklahoma Captive Insurance Company Act;
modifying definitions; modifying prohibitions for
captive insurance companies; modifying unimpaired
paid-in capital and surplus requirements; modifying
application of the Oklahoma Insurance Code;
modifying requirements for public notice and
hearing; authorizing insurers holding insurance

1 license from another state to become an Oklahoma
2 domiciled captive insurer under certain
3 circumstances; modifying insurers that file annual
4 actuarial opinion; modifying investment
5 requirements; modifying reinsurance authorization;
6 modifying tax application to certain protected
7 cells; clarifying application of sanctions;
8 modifying rules establishing certain standards;
9 expanding types of entities that may be a sponsor of
10 a captive insurance company; providing for the
11 formation of entity-protected cells; defining term;
12 providing powers of entity-protected cells;
13 providing certain requirements for articles of
14 incorporation or articles of organization; providing
15 certain option; amending 36 O.S. 2011, Section 6811,
16 which relates to the Medical Professional Liability
17 Insurance Closed Claim Reports Act; authorizing the
18 Insurance Commissioner to require certain filings;
19 requiring certain reports be filed within certain
20 time; eliminating requirement that certain claims be
21 reported; repealing 36 O.S. 2011, Sections 924.4, as
22 amended by Section 1, Chapter 44, O.S.L. 2012 and
23 924.5, as amended by Section 2, Chapter 44, O.S.L.
24 2012 (36 O.S. Supp. 2014, Sections 924.4 and 924.5),
which relate to affidavits of exempt status;
repealing 36 O.S. 2011, Section 6470.23, which
relates to laws pertaining to captive insurance
companies; 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 309.4, is
amended to read as follows:

Section 309.4 A. All examination reports shall be comprised of
only facts appearing upon the books, records, or other documents of
the company, its agents or other persons examined, or as ascertained
from the testimony of its officers or agents or other persons
examined concerning its affairs, and such conclusions and

1 recommendations as the examiners find reasonably warranted from such
2 facts.

3 B. No later than thirty (30) days following completion of the
4 examination, the examiner in charge shall file with the Insurance
5 Department a verified written report of examination under oath.
6 Upon receipt of the verified report, the Department shall transmit
7 the report to the company examined, together with a notice which
8 shall afford such company examined a reasonable opportunity of not
9 more than twenty (20) days to make a written submission or written
10 rebuttal with respect to any matters contained in the examination
11 report.

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

17 1. Adopting the examination report as filed or with
18 modification or corrections. If the examination report reveals that
19 the company is operating in violation of any law, regulation or
20 prior order of the Commissioner, the Commissioner may order the
21 company to take any action the Commissioner considers necessary and
22 appropriate to cure such violation;

23 2. Rejecting the examination report with directions to the
24 examiners to reopen the examination for purposes of obtaining

1 additional data, documentation or information, and refiling pursuant
2 to subsection A of this section; or

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

6 D. 1. All orders entered pursuant to paragraph 1 of subsection
7 C of this section shall be accompanied by findings and conclusions
8 resulting from the Commissioner's consideration and review of the
9 examination report, relevant examiner work papers and any written
10 submissions or rebuttals. Any such order shall be considered a
11 final administrative decision and may be appealed pursuant to the
12 Administrative Procedures Act, and shall be served upon the company
13 by certified mail, together with a copy of the adopted examination
14 report. Within thirty (30) days of the issuance of the adopted
15 report, the company shall file affidavits executed by each of its
16 directors stating under oath that they have received a copy of the
17 adopted report and related orders. ~~Upon proper order of the~~
18 ~~Commissioner, the company shall deliver by mail or otherwise, within~~
19 ~~thirty (30) days of the date of the order, a copy of the adopted~~
20 ~~report and related orders to all states and jurisdictions in which~~
21 ~~the company is licensed to transact the business of insurance.~~

22 2. Any hearing conducted pursuant to paragraph 3 of subsection
23 C of this section by the Commissioner or authorized representative,
24 shall be conducted as a nonadversarial confidential investigatory

1 proceeding as necessary for the resolution of any inconsistencies,
2 discrepancies or disputed issues apparent upon the face of the filed
3 examination report or raised by or as a result of the Commissioner's
4 review of relevant work papers or by the written submission or
5 rebuttal of the company. Within thirty (30) days of the conclusion
6 of any such hearing, the Commissioner shall enter an order pursuant
7 to paragraph 1 of subsection C of this section.

8 3. The Commissioner shall not appoint an examiner as an
9 authorized representative to conduct the hearing. The Commissioner
10 or a representative of the Commissioner may issue subpoenas for the
11 attendance of any witnesses or the production of any documents
12 deemed relevant to the investigation whether under the control of
13 the Department, the company or other persons. The documents
14 produced shall be included in the record, and testimony taken by the
15 Commissioner or representative of the Commissioner shall be under
16 oath and preserved for the record.

17 4. Nothing contained in this section shall require the
18 Department to disclose any information or records which would
19 indicate or show the existence or content of any investigation or
20 activity of a criminal justice agency.

21 5. The hearing shall proceed with the Commissioner or a
22 representative of the Commissioner posing questions to the persons
23 subpoenaed. Thereafter the company and the Department may present
24 testimony relevant to the investigation. The company and the

1 Department shall be permitted to make closing statements and may be
2 represented by counsel of their choice.

3 E. 1. Upon the adoption of the examination report under
4 paragraph 1 of subsection C of this section, the Commissioner shall
5 continue to hold the content of the examination report as private
6 and confidential information for a period of two (2) days except to
7 the extent provided in subsection B of this section and subsection F
8 of Section 309.3 of this title. Thereafter, the Commissioner may
9 open the report for public inspection so long as no court of
10 competent jurisdiction has stayed its publication.

11 2. Nothing contained in Sections 309.1 through 309.7 of this
12 title shall prevent or be construed as prohibiting the Commissioner
13 from disclosing the content of an examination report, preliminary
14 examination report or results, or any matter relating thereto, to
15 the insurance department of this or any other state or country, or
16 to law enforcement officials of this or any other state or agency of
17 the federal government at any time, so long as such agency or office
18 receiving the report or matters relating thereto agrees in writing
19 to hold it confidential and in a manner consistent with Sections
20 309.1 through 309.7 of this title.

21 3. In the event the Commissioner determines that regulatory
22 action is appropriate as a result of any examination, the
23 Commissioner may initiate any proceedings or actions as provided by
24 law.

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

16 SECTION 2. AMENDATORY 36 O.S. 2011, Section 312A, is
17 amended to read as follows:

18 Section 312A. Civil penalties and fees imposed by the Insurance
19 Commissioner pursuant to ~~the provisions of this title~~ Oklahoma law
20 may be enforced in the same manner in which civil judgments may be
21 enforced. All final orders of the Insurance Commissioner imposing
22 administrative charges, fees, civil penalties or fines may be
23 recorded in the office of the Clerk of the District Court of
24 Oklahoma County and, upon such recording, all appropriate writs and

1 process shall issue and shall be enforced by the judges of said
2 court upon application.

3 SECTION 3. AMENDATORY 36 O.S. 2011, Section 348.1, as
4 amended by Section 3, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2014,
5 Section 348.1), is amended to read as follows:

6 Section 348.1 A. The Insurance Commissioner shall collect the
7 following fees and licenses for the Property and Casualty Division:

8 1. Rating organizations, statistical agents and advisory
9 organizations:

10 a. Application fee for issuance of
11 license.....\$200.00

12 b. License fee.....\$500.00

13 2. Miscellaneous:

14 a. Certificate of Insurance Commissioner,
15 under seal.....\$ 20.00

16 b. Upon each transaction of filing of
17 documents required pursuant to Section
18 3610 of this title and the Service
19 Warranty Act, as contained in Sections
20 141.1 through 141.32 of Title 15 of the
21 Oklahoma Statutes:

22 (1) For an individual insurer.....\$ 50.00
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1 (2) For an approved joint underwriting
2 association, or rating or advisory
3 organization:

4 (a) Basic fee.....\$ 50.00

5 (b) Additional fee for each member
6 or subscriber insurer.....\$ 10.00,
7 not to exceed.....\$500.00.

8 3. For each rate, loss cost and rule filing request pursuant to
9 ~~the provisions of Sections 6821 and 981 et seq. of this title~~
10 Property and Casualty Competitive Loss Cost Rating Act:

11 a. For an individual insurer.....\$100.00

12 b. For an approved joint underwriting
13 association, rating or advisory
14 organization:

15 (1) Basic fee.....\$100.00

16 (2) Additional fee for each member
17 or subscriber insurer.....\$ 10.00,
18 not to exceed.....\$500.00.

19 B. The fees, licenses, and taxes imposed by the Commissioner
20 upon persons, firms, associations, or corporations licensed pursuant
21 to this section shall be payment in full with respect thereto of and
22 in lieu of all demands for any and all state, county, district, and
23 municipal license fees, license taxes, business privilege taxes,
24 business privilege fees, and charges of every kind now or hereafter

1 imposed upon all such persons, firms, associations, or corporations.
2 This subsection shall not affect other fees, licenses and taxes
3 imposed by the Insurance Code.

4 C. Any costs incurred by the Commissioner in the process of
5 review and analysis of a filing shall be assessed against the
6 company or organization making the filing.

7 SECTION 4. AMENDATORY 36 O.S. 2011, Section 608, is
8 amended to read as follows:

9 Section 608. A. A casualty insurer shall not be authorized to
10 transact workers' compensation insurance in this state without first
11 complying with the applicable provisions of Title ~~85~~ 85A of the
12 Oklahoma Statutes.

13 B. A claims adjuster for any insurer duly authorized to
14 transact workers' compensation insurance in Oklahoma shall be
15 licensed pursuant to the Insurance Adjusters Licensing Act.

16 SECTION 5. AMENDATORY 36 O.S. 2011, Section 609, is
17 amended to read as follows:

18 Section 609. An insurer which otherwise qualifies therefor may
19 be authorized to transact any one kind or combination of kinds of
20 insurance as defined in Section 701 et seq. of this title, except:

21 1. A life insurer shall not be authorized to transact any other
22 kind of insurance except accident and health and workers'
23 compensation and employer liability equivalent insurance if
24 otherwise qualified to do so on or after September 1, 1994, ~~pursuant~~

1 ~~to the provisions of Section 65 of Title 85 of the Oklahoma Statutes~~
2 or if immediately prior to the effective date of this Code any life
3 insurer lawfully held a subsisting certificate of authority granting
4 it the right to transact in Oklahoma additional kinds of insurance
5 other than accident and health, so long as the insurer is otherwise
6 in compliance with this Code the Insurance Commissioner shall
7 continue to authorize such insurer to transact the same kinds of
8 insurance as those specified in such prior certificate of authority;

9 2. A reciprocal insurer shall not transact life insurance;

10 3. A Lloyd's insurer shall not transact life insurance;

11 4. A title insurer shall be a stock insurer and shall not
12 transact any other kind of insurance; and

13 5. No insurer shall issue for delivery or deliver in this state
14 any contract of insurance which imposes contingent or assessment
15 liability upon a resident of this state.

16 SECTION 6. AMENDATORY 36 O.S. 2011, Section 903.2, as
17 amended by Section 16, Chapter 254, O.S.L. 2013 (36 O.S. Supp. 2014,
18 Section 903.2) is amended to read as follows:

19 Section 903.2 No insurance company shall request and the
20 Insurance Commissioner shall not approve an increase for the expense
21 portion of insurance company rate filings based upon the
22 requirements of Section 6701 of this title ~~and Section 355 of Title~~
23 ~~85 of the Oklahoma Statutes.~~

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1 SECTION 7. AMENDATORY 36 O.S. 2011, Section 1435.2, is
2 amended to read as follows:

3 Section 1435.2 As used in the Oklahoma Producer Licensing Act:

4 1. "Commissioner" means the Insurance Commissioner;

5 2. "Business entity" means a corporation, association,
6 partnership, limited liability company, limited partnership, or
7 other legal entity;

8 3. "Customer service representative" means an individual
9 appointed by an insurance producer, surplus lines insurance broker,
10 managing general agent, or insurance agency to assist the insurance
11 producer, broker, or agency in transacting the business of insurance
12 from the office of the insurance producer, broker, or agency and
13 whose salary may vary based on the production or volume of
14 applications or premiums;

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

19 5. "Insurance" means any of the lines of authority in ~~Title 36~~
20 ~~of the Oklahoma Statutes~~ this title, including workers' compensation
21 insurance. Any insurer approved to offer workers' compensation
22 ~~equivalent insurance pursuant to the provisions of Section 65 of~~
23 ~~Title 85 of the Oklahoma Statutes~~ may appoint ~~property and casualty~~
24 insurance producers. All producers appointed for workers'

1 compensation ~~equivalent~~ insurance products must be licensed as
2 ~~property and casualty~~ insurance producers by the Oklahoma Insurance
3 Department;

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

9 7. "Insurance producer" means a person required to be licensed
10 under the laws of this state to sell, solicit or negotiate
11 insurance. Any person not duly licensed as an insurance producer,
12 surplus lines insurance broker, or limited lines producer who
13 solicits a policy of insurance on behalf of an insurer shall be
14 deemed to be acting as an insurance agent within the meaning of the
15 Oklahoma Producer Licensing Act, and shall thereby become liable for
16 all the duties, requirements, liabilities, and penalties to which an
17 insurance producer of the company is subject, and the company by
18 issuing the policy of insurance shall thereby accept and acknowledge
19 the person as its agent in the transaction. For purposes of the
20 laws of this state and the Oklahoma Insurance Code, the term
21 "insurance agent" shall have the same meaning as the term "insurance
22 producer";

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

1 9. "License" means a document issued by the Insurance
2 Commissioner of this state authorizing a person to act as an
3 insurance producer for the lines of authority specified in the
4 document. The license itself does not create any authority, actual,
5 apparent or inherent, in the holder to represent or commit an
6 insurance carrier;

7 10. "Limited line credit insurance" includes credit life,
8 credit disability, credit property, credit unemployment, involuntary
9 unemployment, mortgage life, mortgage guaranty, mortgage disability,
10 guaranteed automobile protection insurance, known as "gap"
11 insurance, and any other form of insurance offered in connection
12 with an extension of credit that is limited to partially or wholly
13 extinguishing that credit obligation that the Insurance Commissioner
14 determines should be designated a form of limited line credit
15 insurance;

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

20 12. "Limited lines insurance" means limited line credit and
21 those lines of insurance defined in Section ~~20~~ 1435.20 of this ~~act~~
22 title or any other line of insurance the Insurance Commissioner
23 deems necessary to recognize for the purposes of complying with
24 subsection E of Section ~~9~~ 1435.9 of this ~~act~~ title;

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

6 14. "Managing general agent" means an individual or legal
7 entity appointed, as an independent contractor, by one or more
8 insurers to exercise general supervision over the business of the
9 insurer in this state, with authority to appoint insurance producers
10 for the insurer, and to terminate appointments for the insurer;

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

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

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

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

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

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

10 21. "Uniform Business Entity Application" means the current
11 version of the National Association of Insurance Commissioners
12 (NAIC) Uniform Business Entity Application for resident and
13 nonresident business entities; and

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

16 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1441.1, is
17 amended to read as follows:

18 Section 1441.1 The provisions of Section 1441 et seq. of ~~Title~~
19 ~~36 of the Oklahoma Statutes~~ this title shall not apply to
20 administrators of group self-insurance associations created pursuant
21 to Section ~~149.2~~ 399 of Title 85 of the Oklahoma Statutes.

22 SECTION 9. AMENDATORY 36 O.S. 2011, Section 1524, as
23 amended by Section 6, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2014,
24 Section 1524), is amended to read as follows:

1 Section 1524. A. "Company Action Level Event" means any of the
2 following events:

3 1. The filing of an RBC Report by an insurer which indicates
4 that:

5 a. the insurer's Total Adjusted Capital is greater than
6 or equal to its Regulatory Action Level RBC but less
7 than its Company Action Level RBC,

8 b. if a life or health insurer, the insurer or fraternal
9 benefit society has Total Adjusted Capital which is
10 greater than or equal to its Company Action Level RBC
11 but less than the product of its Authorized Control
12 Level RBC and 3.0 and has a negative trend, or

13 c. if a property and casualty insurer, the insurer has
14 total adjusted capital which is greater than or equal
15 to its Company Action Level RBC but less than the
16 product of its Authorized Control Level RBC and 3.0
17 and triggers the trend test determined in accordance
18 with the trend test calculation included in the
19 Property and Casualty RBC instructions;

20 2. The notification by the Insurance Commissioner to the
21 insurer of an Adjusted RBC Report that indicates an event described
22 in paragraph 1 of this subsection, provided the insurer does not
23 challenge the Adjusted RBC Report under Section 1528 of this title;
24 or

1 3. If, pursuant to Section 1528 of this title, an insurer
2 challenges an Adjusted RBC Report that indicates the event described
3 in paragraph 1 of this subsection, the notification by the
4 Commissioner to the insurer that the Commissioner has, after
5 opportunity for a hearing, rejected the insurer's challenge.

6 B. In the event of a Company Action Level Event, the insurer
7 shall, unless otherwise directed by the Commissioner, prepare and
8 submit to the Commissioner an RBC Plan which shall include the
9 following five elements:

10 1. Conditions which contribute to the Company Action Level
11 Event;

12 2. Proposals of corrective actions which the insurer intends to
13 take and which would be expected to result in the elimination of the
14 Company Action Level Event;

15 3. Projections of the insurer's financial results in the
16 current year and at least the four (4) succeeding years, both in the
17 absence of proposed corrective actions and giving effect to the
18 proposed corrective actions, including projections of statutory
19 operating income, net income, ~~or~~ and capital and surplus. Unless
20 the Commissioner otherwise directs, the projections for both new and
21 renewal business shall include separate projections for each major
22 line of business and separately identify each significant income,
23 expense and benefit component;

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1 4. The key assumptions impacting the insurer's projections and
2 the sensitivity of the projections to the assumptions; and

3 5. The quality of, and problems associated with, the insurer's
4 business, including, but not limited to, its assets, anticipated
5 business growth and associated surplus strain, extraordinary
6 exposure to risk, mix of business, and use of reinsurance, if any,
7 in each case.

8 C. The RBC Plan shall be submitted:

9 1. Within forty-five (45) days of the Company Action Level
10 Event; or

11 2. If the insurer challenges an Adjusted RBC Report pursuant to
12 Section 1528 of this title, within forty-five (45) days after
13 notification to the insurer that the Commissioner has, after
14 opportunity for a hearing, rejected the insurer's challenge.

15 D. Within sixty (60) days after the submission by an insurer of
16 an RBC Plan to the Commissioner, the Commissioner shall notify the
17 insurer whether the RBC Plan shall be implemented or is, in the
18 judgment of the Commissioner, unsatisfactory. If the Commissioner
19 determines the RBC Plan is unsatisfactory, the notification to the
20 insurer shall set forth the reasons for the determination, and may
21 set forth proposed revisions which will render the RBC Plan
22 satisfactory, in the judgment of the Commissioner. Upon
23 notification from the Commissioner, the insurer shall prepare a
24 Revised RBC Plan, which may incorporate by reference any revisions

1 proposed by the Commissioner, and shall submit the Revised RBC Plan
2 to the Commissioner:

3 1. Within forty-five (45) days after the notification from the
4 Commissioner; or

5 2. If the insurer challenges the notification from the
6 Commissioner under Section 1528 of this title, within forty-five
7 (45) days after a notification to the insurer that the Commissioner
8 has, after opportunity for a hearing, rejected the insurer's
9 challenge.

10 E. In the event of a notification by the Commissioner to an
11 insurer that the insurer's RBC Plan or Revised RBC Plan is
12 unsatisfactory, the Commissioner may at the Commissioner's
13 discretion, subject to the insurer's right to a hearing under
14 Section 1528 of this title, specify in the notification that the
15 notification constitutes a Regulatory Action Level Event.

16 F. Every domestic insurer that files an RBC Plan or Revised RBC
17 Plan with the Commissioner shall file a copy of the RBC Plan or
18 Revised RBC Plan with the insurance commissioner in any state in
19 which the insurer is authorized to do business if:

20 1. The state has an RBC provision substantially similar to
21 subsection A of Section 1531 of this title; and

22 2. The insurance commissioner of that state has notified the
23 insurer of its request for the filing in writing. If such a request
24

1 is made, the insurer shall file a copy of the RBC Plan or Revised
2 RBC Plan in that state no later than the later of:

3 a. fifteen (15) days after the receipt of the request to
4 file a copy of its RBC Plan or Revised RBC Plan with
5 the state, or

6 b. the date on which the RBC Plan or Revised RBC Plan is
7 filed under subsections C and D of this section.

8 SECTION 10. AMENDATORY 36 O.S. 2011, Section 1674, is
9 amended to read as follows:

10 Section 1674. A. Applicability of section.

11 1. The provisions of this section shall apply if, in any
12 calendar year, the aggregate amount of gross written premium on
13 business placed with a controlled insurer by a controlling producer
14 is equal to or greater than five percent (5%) of the admitted assets
15 of the controlled insurer, as reported in the controlled insurers'
16 quarterly statement filed as of September 30 of the prior year.

17 2. Notwithstanding paragraph 1 of this subsection, the
18 provisions of this section shall not apply if:

19 a. the controlling producer:

20 (1) places insurance only with the controlled
21 insurer, or only with the controlled insurer and
22 a member or members of the controlled insurer's
23 holding company system, or the controlled
24 insurer's parent, affiliate or subsidiary and

1 receives no compensation based upon the amount of
2 premiums written in connection with such
3 insurance, and

4 (2) accepts insurance placements only from
5 nonaffiliated subproducers, and not directly from
6 insureds, and

7 b. the controlled insurer, except for insurance business
8 written through a residual market facility, accepts
9 insurance business only from a controlling producer, a
10 producer controlled by the controlled insurer, or a
11 producer that is a subsidiary of the controlled
12 insurer.

13 B. Required contract provisions. A controlled insurer shall
14 not accept business from a controlling producer and a controlling
15 producer shall not place business with a controlled insurer unless
16 there is a written contract between the controlling producer and the
17 insurer specifying the responsibilities of each party, which
18 contract has been approved by the board of directors of the insurer
19 and contains the following minimum provisions:

20 1. The controlled insurer may terminate the contract for cause,
21 upon written notice to the controlling producer. The controlled
22 insurer shall suspend the authority of the controlling producer to
23 write business during the pendency of any dispute regarding the
24 cause for the termination;

1 2. The controlling producer shall render accounts to the
2 controlled insurer detailing all material transactions, including
3 information necessary to support all commissions, charges and other
4 fees received by, or owing to, the controlling producer;

5 3. The controlling producer shall remit all funds due under the
6 terms of the contract to the controlled insurer on at least a
7 monthly basis. The due date shall be fixed so that premiums or
8 installments thereof collected shall be remitted no later than
9 ninety (90) days after the effective date of any policy placed with
10 the controlled insurer under this contract;

11 4. All funds collected for the controlled insurer's account
12 shall be held by the controlling producer in a fiduciary capacity,
13 in one or more appropriately identified bank accounts in banks that
14 are members of the Federal Reserve System, in accordance with the
15 provisions of the insurance law as applicable. However, funds of a
16 controlling producer not required to be licensed in this state shall
17 be maintained in compliance with the requirements of the controlling
18 producer's domiciliary jurisdiction;

19 5. The controlling producer shall maintain separately
20 identifiable records of business written for the controlled insurer;

21 6. The contract shall not be assigned in whole or in part by
22 the controlling producer;

23 7. The controlled insurer shall provide the controlling
24 producer with its underwriting standards, rules and procedures,

1 manuals setting forth the rates to be charged, and the conditions
2 for the acceptance or rejection of risks. The controlling producer
3 shall adhere to the standards, rules, procedures, rates and
4 conditions. The standards, rules, procedures, rates and conditions
5 shall be the same as those applicable to comparable business placed
6 with the controlled insurer by a producer other than the controlling
7 producer;

8 8. The rate and terms of the controlling producer's
9 commissions, charges or other fees and the purposes for those
10 charges or fees. The rates of the commissions, charges and other
11 fees shall be no greater than those applicable to comparable
12 business placed with the controlled insurer by producers other than
13 controlling producers. For purposes of this paragraph and paragraph
14 7 of this subsection, examples of "comparable business" include the
15 same lines of insurance, same kinds of insurance, same kinds of
16 risks, similar policy limits, and similar quality of business;

17 9. If the contract provides that the controlling producer, on
18 insurance business placed with the insurer, is to be compensated
19 contingent upon the insurer's profits on that business, then such
20 compensation shall not be determined and paid until at least five
21 (5) years after the premiums on liability insurance are earned and
22 at least one (1) year after the premiums are earned on any other
23 insurance. In no event shall the commissions be paid until the
24 adequacy of the controlled insurer's reserves on remaining claims

1 has been independently verified pursuant to subsection E D of this
2 section;

3 10. A limit on the controlling producer's writings in relation
4 to the controlled insurer's surplus and total writings. The insurer
5 may establish a different limit for each line or subline of
6 business. The controlled insurer shall notify the controlling
7 producer when the applicable limit is approached and shall not
8 accept business from the controlling producer if the limit is
9 reached. The controlling producer shall not place business with the
10 controlled insurer if it has been notified by the controlled insurer
11 that the limit has been reached; and

12 11. The controlling producer may negotiate but shall not bind
13 reinsurance on behalf of the controlled insurer on business the
14 controlling producer places with the controlled insurer, except that
15 the controlling producer may bind facultative reinsurance contracts
16 pursuant to obligatory facultative agreements if the contract with
17 the controlled insurer contains underwriting guidelines including,
18 for both reinsurance assumed and ceded, a list of reinsurers with
19 which such automatic agreements are in effect, the coverages and
20 amounts of percentages that may be reinsured and commission
21 schedules.

22 C. Audit Committee. Every controlled insurer shall have an
23 Audit Committee of the Board of Directors composed of independent
24 directors. The Audit Committee shall annually meet with management,

1 the insurer's licensed public accountant or a certified public
2 accountant holding a permit to practice in this state and an
3 independent casualty actuary or other independent loss reserve
4 specialist acceptable to the Commissioner to review the adequacy of
5 the insurer's loss reserves.

6 D. Reporting requirements.

7 1. In addition to any other required loss reserve
8 certification, the controlled insurer shall annually, on April 1 of
9 each year, file with the Commissioner an opinion of an independent
10 casualty actuary, or such other independent loss reserve specialist
11 acceptable to the Commissioner, reporting loss ratios for each line
12 of business written and attesting to the adequacy of loss reserves
13 established for losses incurred and outstanding as of year-end,
14 including incurred but not reported losses, on business placed by
15 the producer; and

16 2. The controlled insurer shall annually report to the
17 Commissioner the amount of commissions paid to the producer, the
18 percentage such amount represents of the net premiums written and
19 comparable amounts and percentage paid to noncontrolling producers
20 for placements of the same kinds of insurance.

21 SECTION 11. AMENDATORY 36 O.S. 2011, Section 4502, is
22 amended to read as follows:

23 Section 4502. A. Each group accident and health policy shall
24 contain in substance the following provisions:

1 1. A provision that, in the absence of fraud, all statements
2 made by the policyholder or by any insured person shall be deemed
3 representations and not warranties, and that no statement made for
4 the purpose of effecting insurance shall avoid such insurance or
5 reduce benefits unless contained in a written instrument signed by
6 the policyholder or the insured person, a copy of which has been
7 furnished to such policyholder or to such person or his or her
8 beneficiary-;

9 2. A provision that the insurer will furnish to the
10 policyholder, for delivery to each employee or member of the insured
11 group, an individual certificate setting forth in summary form a
12 statement of the essential features of the insurance coverage of
13 such employee or member and to whom benefits are payable. If
14 dependents or family members are included in the coverage additional
15 certificates need not be issued for delivery to such dependents or
16 family members-; and

17 3. A provision that to the group originally insured may be
18 added from time to time eligible new employees or members or
19 dependents, as the case may be, in accordance with the terms of the
20 policy.

21 B. Each group health policy certificate subject to the
22 provisions of the Federal Health Insurance Portability and
23 Accountability Act, Public Law 104-191, (HIPAA) laws shall contain
24

1 in substance the following provisions, which shall be in addition to
2 the provisions required by subsection A of this section.

3 1. A provision that a health benefit plan shall not deny,
4 exclude or limit benefits for a covered individual for losses
5 incurred more than twelve (12) months following the effective date
6 of the individual's coverage due to a preexisting condition;

7 2. A provision that a health benefit plan shall not define a
8 preexisting condition more restrictively than:

- 9 a. a condition for which medical advice, diagnosis, care
10 or treatment was recommended or received during the
11 six (6) months immediately preceding the effective
12 date of coverage,
- 13 b. pregnancy and genetic information shall not be
14 considered preexisting conditions,
- 15 c. a health benefit plan may exclude a preexisting
16 condition for late enrollees for a period not to
17 exceed eighteen (18) months from the date the
18 individual enrolls for coverage,
- 19 d. the period of any such preexisting condition exclusion
20 shall be reduced by the aggregate of the periods of
21 creditable coverage as defined in the Federal HIPAA
22 laws,
- 23 e. a period of creditable coverage shall not be counted
24 if after such period and before the enrollment date,

1 there was a sixty-three-day period during all of which
2 the individual was not covered under any creditable
3 coverage,

4 f. "enrollment date" means the date of enrollment of the
5 individual in the plan or coverage or, if earlier, the
6 first day of the waiting period for such enrollment,
7 and

8 g. "late enrollee" means a participant or beneficiary who
9 enrolls under the plan other than during the first
10 period in which the individual is eligible to enroll
11 under the plan or a special enrollment period;

12 3. A provision that individuals losing other coverage shall be
13 permitted to enroll for coverage under the terms of the plan if each
14 of the following conditions is met:

15 a. the employee or dependent was covered under a group
16 health plan or had health insurance coverage at the
17 time coverage was previously offered to the employee
18 or dependent,

19 b. the employee stated in writing at such time that
20 coverage under a group health plan or health insurance
21 coverage was the reason for declining enrollment, but
22 only if the plan sponsor or issuer required such a
23 statement at such time and provided the employee with
24

1 notice of such requirement, and the consequences of
2 such requirement, at such time,

3 c. the employee's or dependent's coverage was under a
4 COBRA continuation provision and the coverage under
5 such provision was exhausted; or was not under such a
6 provision and either the coverage was terminated as a
7 result of loss of eligibility for the coverage,
8 including as a result of legal separation, divorce,
9 death, termination of employment, or reduction in the
10 number of hours of employment, or employer
11 contributions toward such coverage were terminated,
12 and

13 d. under the terms of the plan, the employee requests
14 such enrollment not later than thirty (30) days after
15 the date of exhaustion of coverage;

16 4. A provision that for any period that an individual is in a
17 waiting period for any coverage under a group health plan or for
18 group health insurance coverage or is in an affiliation period, that
19 period shall not be taken into account in determining the continuous
20 period of creditable coverage. "Affiliation period" means a period
21 which, under the terms of the health insurance coverage offered by a
22 health maintenance organization, must expire before the health
23 insurance coverage becomes effective. The organization is not
24 required to provide health care services or benefits during such

1 period and no premium shall be charged to the participant or
2 beneficiary for any coverage during the period;

3 5. A provision that preexisting condition exclusions will not
4 apply to newborns, who, as the last day of the thirty-day period
5 beginning with the date of birth, are covered under creditable
6 coverage;

7 6. A provision that preexisting condition exclusions will not
8 apply to a child who is adopted or placed for adoption before
9 attaining eighteen (18) years of age;

10 7. A provision that dependents are eligible for a special
11 enrollment period if the group health plan makes coverage available
12 with respect to a dependent of an individual, and the individual is
13 a participant under the plan, or has met any waiting period
14 applicable to becoming a participant under the plan and is eligible
15 to be enrolled under the plan but for a failure to enroll during a
16 previous enrollment period, and a person becomes such a dependent of
17 the individual through marriage, birth or adoption or placement for
18 adoption. The special enrollment period shall apply to that person
19 or, if not otherwise enrolled, the individual, the dependent of the
20 individual, and in the case of the birth or adoption of a child, the
21 spouse of the individual may be enrolled as a dependent of the
22 individual if such spouse is otherwise eligible for coverage.

23 a. The dependent special enrollment period shall be a
24 period of not less than thirty (30) days and shall

1 begin on the later of the date dependent coverage is
2 made available, or the date of the marriage, birth, or
3 adoption or placement for adoption.

4 b. There is no waiting period if an individual seeks to
5 enroll a dependent during the first thirty (30) days
6 of such a dependent special enrollment period.

7 c. The coverage for the dependent shall become effective
8 in the case of marriage, not later than the first day
9 of the first month beginning after the date the
10 completed request for enrollment is received, in the
11 case of a dependent's birth, as of the date of such
12 birth, in the case of a dependent's adoption or
13 placement for adoption, the date of such adoption or
14 placement for adoption;

15 8. A provision that eligibility or continued eligibility of any
16 individual will not be based on any of the following health-status-
17 related factors in relation to the individual or a dependent of the
18 individual: health status, medical condition, including both
19 physical and mental illnesses, claims experience, receipt of health
20 care, medical history, genetic information, evidence of
21 insurability, including conditions arising out of acts of domestic
22 violence or disability.

1 a. Carriers are not required to provide particular
2 benefits other than those provided under the terms of
3 the plan or coverage.

4 b. Carriers may establish limitations or restrictions on
5 the amount, level, extent, and nature of the benefits
6 or coverage for similarly situated individuals
7 enrolled in the plan or coverage; and

8 9. A provision that the group health plan is guaranteed
9 renewable, except as provided pursuant to the federal provisions
10 found in HIPAA, which are as follows:

- 11 a. nonpayment of premium,
12 b. fraud,
13 c. violation of participation and/or contribution rules,
14 d. termination of coverage:

15 (1) in any case in which an issuer decides to
16 discontinue offering a particular type of group
17 health insurance coverage offered in the large or
18 small group market, coverage of such type may be
19 discontinued by the issuer only if: the issuer
20 provides notice to each plan sponsor provided
21 coverage of this type in such market, and
22 participants and beneficiaries covered under such
23 coverage, of such discontinuation at least ninety
24 (90) days prior to the date of the

1 discontinuation of such coverage and makes
2 available the option to purchase all or, in the
3 case of the large group market, any other health
4 insurance coverage currently being offered by the
5 issuer to a group health plan in such market and
6 in exercising the option to discontinue coverage
7 of this type and in offering the option of
8 coverage pursuant to this provision, the issuer
9 acts uniformly without regard to the claims
10 experience of those sponsors or any health-
11 status-related factor relating to any
12 participants or beneficiaries covered or new
13 participants or beneficiaries who may become
14 eligible for such coverage,

15 (2) in any case in which an issuer decides to
16 discontinue offering a particular type of group
17 health insurance coverage offered in the large or
18 small group market, coverage of such type may be
19 discontinued by the issuer only if: the issuer
20 provides notice to the Oklahoma Insurance
21 Department and to each plan sponsor and
22 participants and beneficiaries covered under such
23 coverage of such discontinuation at least one
24 hundred eighty (180) days prior to the date of

1 the discontinuation of such coverage; and all
2 health insurance issued or delivered for issuance
3 in the state in such market or markets are
4 discontinued and coverage under such health
5 insurance coverage in such market or markets is
6 not renewed, and

7 (3) in the case of a discontinuation under division
8 (2) of this subparagraph in a market, the issuer
9 shall not provide for the issuance of any health
10 insurance coverage in the market and in this
11 state during the five-year period beginning on
12 the date of the discontinuation of the last
13 health insurance coverage not so renewed,

14 e. movement outside the service area, and

15 f. association membership ceases; ~~and~~

16 ~~10. A provision that certification of creditable coverage will~~
17 ~~be issued individuals covered:~~

18 a. ~~at the time an individual ceases to be covered under~~
19 ~~the plan or otherwise becomes covered under a COBRA~~
20 ~~continuation provision,~~

21 b. ~~in the case of an individual becoming covered under~~
22 ~~such a provision, at the time the individual ceases to~~
23 ~~be covered under such provision, and~~

1 ~~e. on the request on behalf of an individual made not~~
2 ~~later than twenty-four (24) months after the date of~~
3 ~~cessation of the coverage described in subparagraph a~~
4 ~~or b of this paragraph, whichever is later.~~

5 ~~The certification described in this paragraph is a written~~
6 ~~certification of the period of creditable coverage of the individual~~
7 ~~under such plan and the coverage, if any, under such COBRA~~
8 ~~continuation provision, and the waiting period, if any, and~~
9 ~~affiliation period, if applicable, imposed with respect to the~~
10 ~~individual for any coverage under such plan.~~

11 SECTION 12. AMENDATORY 36 O.S. 2011, Section 6041, is
12 amended to read as follows:

13 Section 6041. ~~A.~~ Payment or each periodic payment not
14 exceeding One Thousand Dollars (\$1,000.00) for emergency living
15 expenses made to any policyholder or his or her dependents or
16 beneficiaries under an insurance policy for:

- 17 1. Fire insurance;
- 18 2. Casualty insurance;
- 19 3. Property insurance, including what may be termed a
20 homeowner's policy; or
- 21 4. Any other type of policy that insures against personal loss
22 as a consequence of loss of or damage to real or personal property;
23 which provides for payment or periodic payments for emergency living
24 expenses; and payments made under workers' compensation or

1 employers' liability insurance as defined in Section 707 of ~~Title 36~~
2 ~~of the Oklahoma Statutes~~ this title, shall be made through the use
3 of United States legal tender, or through a means acceptable to the
4 recipient of the payment including, but not limited to, electronic
5 funds transfer, prepaid cards, negotiable instruments payable on
6 demand or negotiable drafts.

7 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6103.3, is
8 amended to read as follows:

9 Section 6103.3 A. For the purposes of Sections 6103.1 through
10 6103.11 of this title, "person" shall include an individual, a
11 partnership, a corporation, a limited liability company, an
12 association, a joint stock company, a trust, an unincorporated
13 organization, any similar group, entity or any combination of the
14 foregoing acting in concert.

15 B. No person or insurer shall directly or indirectly do any of
16 the acts of an insurance business set forth in Sections 6103.1
17 through 6103.11 of this title, except as provided by and in
18 accordance with the specific authorization of statute. In respect
19 to the insurance of subjects resident, located or to be performed
20 within this state, this section shall not prohibit the collection of
21 premium or other acts performed outside of this state by persons or
22 insurers authorized to do business in this state provided such
23 transactions and insurance contracts otherwise comply with statute.

24

1 C. Any person which the Insurance Commissioner has reason to
2 believe is doing any of the acts specified in Section 6103.2 of this
3 title, upon written request by the Commissioner, shall immediately
4 provide to the Commissioner such information as requested in
5 relation to such acts.

6 D. A person or entity who violates any provision of Sections
7 6103.1 through 6103.11 of this title is subject to a civil penalty
8 of not more than Ten Thousand Dollars (\$10,000.00) for each act of
9 violation and for each day of violation to be recovered as provided
10 in this section.

11 E. Whenever the Commissioner has reason to believe or it
12 appears that any person or insurer has violated or is threatening to
13 violate any provision of Sections 6103.1 through 6103.11 of this
14 title or any rule promulgated pursuant thereto, or that any person
15 or insurer acting in violation of Sections 6103.1 through 6103.11 of
16 this title has engaged in or is threatening to engage in any unfair
17 method of competition or any unfair or deceptive act or practice as
18 defined by Section 1201 et seq. of this title or any rule
19 promulgated pursuant thereto, the Commissioner may:

20 1. Issue an ex parte cease and desist order under the
21 procedures provided by Sections 6103.5 and 6103.6 of this title;

22 2. Institute in the district court of Oklahoma County a civil
23 suit for injunctive relief to restrain the person from continuing
24 the violation or threat of violation;

1 3. Institute in the district court of Oklahoma County a civil
2 suit to recover a civil penalty as provided for in this section; or

3 4. Exercise any combination of the acts provided for in this
4 subsection.

5 F. On application for injunctive relief and a finding that a
6 person is violating or threatening to violate any provision of
7 Sections 6103.1 through 6103.11 of this title, the district court
8 shall grant the injunctive relief and the injunction shall be issued
9 without bond.

10 G. The remedies provided in Sections 6103.1 through 6103.11 of
11 this title for administrative action against unauthorized insurers
12 shall also apply to unauthorized individuals or persons engaged in
13 the business of bail bonds or any other business which is subject to
14 the jurisdiction of the Insurance Commissioner.

15 H. This section shall not be construed to limit the Insurance
16 Commissioner to the remedies specified herein. It is the intent of
17 the Legislature that persons engaging in the business of insurance,
18 or any other business for which authorization from the Insurance
19 Commissioner is required, without statutory authorization constitute
20 an imminent peril to the public welfare and should immediately be
21 stopped and enjoined from doing so, provided, the Insurance
22 Commissioner and the State of Oklahoma should be able to choose at
23 any time any available remedy or action to bring about such a result
24 without regard to prior proceedings under this section.

1 SECTION 14. AMENDATORY 36 O.S. 2011, Section 6470.2, as
2 amended by Section 5, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
3 Section 6470.2), is amended to read as follows:

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

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

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

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

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

23 b. the member organizations of which collectively
24 constitute all of the subscribers of an association

1 captive insurance company formed as a reciprocal
2 insurer;

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

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

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

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

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

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

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

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

4 a. that is not in the corporate system of a parent and
5 affiliated companies,

6 b. that has an existing contractual relationship with a
7 parent or affiliated company, and

8 c. whose risks are managed by a pure captive insurance
9 company in accordance with Section 6470.27 of this
10 title;

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

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

14 13. ~~"Excess workers' compensation insurance" means, in the case~~
15 ~~of an employer that has insured its workers' compensation risks in~~
16 ~~accordance with applicable law, insurance in excess of specified~~
17 ~~limits established by the Commissioner;~~

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

19 ~~15.~~ 14. "Industrial insured" means an insured:

20 a. who procures the insurance of any risk or risks by use
21 of the services of a full-time employee acting as an
22 insurance manager or buyer,

23

24

1 b. whose aggregate annual premiums for insurance on all
2 risks total at least Twenty-five Thousand Dollars
3 (\$25,000.00), and

4 c. who has at least twenty-five full-time employees;

5 ~~16.~~ 15. "Industrial insured captive insurance company" means a
6 company that insures risks of the industrial insureds that comprise
7 the industrial insured group and their affiliated companies;

8 ~~17.~~ 16. "Industrial insured group" means a group of industrial
9 insureds that collectively directly or indirectly owns, controls, or
10 holds with power to vote all of the outstanding voting securities or
11 other voting interests or has complete control over an industrial
12 insured captive insurance company;

13 ~~18.~~ 17. "Member organization" means any individual,
14 corporation, partnership, or association that belongs to an
15 association;

16 ~~19.~~ 18. "Parent" means any corporation, partnership, or
17 individual that directly or indirectly owns, controls, or holds with
18 power to vote more than fifty percent (50%) of the outstanding
19 voting securities of a pure captive insurance company;

20 ~~20.~~ 19. "Participant" means an entity as defined in Section
21 6470.31 of this title, and any affiliates of that entity, that are
22 insured by a sponsored captive insurance company, where the losses
23 of the participant are limited through a participant contract to the
24

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

3 ~~21.~~ 20. "Participant contract" means a contract by which a
4 sponsored captive insurance company insures the risks of one or more
5 participants and limits the losses of each participant to its pro
6 rata share of the assets of one or more protected cells identified
7 in the participant contract;

8 ~~22.~~ 21. "Protected cell" means a separate and distinct account
9 established and maintained by or on behalf of a sponsored captive
10 insurance company in which assets are accounted for and recorded for
11 one or more participants in accordance with the terms of one or more
12 participant contracts to fund the liability of the sponsored captive
13 insurance company assumed on behalf of the participants as set forth
14 in the participant contracts;

15 ~~23.~~ 22. "Pure captive insurance company" means a company that
16 insures risks of its parent, affiliated companies, of its parent and
17 any controlled unaffiliated business, or a combination thereof. For
18 purposes of this paragraph, "controlled unaffiliated business" means
19 an entity insured by a pure captive insurance company:

- 20 a. that is not in the corporate system of a parent and
21 affiliated companies,
- 22 b. that has an existing contractual relationship with a
23 parent or affiliated company, and

24

1 c. whose risks are managed by a pure captive insurance
2 company;

3 ~~24.~~ 23. "Reciprocal insurer" has the meaning given that term in
4 Article 29 of the Oklahoma Insurance Code;

5 ~~25.~~ 24. "Risk retention group" means a risk retention group
6 formed pursuant to the Liability Risk Retention Act of 1986 under
7 Section 3901 of Title 15 of the United States Code;

8 ~~26.~~ 25. "Special purpose captive insurance company" means a
9 captive insurance company that is formed or licensed under the
10 Oklahoma Captive Insurance Company Act that does not meet the
11 definition of any other type of captive insurance company defined in
12 this section and is designated as a special purpose captive
13 insurance company by the Commissioner;

14 ~~27.~~ 26. "Sponsor" means an entity that meets the requirements
15 of Section 6470.30 of this title and is approved by the Insurance
16 Commissioner to provide all or part of the capital and surplus
17 required by applicable law and to organize and operate a sponsored
18 captive insurance company; ~~and~~

19 ~~28.~~ 27. "Sponsored captive insurance company" means a captive
20 insurance company:

21 a. in which the minimum capital and surplus required by
22 applicable law is provided by one or more sponsors,

23 b. that is formed or licensed under the Oklahoma Captive
24 Insurance Company Act,

- 1 c. that insures the risks of its participants only
2 through separate participant contracts, and
3 d. that funds its liability to each participant through
4 one or more protected cells and segregates the assets
5 of each protected cell from the assets of other
6 protected cells and from the assets of the sponsored
7 captive insurance company's general account; and

8 28. "Workers' compensation insurance" means insurance provided
9 in satisfaction of an employer's responsibility as set forth in the
10 Administrative Workers' Compensation Act and the Oklahoma Employee
11 Injury Benefit Act.

12 SECTION 15. AMENDATORY 36 O.S. 2011, Section 6470.3, as
13 last amended by Section 6, Chapter 41, O.S.L. 2013 (36 O.S. Supp.
14 2014, Section 6470.3), is amended to read as follows:

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

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

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

1 3. An industrial insured captive insurance company may not
2 insure any risks other than those of the industrial insureds that
3 comprise the industrial insured group and their affiliated
4 companies;

5 4. A special purpose captive insurance company may provide
6 insurance or reinsurance, or both, for risks as approved by the
7 Insurance Commissioner;

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

11 6. Any captive insurance company may provide ~~excess~~ workers'
12 compensation insurance ~~to its parent and affiliated companies,~~
13 insurance in the nature of workers' compensation insurance, and
14 reinsurance of such policies, unless prohibited by federal law or
15 laws of this state or any other state having jurisdiction over the
16 transaction, ~~and any captive insurance company, unless prohibited by~~
17 ~~federal law, may reinsure workers' compensation of a qualified self-~~
18 ~~insured plan of its parent and affiliated companies.~~

19 B. To conduct insurance business in this state a captive
20 insurance company shall:

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

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

1 3. Appoint a resident registered agent to accept service of
2 process and to otherwise act on its behalf in this state. Whenever
3 the registered agent cannot with reasonable diligence be found at
4 the registered office of the captive insurance company, the
5 Insurance Commissioner shall be deemed an agent of the captive
6 insurance company upon whom any process, notice, or demand may be
7 served.

8 C. 1. Before receiving a license, a captive insurance company
9 shall file with the Commissioner a certified copy of its
10 organizational documents, a statement under oath of its president or
11 other authorized person showing its financial condition, a
12 feasibility study, a business plan, and any other statements,
13 information or documents required by the Commissioner.

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

- 17 a. the amount and liquidity of its assets relative to the
18 risks to be assumed,
- 19 b. the adequacy of the expertise, experience, and
20 character of the person or persons who will manage it,
- 21 c. the overall soundness of its plan of operation,
- 22 d. the adequacy of the loss prevention programs of its
23 insureds, and

24

1 e. such other factors considered relevant by the
2 Insurance Commissioner in ascertaining whether the
3 proposed captive insurance company will be able to
4 meet its obligations.

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

9 a. information may be discoverable by a party in a civil
10 action or contested case to which the captive
11 insurance company that submitted the information is a
12 party, upon a showing by the party seeking to discover
13 the information that:

14 (1) the information sought is relevant to and
15 necessary for the furtherance of the action or
16 case,

17 (2) the information sought is unavailable from other
18 nonconfidential sources, and

19 (3) a subpoena issued by a judicial or administrative
20 officer of competent jurisdiction has been
21 submitted to the Insurance Commissioner; however,
22 the provisions of this paragraph do not apply to
23 an industrial insured captive insurance company
24

1 insuring the risks of an industrial insured
2 group, and

- 3 b. the Insurance Commissioner may disclose the
4 information to a public officer having jurisdiction
5 over the regulation of insurance in another state if:
6 (1) the public official agrees in writing to maintain
7 the confidentiality of the information, and
8 (2) the laws of the state in which the public
9 official serves require the information to be
10 confidential.

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

19 E. If the Insurance Commissioner is satisfied that the
20 documents and statements filed by the captive insurance company
21 comply with the provisions of the Oklahoma Captive Insurance Company
22 Act, the Insurance Commissioner may grant a license authorizing the
23 company to do insurance business in this state until the succeeding
24 March 1 at which time the license may be renewed.

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

6 2. As a condition precedent to the issuance of a provisional
7 license under this section, the applicant shall have filed a
8 complete application containing all information required by this
9 section, paid all fees required for licensure and the Insurance
10 Commissioner shall have made a preliminary finding that the
11 expertise, experience and character of the person or persons who
12 will control and manage the applicant captive insurer are
13 acceptable.

14 3. The Insurance Commissioner may by order limit the authority
15 of any provisional licensee in any way deemed necessary to protect
16 insureds and the public. The Insurance Commissioner may by order
17 revoke a provisional license if the interests of insureds or the
18 public are endangered. If the applicant fails to complete the
19 regular licensure application process, the provisional license shall
20 terminate automatically.

21 SECTION 16. AMENDATORY 36 O.S. 2011, Section 6470.6, as
22 amended by Section 7, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
23 Section 6470.6), is amended to read as follows:
24

1 Section 6470.6 A. The Insurance Commissioner may not issue or
2 renew the license of a captive insurance company unless the company
3 possesses and thereafter maintains unimpaired aggregate paid-in
4 capital and surplus of:

5 1. In the case of a pure captive insurance company, not less
6 than Two Hundred Fifty Thousand Dollars (\$250,000.00), One Hundred
7 Fifty Thousand Dollars (\$150,000.00) of which must be paid-in prior
8 to the issuance of a license, and an additional One Hundred Thousand
9 Dollars (\$100,000.00) of which must be paid-in on or before the
10 first anniversary of the issuance of the initial license;

11 2. In the case of an association captive insurance company
12 incorporated as a stock insurer, not less than Seven Hundred Fifty
13 Thousand Dollars (\$750,000.00);

14 3. In the case of an industrial insured captive insurance
15 company incorporated as a stock insurer, not less than Five Hundred
16 Thousand Dollars (\$500,000.00);

17 4. In the case of a sponsored captive insurance company, not
18 less than Five Hundred Thousand Dollars (\$500,000.00);

19 5. In the case of any captive insurance company doing business
20 as a risk retention group, not less than One Million Dollars
21 (\$1,000,000.00); and

22 6. In the case of a special purpose or branch captive insurance
23 company, not less than Two Hundred Fifty Thousand Dollars
24 (\$250,000.00) or an amount determined by the Insurance Commissioner

1 after giving due consideration to the business plan of the company,
2 feasibility study, and pro formas, including the nature of the risks
3 to be insured-; and

4 7. The unimpaired paid-in capital may be in the form of cash,
5 cash equivalent, or an irrevocable letter of credit issued by a bank
6 chartered by this state or a member bank of the Federal Reserve
7 System and. The issuing bank shall be approved by the Insurance
8 Commissioner.

9 B. The Insurance Commissioner may prescribe additional capital
10 and surplus based upon the type, volume, and nature of insurance
11 business transacted.

12 C. In the case of a branch captive insurance company, as
13 security for the payment of liabilities attributable to branch
14 operations, the Insurance Commissioner may require that a trust
15 fund, funded by an irrevocable letter of credit or other acceptable
16 asset, be established and maintained in the United States for the
17 benefit of United States policyholders and United States ceding
18 insurers. The amount of the security may be no less than the
19 capital and surplus required by the Oklahoma Captive Insurance
20 Company Act and the reserves on these insurance policies or
21 reinsurance contracts.

22 D. A captive insurance company may not pay a dividend out of,
23 or other distribution with respect to, capital or surplus, without
24 the prior approval of the Insurance Commissioner. Approval of an

1 ongoing plan for the payment of dividends or other distributions
2 must be conditioned upon the retention, at the time of each payment,
3 of capital or surplus in excess of amounts specified by, or
4 determined in accordance with formulas approved by, the Insurance
5 Commissioner.

6 SECTION 17. AMENDATORY 36 O.S. 2011, Section 6470.10, as
7 amended by Section 8, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
8 Section 6470.10), is amended to read as follows:

9 Section 6470.10 A. A captive insurance company may be
10 incorporated as a stock corporation or as a nonstock corporation, or
11 may be formed as a limited liability company, partnership, limited
12 partnership, statutory trust or any lawful form approved by the
13 Insurance Commissioner.

14 B. An association captive insurance company, industrial insured
15 captive insurance company or special purpose captive insurance
16 company may be organized as a reciprocal insurer.

17 C. The Commissioner shall not issue the initial license or
18 review the license of any captive insurer unless the Commissioner
19 determines the following matters serve the best interest of the
20 prospective policyholders and promote the general good of the state:

21 1. The character, reputation, financial standing, and purposes
22 of the principals, owners or other persons who will direct or
23 control the affairs of the captive insurer;

24

1 2. The character, reputation, financial responsibility,
2 insurance experience, and business qualifications of the officers
3 and directors; and

4 3. Other aspects as the Insurance Commissioner considers
5 advisable.

6 D. In the case of a captive insurance company licensed as a
7 branch captive insurance company, the findings required in
8 subsection C above shall be in respect to the alien captive
9 insurance company.

10 E. 1. A captive insurance company formed under the laws of
11 this state or under the laws of another jurisdiction that is
12 licensed under the provisions of this title shall have the
13 privileges and be subject to the provisions of the laws of this
14 state or the laws of such other jurisdiction, as applicable, under
15 which such captive insurance company is organized as well as the
16 applicable provisions contained in this title. In the event of
17 conflict between the provisions of the laws of this state or the
18 laws of such other jurisdiction, as applicable, under which such
19 captive insurance company is organized, and the provisions of this
20 title, the latter shall control.

21 2. A captive insurance company, formed or licensed under the
22 Oklahoma Captive Insurance Company Act, has the privileges and is
23 subject to the provisions of Oklahoma law as well as the applicable
24 provisions contained in the Oklahoma Captive Insurance Company Act.

1 If a conflict occurs between a provision of the general law of
2 Oklahoma and a provision of the Oklahoma Captive Insurance Company
3 Act, the latter controls. No provision of the Insurance Code, other
4 than those contained in this act or otherwise specifically
5 referencing such companies, shall apply to captive insurance
6 companies.

7 3. In addition to the applicability of law provided in this
8 section, a captive insurance company operating as a risk retention
9 group shall be subject to the provisions of the Oklahoma Risk
10 Retention Act under Sections 6451 through 6468 of this title.

11 4. The provisions of the Oklahoma Insurance Code pertaining to
12 mergers, consolidations, conversions, mutualizations, and
13 ~~redomestications~~ change in control apply in determining the
14 procedures to be followed by a captive insurance company in carrying
15 out any of the transactions described in those provisions, except
16 the Insurance Commissioner may waive or modify the requirements for
17 public notice and hearing ~~in accordance with regulations which the~~
18 ~~Insurance Commissioner may promulgate addressing categories of~~
19 ~~transactions. If a notice of public hearing is required, but no one~~
20 ~~requests a hearing, the Insurance Commissioner may cancel the~~
21 ~~hearing.~~

22 5. The terms and conditions set forth in Articles 18 and 19 of
23 the Oklahoma Insurance Code pertaining to insurance supervision,
24 conservatorship, rehabilitation, and receiverships apply in full to

1 captive insurance companies ~~formed under the Oklahoma Captive~~
2 ~~Insurance Company Act,~~ including for this purpose individual
3 protected cells of sponsored captive insurance companies as provided
4 in Section 6470.29 of this title.

5 6. Any insurer which holds a current license to transact the
6 business of insurance under the laws of any other state may become
7 an Oklahoma domiciled captive insurer by complying with all of the
8 requirements of Oklahoma law relative to the organization and
9 licensing of a captive insurer and obtaining the approval of the
10 insurer's application for redomestication by the chief insurance
11 regulatory official of the company's current and proposed domiciles.

12 SECTION 18. AMENDATORY 36 O.S. 2011, Section 6470.12, as
13 amended by Section 10, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
14 Section 6470.12), is amended to read as follows:

15 Section 6470.12 A. Upon written application, accompanied by
16 such information as the Commissioner requires, the Insurance
17 Commissioner may grant permission to a sponsored captive insurance
18 company or a special purpose captive insurance company to discount
19 loss and loss adjustment expense reserves at treasury rates applied
20 to the applicable payments projected through the use of the expected
21 payment pattern associated with the reserves.

22 B. A sponsored captive insurance company and a special purpose
23 captive insurance company, and any captive insurer, at the
24 Commissioner's discretion, shall file annually an actuarial opinion

1 on loss and loss adjustment expense reserves provided by an
2 independent actuary. The actuary may not be an employee of the
3 captive company or its affiliates.

4 C. The Insurance Commissioner may disallow the discounting of
5 reserves if a captive insurance company violates a provision of this
6 title.

7 SECTION 19. AMENDATORY 36 O.S. 2011, Section 6470.15, as
8 amended by Section 13, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
9 Section 6470.15), is amended to read as follows:

10 Section 6470.15 A. An association captive insurance company, a
11 sponsored captive insurance company, and a risk retention group
12 shall comply with the investment requirements contained in the
13 Oklahoma Insurance Code. The Insurance Commissioner may approve the
14 use of alternative investment requirements upon application by such
15 captive insurance company.

16 B. A Except as to unimpaired paid-in capital as provided in
17 paragraph 7 of subsection A of Section 6470.6 of this title, a pure
18 captive insurance company, a special purpose captive insurance
19 company, a branch captive insurance company, and an industrial
20 insured captive insurance company, ~~and a sponsored captive insurance~~
21 ~~company~~ are not subject to any restrictions on allowable investments
22 contained in the Oklahoma Insurance Code; however, the Insurance
23 Commissioner may prohibit or limit an investment that threatens the
24 solvency or liquidity of the company.

1 C. Loans of minimum capital and surplus funds required by
2 Section 6470.6 of this title are prohibited.

3 D. Subject to subsections A and B of this section and Section
4 6470.31 of this title, as applicable, a captive insurance company
5 may own securities of or other interests in another captive
6 insurance company, whether voting or nonvoting.

7 SECTION 20. AMENDATORY 36 O.S. 2011, Section 6470.16, as
8 amended by Section 14, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
9 Section 6470.16), is amended to read as follows:

10 Section 6470.16 ~~A.~~ A captive insurance company may ~~provide~~
11 cede or assume reinsurance and take credit for reserves, as
12 authorized ~~in the Oklahoma Insurance Code~~, for domestic insurers ~~on~~
13 ~~risks ceded by any other insurer~~ by the Oklahoma Insurance Code.

14 ~~B. A captive insurance company may take credit for reserves on~~
15 ~~risks or portions of risks ceded to reinsurers only in accordance~~
16 ~~with the Oklahoma Insurance Code.~~

17 SECTION 21. AMENDATORY 36 O.S. 2011, Section 6470.19, as
18 last amended by Section 16, Chapter 41, O.S.L. 2013 (36 O.S. Supp.
19 2014, Section 6470.19), is amended to read as follows:

20 Section 6470.19 A. Each captive insurance company, other than
21 a sponsored captive insurance company, and each protected cell of a
22 sponsored captive insurance company, shall pay to the Department, by
23 March 1 of each year, a tax at the rate of two-tenths of one percent
24 (0.2%) on the direct premiums collected or contracted for on

1 policies or contracts of insurance written by the captive insurance
2 company during the year ending December 31 next preceding, after
3 deducting from the direct premiums subject to the tax the amounts
4 paid to policyholders as return premiums which shall include
5 dividends on unabsorbed premiums or premium deposits returned or
6 credited to policyholders up to a maximum tax for such year of One
7 Hundred Thousand Dollars (\$100,000.00); provided however, that no
8 tax shall be due or payable as to consideration received for annuity
9 contracts.

10 B. A captive insurance company, other than a sponsored captive
11 insurance company, and each protected cell of a sponsored captive
12 insurance company, shall pay to the Department, by March 1 of each
13 year, a tax at the rate of one-tenth of one percent (0.1%) of
14 assumed reinsurance premium. However, no reinsurance tax applies to
15 premiums for risks or portions of risks which are subject to
16 taxation on a direct basis pursuant to subsection A of this section.
17 A premium tax is not payable in connection with the receipt of
18 assets in exchange for the assumption of loss reserves and other
19 liabilities of another insurer under common ownership and control if
20 the transaction is part of a plan to discontinue the operations of
21 the other insurer and if the intent of the parties to the
22 transaction is to renew or maintain business with the captive
23 insurance company.

24

1 C. A sponsored captive insurance company shall pay to the
2 Department, by March 1 of each year, a tax on direct and assumed
3 premiums equal, in the aggregate, to the minimum tax provided in
4 subsection D of this section.

5 D. If the aggregate taxes to be paid by a captive insurance
6 company or a protected cell of a sponsored captive insurance company
7 calculated under subsections A and B of this section amount to less
8 than Five Thousand Dollars (\$5,000.00) in any year, the captive
9 insurance company or protected cell shall pay a minimum tax of Five
10 Thousand Dollars (\$5,000.00) for that year. However, in the
11 calendar year in which a captive is first licensed, or the protected
12 cell is approved by the Commissioner, the minimum tax will be
13 prorated on a quarterly basis. For those licensed in the first
14 quarter, the prorated minimum tax is Five Thousand Dollars
15 (\$5,000.00). For those licensed in the second quarter, the prorated
16 minimum tax is Three Thousand Seven Hundred Fifty Dollars
17 (\$3,750.00). For those licensed in the third quarter, the prorated
18 minimum tax is Two Thousand Five Hundred Dollars (\$2,500.00). For
19 those licensed in the fourth quarter, the prorated minimum tax is
20 One Thousand Two Hundred Fifty Dollars (\$1,250.00). In the calendar
21 year in which a captive is first licensed or the protected cell is
22 first approved by the Commissioner, if the aggregate taxes to be
23 paid calculated under subsections A and B of this section amount to
24 less than the minimum tax prorated on a quarterly basis, the captive

1 or protected cell shall pay the prorated minimum tax for that
2 calendar year.

3 E. Subject to subsections F, G and H of this section, if the
4 aggregate taxes on direct and assumed premiums to be paid by a
5 captive insurance company or a protected cell of a sponsored captive
6 insurance company calculated under subsections A and B of this
7 section amount to more than One Hundred Thousand Dollars
8 (\$100,000.00) in any year, the captive insurance company shall pay a
9 maximum tax of One Hundred Thousand Dollars (\$100,000.00) for that
10 year.

11 F. Two or more captive insurance companies ~~or a protected cell~~
12 ~~of a sponsored captive insurance company~~ under common ownership and
13 control must be taxed as though they were a single captive insurance
14 company. Two or more protected cells of a sponsored captive
15 insurance company that are related by common ownership and control
16 must be taxed as though they were a single protected cell.

17 G. As used in this section, "common ownership and control"
18 means the direct or indirect ownership of eighty percent (80%) or
19 more of the outstanding voting stock or other voting interests of
20 two or more captive insurance companies or protected cells of a
21 sponsored captive insurance company by the same person or persons.

22 H. A captive insurance company that has employed twenty-five or
23 more separate qualified individuals throughout a given tax year and
24 that otherwise would be liable under this section for tax for such

1 year in an amount exceeding Fifty Thousand Dollars (\$50,000.00)
2 shall pay to the Commissioner under this section a tax for such year
3 in the amount of Fifty Thousand Dollars (\$50,000.00). For purposes
4 of this subsection, "qualified individual" means a natural person
5 employed in this state on a regular basis of thirty-five (35) or
6 more hours per week either by such captive insurance company, or by
7 a wholly-owned subsidiary of such captive insurance company that
8 provides captive insurance company management, operating, investment
9 or related services exclusively to such captive insurance company.

10 I. The tax provided for in this section constitutes all taxes
11 collectible under the laws of this state from a captive insurance
12 company or a protected cell of a sponsored captive insurance
13 company, and no other occupation tax or other taxes may be levied or
14 collected from a captive insurance company by the state or a county,
15 city, or municipality within this state, except ad valorem taxes on
16 real and personal property used in the production of income.

17 SECTION 22. AMENDATORY 36 O.S. 2011, Section 6470.20, as
18 amended by Section 17, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
19 Section 6470.20), is amended to read as follows:

20 Section 6470.20 A captive ~~reinsurance~~ insurance company failing
21 to make returns or to pay all taxes required by this section is
22 subject to sanctions provided in the Oklahoma Insurance Code.

23 SECTION 23. AMENDATORY 36 O.S. 2011, Section 6470.25, is
24 amended to read as follows:

1 Section 6470.25 ~~A. Except as otherwise provided in this~~
2 ~~section, the terms and conditions set forth in Articles 18 and 19 of~~
3 ~~the Oklahoma Insurance Code pertaining to insurance supervisions,~~
4 ~~conservatorship, rehabilitation, and receiverships apply in full to~~
5 ~~captive insurance companies formed or licensed under the Oklahoma~~
6 ~~Captive Insurance Company Act.~~

7 B. In the case of a sponsored captive insurance company:

8 1. The assets of the protected cell may not be used to pay
9 expenses or claims other than those attributable to the protected
10 cell; and

11 2. Its capital and surplus at all times must be available to
12 pay expenses of or claims against the sponsored captive insurance
13 company and may not be used to pay expenses or claims attributable
14 to a protected cell.

15 SECTION 24. AMENDATORY 36 O.S. 2011, Section 6470.27, as
16 amended by Section 19, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
17 Section 6470.27), is amended to read as follows:

18 Section 6470.27 The Insurance Commissioner shall promulgate
19 regulations establishing standards to ensure that a parent or
20 affiliated company is able to exercise control of the risk
21 management ~~function of~~ for any controlled unaffiliated business to
22 be insured by a pure captive insurance company; however, until such
23 time as these regulations are promulgated, the Insurance
24

1 Commissioner may by temporary order grant authority to a pure
2 captive insurance company to insure risks.

3 SECTION 25. AMENDATORY 36 O.S. 2011, Section 6470.29, as
4 amended by Section 21, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
5 Section 6470.29), is amended to read as follows:

6 Section 6470.29 A. In addition to the provisions of Sections
7 6470.1 through 6470.28 of this title, and the provisions of Sections
8 6470.29 through 6470.31 ~~and Sections 3 and 4 of this act~~ of this
9 title shall apply to sponsored captive insurance companies, and the
10 provisions of Section 1 of this act 6470.24.1 of this title shall
11 apply to each protected cell of a sponsored captive insurance
12 company.

13 B. Supplemental license application materials.

14 In addition to the information required by subsection C of
15 Section 6470.3 of this title, each applicant sponsored captive
16 insurance company shall file with the Commissioner the following:

17 1. Materials demonstrating to the satisfaction of the
18 Commissioner how the applicant will report to the Commissioner on,
19 and account for, the loss and expense experience of each protected
20 cell;

21 2. A statement acknowledging that all financial records of the
22 sponsored captive insurance company, including records pertaining to
23 any protected cells, shall be made available for inspection or
24

1 examination by the Commissioner or the Commissioner's designated
2 agent;

3 3. All contracts or sample contracts between the sponsored
4 captive insurance company and any participants; and

5 4. Evidence that expenses shall be allocated to each protected
6 cell in a fair and equitable manner.

7 C. One or more sponsors may form a sponsored captive insurance
8 company under the Oklahoma Captive Insurance Company Act.

9 D. A sponsored captive insurance company formed or licensed
10 under the Oklahoma Captive Insurance Company Act may establish and
11 maintain one or more protected cells to insure risks of one or more
12 participants, subject to the following conditions:

13 1. The persons holding the voting interests of a sponsored
14 captive insurance company must be limited to its participants and
15 sponsors; provided, that a sponsored captive insurance company may
16 issue nonvoting securities or interests to other persons on terms
17 approved by the Commissioner;

18 2. Each protected cell must be accounted for separately on the
19 books and records of the sponsored captive insurance company to
20 reflect the financial condition and results of operations of the
21 protected cell, net income or loss, dividends or other distributions
22 to participants, and other factors may be provided in the
23 participant contract or required by the Insurance Commissioner;

24

1 3. The assets of a protected cell must not be chargeable with
2 liabilities of any other protected cell or, unless otherwise agreed
3 in the applicable participant contract, of the sponsored captive
4 insurance company;

5 4. No sale, exchange, or other transfer of assets, or dividend
6 or other distribution, may be made with respect to a protected cell
7 by the sponsored captive insurance company without the consent of
8 the participants of each affected protected cell;

9 5. No sale, exchange, transfer of assets, dividend, or
10 distribution, other than a payment to a sponsor in accordance with
11 the applicable participant contract, may be made from a protected
12 cell to a sponsor or participant without the approval of the
13 Insurance Commissioner and in no event may the approval be given if
14 the sale, exchange, transfer, dividend, or distribution would result
15 in insolvency or impairment with respect to a protected cell;

16 6. A sponsored captive insurance company annually shall file
17 with the Insurance Commissioner financial reports the Insurance
18 Commissioner requires, which shall include, but are not limited to,
19 accounting statements detailing the financial experience of each
20 protected cell;

21 7. A sponsored captive insurance company shall notify the
22 Insurance Commissioner in writing within ten (10) business days of a
23 protected cell that is insolvent or otherwise unable to meet its
24 claim or expense obligations; and

1 8. No participant contract shall take effect without the prior
2 written approval of the Insurance Commissioner, and the addition of
3 each new protected cell and withdrawal of any participant or
4 termination of any existing protected cell constitutes a change in
5 the business plan of the sponsored captive insurance company
6 requiring the prior written approval of the Insurance Commissioner.

7 SECTION 26. AMENDATORY 36 O.S. 2011, Section 6470.30, as
8 amended by Section 22, Chapter 41, O.S.L. 2013 (36 O.S. Supp. 2014,
9 Section 6470.30), is amended to read as follows:

10 Section 6470.30 A sponsor of a sponsored captive insurance
11 company must be an insurer licensed pursuant to the laws of a state,
12 an insurance holding company that controls an insurer licensed
13 pursuant to the laws of any state and subject to registration
14 pursuant to the insurance holding company system laws of the state
15 of domicile of the insurer, a reinsurer authorized or approved
16 pursuant to the laws of a state, or a captive insurance company
17 formed or licensed pursuant to the Oklahoma Captive Insurance
18 Company Act, a holding company, a trust, an individual or other
19 organization as permitted by the Insurance Commissioner. A risk
20 retention group may be a participant of a sponsored captive
21 insurance company only to the extent that it is the sole participant
22 of one or more protected cells.

23
24

1 SECTION 27. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6470.34 of Title 36, unless
3 there is created a duplication in numbering, reads as follows:

4 A. A protected cell of a sponsored captive insurance company
5 may be formed as an entity-protected cell. "Entity-protected cell"
6 means a protected cell that is established as any type of legal
7 entity separate from the sponsored captive insurance company of
8 which it is a part.

9 B. Subject to the prior written approval of the sponsored
10 captive insurance company and of the Insurance Commissioner, an
11 entity-protected cell shall be entitled to enter into contracts and
12 undertake obligations in its own name and for its own account. In
13 the case of a contract or obligation to which the sponsored captive
14 insurance company is not a party, either in its own name and for its
15 own account or on behalf of a protected cell, the counterparty to
16 the contract or obligation shall have no right or recourse against
17 the sponsored captive insurance company and its assets other than
18 against assets properly attributable to the entity-protected cell
19 that is a party to the contract or obligation.

20 C. The articles of incorporation or articles of organization of
21 an entity-protected cell shall refer to the sponsored captive
22 insurance company for which it is a protected cell and shall state
23 that the protected cell is incorporated or organized for the limited
24 purposes authorized by the sponsored captive insurance company's

1 license. A copy of the prior written approval of the Commissioner
2 to add the entity-protected cell, required by Section 6470.29 of
3 Title 36 of the Oklahoma Statutes, shall be attached to and filed
4 with the articles of incorporation or the articles of organization.

5 D. Sponsored captive insurance companies, including those
6 licensed as special purpose captive insurance companies, shall have
7 the option to establish one or more protected cells as a separate
8 corporation, mutual corporation, nonprofit corporation, limited
9 liability company, or reciprocal insurer. This section shall not be
10 construed to limit any rights or protections applicable to protected
11 cells not established as corporations, mutual corporations,
12 nonprofit corporations, limited liability companies, or reciprocal
13 insurers.

14 SECTION 28. AMENDATORY 36 O.S. 2011, Section 6811, is
15 amended to read as follows:

16 Section 6811. A. ~~An~~ The Insurance Commissioner may require
17 that an insuring entity or self-insured entity shall file, between
18 ~~January 1 and March 15 of each year,~~ a closed claim report. These
19 reports shall be filed within thirty (30) days after the
20 Commissioner's request and shall include data for all claims closed
21 in the preceding calendar year and any adjustments to data reported
22 ~~in prior years~~ other information required by the Commissioner.

23 B. Any violation by an insurer of the Medical Professional
24 Liability Insurance Closed Claim Reports Act shall subject the

1 insurer to discipline including a civil penalty of not less than
2 Five Thousand Dollars (\$5,000.00).

3 ~~C. Every insuring entity or self-insurer that provides medical
4 professional liability insurance to any facility or provider in this
5 state shall report each medical professional liability closed claim
6 to the Insurance Commissioner.~~

7 ~~D.~~ A closed claim that is covered under a primary policy and
8 one or more excess policies shall be reported only by the insuring
9 entity that issued the primary policy. The insuring entity that
10 issued the primary policy shall report the total amount, if any,
11 paid with respect to the closed claim, including any amount paid
12 under an excess policy, any amount paid by the facility or provider,
13 and any amount paid by any other person on behalf of the facility or
14 provider.

15 ~~E.~~ D. If a claim is not covered by an insuring entity or self-
16 insurer, the facility or provider named in the claim shall report it
17 to the Commissioner after a final claim disposition has occurred due
18 to a court proceeding or a settlement by the parties. Instances in
19 which a claim may not be covered by an insuring entity or self-
20 insurer include situations in which:

21 1. The facility or provider did not buy insurance or maintained
22 a self-insured retention that was larger than the final judgment or
23 settlement;

24

1 2. The claim was denied by an insuring entity or self-insurer
2 because it did not fall within the scope of the insurance coverage
3 agreement; or

4 3. The annual aggregate coverage limits had been exhausted by
5 other claim payments.

6 ~~F.~~ E. If a claim is covered by an insuring entity or self-
7 insurer that fails to report the claim to the Commissioner, the
8 facility or provider named in the claim shall report it to the
9 Commissioner after a final claim disposition has occurred due to a
10 court proceeding or a settlement by the parties.

11 1. If a facility or provider is insured by a risk retention
12 group and the risk retention group refuses to report closed claims
13 and asserts that the federal Liability Risk Retention Act (95 Stat.
14 949; 15 U.S.C. Sec. 3901 et seq.) preempts state law, the facility
15 or provider shall report all data required by the Medical
16 Professional Liability Insurance Closed Claim Reports Act on behalf
17 of the risk retention group.

18 2. If a facility or provider is insured by an unauthorized
19 insurer and the unauthorized insurer refuses to report closed claims
20 and asserts a federal exemption or other jurisdictional preemption,
21 the facility or provider shall report all data required by the
22 Medical Professional Liability Insurance Closed Claim Reports Act on
23 behalf of the unauthorized insurer.

24

1 3. If a facility or provider is insured by a captive insurer
2 and the captive insurer refuses to report closed claims and asserts
3 a federal exemption or other jurisdictional preemption, the facility
4 or provider shall report all data required by the Medical
5 Professional Liability Insurance Closed Claim Reports Act on behalf
6 of the captive insurer.

7 SECTION 29. REPEALER 36 O.S. 2011, Sections 924.4, as
8 amended by Section 1, Chapter 44, O.S.L. 2012 and 924.5, as amended
9 by Section 2, Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2014, Sections
10 924.4 and 924.5), are hereby repealed.

11 SECTION 30. REPEALER 36 O.S. 2011, Section 6470.23, is
12 hereby repealed.

13 SECTION 31. This act shall become effective November 1, 2015."
14 Passed the House of Representatives the 8th day of April, 2015.

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Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2015.

Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 455

By: Brown of the Senate

3 and

4 Kirby of the House

5
6 An Act relating to insurance; amending 36 O.S. 2011,
7 Section 309.4, which relates to examination reports;
8 eliminating requirement that insurance companies
9 deliver certain reports and orders; amending 36 O.S.
10 2011, Section 312A, which relates to enforcement and
11 recording of penalties and fees; specifying types of
12 civil penalties and fees that may be enforced in
13 certain manner; amending 36 O.S. 2011, Section 348.1,
14 as amended by Section 3, Chapter 275, O.S.L. 2014 (36
15 O.S. Supp. 2014, Section 348.1), which relates to
16 fees and licenses; updating citation; amending 36
17 O.S. 2011, Sections 608 and 609, which relate to
18 authorization of insurers; updating and deleting
19 citations; amending 36 O.S. 2011, Section 903.2, as
20 amended by Section 16, Chapter 254, O.S.L. 2013 (36
21 O.S. Supp. 2014, Section 903.2), which relates to the
22 Oklahoma Insurance Rating Act; modifying filing
23 requirements; amending 36 O.S. 2011, Section 1435.2,
24 which relates to the Oklahoma Producer Licensing Act;
modifying definition; updating citations; amending 36
O.S. 2011, Section 1441.1, which relates to the
Third-Party Administrator Act; updating citations;
amending 36 O.S. 2011, Section 1524, as amended by
Section 6, Chapter 269, O.S.L. 2013 (36 O.S. Supp.
2014, Section 1524), which relates to the Risk-based
Capital for Insurers Act; modifying required contents
of certain required plan; amending 36 O.S. 2011,
Section 1674, which relates to the Business
Transacted with Producer Controlled Insurer Act;
updating reference; amending 36 O.S. 2011, Section
4502, which relates to group accident and health
insurance policies; modifying required policy
provisions; making language gender neutral; amending
36 O.S. 2011, Section 6041, which relates to payments
for emergency living expenses; expanding authorized
forms of payments; amending 36 O.S. 2011, Section
6103.3, which relates to acts of insurance business;

1 specifying certain persons for which certain remedies
2 will applicable; specifying certain prohibited acts;
3 amending 36 O.S. 2011, Section 6811, which relates to
4 the Medical Professional Liability Insurance Closed
5 Claim Reports Act; authorizing the Insurance
6 Commissioner to require certain filings; requiring
7 certain reports be filed within certain time;
8 eliminating requirement that certain claims be
9 reported; repealing 36 O.S. 2011, Sections 924.4, as
10 amended by Section 1, Chapter 44, O.S.L. 2012 and
11 924.5, as amended by Section 2, Chapter 44, O.S.L.
12 2012 (36 O.S. Supp. 2014, Sections 924.4 and 924.5),
13 which relate to affidavits of exempt status; and
14 providing an effective date.

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

SECTION 32. AMENDATORY 36 O.S. 2011, Section 309.4, is
amended to read as follows:

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

B. No later than thirty (30) days following completion of the
examination, the examiner in charge shall file with the Insurance
Department a verified written report of examination under oath.
Upon receipt of the verified report, the Department shall transmit
the report to the company examined, together with a notice which

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

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

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

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

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

23 D. 1. All orders entered pursuant to paragraph 1 of subsection
24 C of this section shall be accompanied by findings and conclusions

1 resulting from the Commissioner's consideration and review of the
2 examination report, relevant examiner work papers and any written
3 submissions or rebuttals. Any such order shall be considered a
4 final administrative decision and may be appealed pursuant to the
5 Administrative Procedures Act, and shall be served upon the company
6 by certified mail, together with a copy of the adopted examination
7 report. Within thirty (30) days of the issuance of the adopted
8 report, the company shall file affidavits executed by each of its
9 directors stating under oath that they have received a copy of the
10 adopted report and related orders. ~~Upon proper order of the~~
11 ~~Commissioner, the company shall deliver by mail or otherwise, within~~
12 ~~thirty (30) days of the date of the order, a copy of the adopted~~
13 ~~report and related orders to all states and jurisdictions in which~~
14 ~~the company is licensed to transact the business of insurance.~~

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

1 3. The Commissioner shall not appoint an examiner as an
2 authorized representative to conduct the hearing. The Commissioner
3 or a representative of the Commissioner may issue subpoenas for the
4 attendance of any witnesses or the production of any documents
5 deemed relevant to the investigation whether under the control of
6 the Department, the company or other persons. The documents
7 produced shall be included in the record, and testimony taken by the
8 Commissioner or representative of the Commissioner shall be under
9 oath and preserved for the record.

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

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

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

1 of Section 309.3 of this title. Thereafter, the Commissioner may
2 open the report for public inspection so long as no court of
3 competent jurisdiction has stayed its publication.

4 2. Nothing contained in Sections 309.1 through 309.7 of this
5 title shall prevent or be construed as prohibiting the Commissioner
6 from disclosing the content of an examination report, preliminary
7 examination report or results, or any matter relating thereto, to
8 the insurance department of this or any other state or country, or
9 to law enforcement officials of this or any other state or agency of
10 the federal government at any time, so long as such agency or office
11 receiving the report or matters relating thereto agrees in writing
12 to hold it confidential and in a manner consistent with Sections
13 309.1 through 309.7 of this title.

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

18 F. All working papers, recorded information, documents and
19 copies thereof produced by, obtained by or disclosed to the
20 Commissioner or any other person in the course of an examination
21 made under Sections 309.1 through 309.7 of this title, or in the
22 course of analysis by the Commissioner or any other person of the
23 financial condition or market conduct of a company, shall be given
24 confidential treatment and are not subject to subpoena and may not

1 be made public by the Commissioner or any other person, except to
2 the extent provided in subsection E of this section and subsection F
3 of Section 309.3 of this title. Access may also be granted to the
4 National Association of Insurance Commissioners. Such parties shall
5 agree in writing prior to receiving the information to provide to it
6 the same confidential treatment as required by this section, unless
7 the prior written consent of the company to which it pertains has
8 been obtained.

9 SECTION 33. AMENDATORY 36 O.S. 2011, Section 312A, is
10 amended to read as follows:

11 Section 312A. Civil penalties and fees imposed by the Insurance
12 Commissioner pursuant to the provisions of this title Oklahoma law
13 may be enforced in the same manner in which civil judgments may be
14 enforced. All final orders of the Insurance Commissioner imposing
15 administrative charges, fees, civil penalties or fines may be
16 recorded in the office of the Clerk of the District Court of
17 Oklahoma County and, upon such recording, all appropriate writs and
18 process shall issue and shall be enforced by the judges of said
19 court upon application.

20 SECTION 34. AMENDATORY 36 O.S. 2011, Section 348.1, as
21 amended by Section 3, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2014,
22 Section 348.1), is amended to read as follows:

23 Section 348.1 A. The Insurance Commissioner shall collect the
24 following fees and licenses for the Property and Casualty Division:

- 1 1. Rating organizations, statistical agents and advisory
- 2 organizations:
- 3 a. Application fee for issuance of
- 4 license.....\$200.00
- 5 b. License fee.....\$500.00
- 6 2. Miscellaneous:
- 7 a. Certificate of Insurance Commissioner,
- 8 under seal.....\$ 20.00
- 9 b. Upon each transaction of filing of
- 10 documents required pursuant to Section
- 11 3610 of this title and the Service
- 12 Warranty Act, as contained in Sections
- 13 141.1 through 141.32 of Title 15 of the
- 14 Oklahoma Statutes:
- 15 (1) For an individual insurer.....\$ 50.00
- 16 (2) For an approved joint underwriting
- 17 association, or rating or advisory
- 18 organization:
- 19 (a) Basic fee.....\$ 50.00
- 20 (b) Additional fee for each member
- 21 or subscriber insurer.....\$ 10.00,
- 22 not to exceed.....\$500.00.

1 3. For each rate, loss cost and rule filing request pursuant to
2 the ~~provisions of Sections 6821 and 981 et seq. of this title~~
3 Property and Casualty Competitive Loss Cost Rating Act:

4 a. For an individual insurer.....\$100.00

5 b. For an approved joint underwriting
6 association, rating or advisory
7 organization:

8 (1) Basic fee.....\$100.00

9 (2) Additional fee for each member
10 or subscriber insurer.....\$ 10.00,
11 not to exceed.....\$500.00.

12 B. The fees, licenses, and taxes imposed by the Commissioner
13 upon persons, firms, associations, or corporations licensed pursuant
14 to this section shall be payment in full with respect thereto of and
15 in lieu of all demands for any and all state, county, district, and
16 municipal license fees, license taxes, business privilege taxes,
17 business privilege fees, and charges of every kind now or hereafter
18 imposed upon all such persons, firms, associations, or corporations.
19 This subsection shall not affect other fees, licenses and taxes
20 imposed by the Insurance Code.

21 C. Any costs incurred by the Commissioner in the process of
22 review and analysis of a filing shall be assessed against the
23 company or organization making the filing.

1 SECTION 35. AMENDATORY 36 O.S. 2011, Section 608, is
2 amended to read as follows:

3 Section 608. A. A casualty insurer shall not be authorized to
4 transact workers' compensation insurance in this state without first
5 complying with the applicable provisions of Title ~~85~~ 85A of the
6 Oklahoma Statutes.

7 B. A claims adjuster for any insurer duly authorized to
8 transact workers' compensation insurance in Oklahoma shall be
9 licensed pursuant to the Insurance Adjusters Licensing Act.

10 SECTION 36. AMENDATORY 36 O.S. 2011, Section 609, is
11 amended to read as follows:

12 Section 609. An insurer which otherwise qualifies therefor may
13 be authorized to transact any one kind or combination of kinds of
14 insurance as defined in Section 701 et seq. of this title, except:

15 1. A life insurer shall not be authorized to transact any other
16 kind of insurance except accident and health and workers'
17 compensation and employer liability equivalent insurance if
18 otherwise qualified to do so on or after September 1, 1994, ~~pursuant~~
19 ~~to the provisions of Section 65 of Title 85 of the Oklahoma Statutes~~
20 or if immediately prior to the effective date of this Code any life
21 insurer lawfully held a subsisting certificate of authority granting
22 it the right to transact in Oklahoma additional kinds of insurance
23 other than accident and health, so long as the insurer is otherwise
24 in compliance with this Code the Insurance Commissioner shall

1 continue to authorize such insurer to transact the same kinds of
2 insurance as those specified in such prior certificate of authority;

3 2. A reciprocal insurer shall not transact life insurance;

4 3. A Lloyd's insurer shall not transact life insurance;

5 4. A title insurer shall be a stock insurer and shall not
6 transact any other kind of insurance; and

7 5. No insurer shall issue for delivery or deliver in this state
8 any contract of insurance which imposes contingent or assessment
9 liability upon a resident of this state.

10 SECTION 37. AMENDATORY 36 O.S. 2011, Section 903.2, as
11 amended by Section 16, Chapter 254, O.S.L. 2013 (36 O.S. Supp. 2014,
12 Section 903.2) is amended to read as follows:

13 Section 903.2 No insurance company shall request and the
14 Insurance Commissioner shall not approve an increase for the expense
15 portion of insurance company rate filings based upon the
16 requirements of Section 6701 of this title ~~and Section 355 of Title~~
17 ~~85 of the Oklahoma Statutes.~~

18 SECTION 38. AMENDATORY 36 O.S. 2011, Section 1435.2, is
19 amended to read as follows:

20 Section 1435.2 As used in the Oklahoma Producer Licensing Act:

21 1. "Commissioner" means the Insurance Commissioner;

22 2. "Business entity" means a corporation, association,
23 partnership, limited liability company, limited partnership, or
24 other legal entity;

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

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

12 5. "Insurance" means any of the lines of authority in ~~Title 36~~
13 ~~of the Oklahoma Statutes~~ this title, including workers' compensation
14 insurance. Any insurer approved to offer workers' compensation
15 ~~equivalent~~ insurance pursuant to the provisions of ~~Section 65 of~~
16 ~~Title 85 of the Oklahoma Statutes~~ may appoint ~~property and casualty~~
17 insurance producers. All producers appointed for workers'
18 compensation ~~equivalent~~ insurance products must be licensed as
19 ~~property and casualty~~ insurance producers by the Oklahoma Insurance
20 Department;

21 6. "Insurance consultant" means an individual or legal entity
22 who, for a fee, is held out to the public as engaged in the business
23 of offering any advice, counsel, opinion or service with respect to
24

1 the benefits, advantages, or disadvantages promised under any policy
2 of insurance that could be issued or delivered in this state;

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

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

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

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

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

14 12. "Limited lines insurance" means limited line credit and
15 those lines of insurance defined in Section ~~20~~ 1435.20 of this ~~act~~
16 title or any other line of insurance the Insurance Commissioner
17 deems necessary to recognize for the purposes of complying with
18 subsection E of Section ~~9~~ 1435.9 of this ~~act~~ title;

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

24

1 14. "Managing general agent" means an individual or legal
2 entity appointed, as an independent contractor, by one or more
3 insurers to exercise general supervision over the business of the
4 insurer in this state, with authority to appoint insurance producers
5 for the insurer, and to terminate appointments for the insurer;

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

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

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

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

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

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

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

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

10 SECTION 39. AMENDATORY 36 O.S. 2011, Section 1441.1, is
11 amended to read as follows:

12 Section 1441.1 The provisions of Section 1441 et seq. of ~~Title~~
13 ~~36 of the Oklahoma Statutes~~ this title shall not apply to
14 administrators of group self-insurance associations created pursuant
15 to Section ~~149.2~~ 399 of Title 85 of the Oklahoma Statutes.

16 SECTION 40. AMENDATORY 36 O.S. 2011, Section 1524, as
17 amended by Section 6, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2014,
18 Section 1524), is amended to read as follows:

19 Section 1524. A. "Company Action Level Event" means any of the
20 following events:

21 1. The filing of an RBC Report by an insurer which indicates
22 that:

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- 1 a. the insurer's Total Adjusted Capital is greater than
2 or equal to its Regulatory Action Level RBC but less
3 than its Company Action Level RBC,
4 b. if a life or health insurer, the insurer or fraternal
5 benefit society has Total Adjusted Capital which is
6 greater than or equal to its Company Action Level RBC
7 but less than the product of its Authorized Control
8 Level RBC and 3.0 and has a negative trend, or
9 c. if a property and casualty insurer, the insurer has
10 total adjusted capital which is greater than or equal
11 to its Company Action Level RBC but less than the
12 product of its Authorized Control Level RBC and 3.0
13 and triggers the trend test determined in accordance
14 with the trend test calculation included in the
15 Property and Casualty RBC instructions;

16 2. The notification by the Insurance Commissioner to the
17 insurer of an Adjusted RBC Report that indicates an event described
18 in paragraph 1 of this subsection, provided the insurer does not
19 challenge the Adjusted RBC Report under Section 1528 of this title;
20 or

21 3. If, pursuant to Section 1528 of this title, an insurer
22 challenges an Adjusted RBC Report that indicates the event described
23 in paragraph 1 of this subsection, the notification by the
24

1 Commissioner to the insurer that the Commissioner has, after
2 opportunity for a hearing, rejected the insurer's challenge.

3 B. In the event of a Company Action Level Event, the insurer
4 shall, unless otherwise directed by the Commissioner, prepare and
5 submit to the Commissioner an RBC Plan which shall include the
6 following five elements:

7 1. Conditions which contribute to the Company Action Level
8 Event;

9 2. Proposals of corrective actions which the insurer intends to
10 take and which would be expected to result in the elimination of the
11 Company Action Level Event;

12 3. Projections of the insurer's financial results in the
13 current year and at least the four (4) succeeding years, both in the
14 absence of proposed corrective actions and giving effect to the
15 proposed corrective actions, including projections of statutory
16 operating income, net income, ~~or~~ and capital and surplus. Unless
17 the Commissioner otherwise directs, the projections for both new and
18 renewal business shall include separate projections for each major
19 line of business and separately identify each significant income,
20 expense and benefit component;

21 4. The key assumptions impacting the insurer's projections and
22 the sensitivity of the projections to the assumptions; and

23 5. The quality of, and problems associated with, the insurer's
24 business, including, but not limited to, its assets, anticipated

1 business growth and associated surplus strain, extraordinary
2 exposure to risk, mix of business, and use of reinsurance, if any,
3 in each case.

4 C. The RBC Plan shall be submitted:

5 1. Within forty-five (45) days of the Company Action Level
6 Event; or

7 2. If the insurer challenges an Adjusted RBC Report pursuant to
8 Section 1528 of this title, within forty-five (45) days after
9 notification to the insurer that the Commissioner has, after
10 opportunity for a hearing, rejected the insurer's challenge.

11 D. Within sixty (60) days after the submission by an insurer of
12 an RBC Plan to the Commissioner, the Commissioner shall notify the
13 insurer whether the RBC Plan shall be implemented or is, in the
14 judgment of the Commissioner, unsatisfactory. If the Commissioner
15 determines the RBC Plan is unsatisfactory, the notification to the
16 insurer shall set forth the reasons for the determination, and may
17 set forth proposed revisions which will render the RBC Plan
18 satisfactory, in the judgment of the Commissioner. Upon
19 notification from the Commissioner, the insurer shall prepare a
20 Revised RBC Plan, which may incorporate by reference any revisions
21 proposed by the Commissioner, and shall submit the Revised RBC Plan
22 to the Commissioner:

23 1. Within forty-five (45) days after the notification from the
24 Commissioner; or

1 2. If the insurer challenges the notification from the
2 Commissioner under Section 1528 of this title, within forty-five
3 (45) days after a notification to the insurer that the Commissioner
4 has, after opportunity for a hearing, rejected the insurer's
5 challenge.

6 E. In the event of a notification by the Commissioner to an
7 insurer that the insurer's RBC Plan or Revised RBC Plan is
8 unsatisfactory, the Commissioner may at the Commissioner's
9 discretion, subject to the insurer's right to a hearing under
10 Section 1528 of this title, specify in the notification that the
11 notification constitutes a Regulatory Action Level Event.

12 F. Every domestic insurer that files an RBC Plan or Revised RBC
13 Plan with the Commissioner shall file a copy of the RBC Plan or
14 Revised RBC Plan with the insurance commissioner in any state in
15 which the insurer is authorized to do business if:

16 1. The state has an RBC provision substantially similar to
17 subsection A of Section 1531 of this title; and

18 2. The insurance commissioner of that state has notified the
19 insurer of its request for the filing in writing. If such a request
20 is made, the insurer shall file a copy of the RBC Plan or Revised
21 RBC Plan in that state no later than the later of:

22 a. fifteen (15) days after the receipt of the request to
23 file a copy of its RBC Plan or Revised RBC Plan with
24 the state, or

1 b. the date on which the RBC Plan or Revised RBC Plan is
2 filed under subsections C and D of this section.

3 SECTION 41. AMENDATORY 36 O.S. 2011, Section 1674, is
4 amended to read as follows:

5 Section 1674. A. Applicability of section.

6 1. The provisions of this section shall apply if, in any
7 calendar year, the aggregate amount of gross written premium on
8 business placed with a controlled insurer by a controlling producer
9 is equal to or greater than five percent (5%) of the admitted assets
10 of the controlled insurer, as reported in the controlled insurers'
11 quarterly statement filed as of September 30 of the prior year.

12 2. Notwithstanding paragraph 1 of this subsection, the
13 provisions of this section shall not apply if:

14 a. the controlling producer:

15 (1) places insurance only with the controlled
16 insurer, or only with the controlled insurer and
17 a member or members of the controlled insurer's
18 holding company system, or the controlled
19 insurer's parent, affiliate or subsidiary and
20 receives no compensation based upon the amount of
21 premiums written in connection with such
22 insurance, and

1 (2) accepts insurance placements only from
2 nonaffiliated subproducers, and not directly from
3 insureds, and

4 b. the controlled insurer, except for insurance business
5 written through a residual market facility, accepts
6 insurance business only from a controlling producer, a
7 producer controlled by the controlled insurer, or a
8 producer that is a subsidiary of the controlled
9 insurer.

10 B. Required contract provisions. A controlled insurer shall
11 not accept business from a controlling producer and a controlling
12 producer shall not place business with a controlled insurer unless
13 there is a written contract between the controlling producer and the
14 insurer specifying the responsibilities of each party, which
15 contract has been approved by the board of directors of the insurer
16 and contains the following minimum provisions:

17 1. The controlled insurer may terminate the contract for cause,
18 upon written notice to the controlling producer. The controlled
19 insurer shall suspend the authority of the controlling producer to
20 write business during the pendency of any dispute regarding the
21 cause for the termination;

22 2. The controlling producer shall render accounts to the
23 controlled insurer detailing all material transactions, including
24

1 information necessary to support all commissions, charges and other
2 fees received by, or owing to, the controlling producer;

3 3. The controlling producer shall remit all funds due under the
4 terms of the contract to the controlled insurer on at least a
5 monthly basis. The due date shall be fixed so that premiums or
6 installments thereof collected shall be remitted no later than
7 ninety (90) days after the effective date of any policy placed with
8 the controlled insurer under this contract;

9 4. All funds collected for the controlled insurer's account
10 shall be held by the controlling producer in a fiduciary capacity,
11 in one or more appropriately identified bank accounts in banks that
12 are members of the Federal Reserve System, in accordance with the
13 provisions of the insurance law as applicable. However, funds of a
14 controlling producer not required to be licensed in this state shall
15 be maintained in compliance with the requirements of the controlling
16 producer's domiciliary jurisdiction;

17 5. The controlling producer shall maintain separately
18 identifiable records of business written for the controlled insurer;

19 6. The contract shall not be assigned in whole or in part by
20 the controlling producer;

21 7. The controlled insurer shall provide the controlling
22 producer with its underwriting standards, rules and procedures,
23 manuals setting forth the rates to be charged, and the conditions
24 for the acceptance or rejection of risks. The controlling producer

1 shall adhere to the standards, rules, procedures, rates and
2 conditions. The standards, rules, procedures, rates and conditions
3 shall be the same as those applicable to comparable business placed
4 with the controlled insurer by a producer other than the controlling
5 producer;

6 8. The rate and terms of the controlling producer's
7 commissions, charges or other fees and the purposes for those
8 charges or fees. The rates of the commissions, charges and other
9 fees shall be no greater than those applicable to comparable
10 business placed with the controlled insurer by producers other than
11 controlling producers. For purposes of this paragraph and paragraph
12 7 of this subsection, examples of "comparable business" include the
13 same lines of insurance, same kinds of insurance, same kinds of
14 risks, similar policy limits, and similar quality of business;

15 9. If the contract provides that the controlling producer, on
16 insurance business placed with the insurer, is to be compensated
17 contingent upon the insurer's profits on that business, then such
18 compensation shall not be determined and paid until at least five
19 (5) years after the premiums on liability insurance are earned and
20 at least one (1) year after the premiums are earned on any other
21 insurance. In no event shall the commissions be paid until the
22 adequacy of the controlled insurer's reserves on remaining claims
23 has been independently verified pursuant to subsection € D of this
24 section;

1 10. A limit on the controlling producer's writings in relation
2 to the controlled insurer's surplus and total writings. The insurer
3 may establish a different limit for each line or subline of
4 business. The controlled insurer shall notify the controlling
5 producer when the applicable limit is approached and shall not
6 accept business from the controlling producer if the limit is
7 reached. The controlling producer shall not place business with the
8 controlled insurer if it has been notified by the controlled insurer
9 that the limit has been reached; and

10 11. The controlling producer may negotiate but shall not bind
11 reinsurance on behalf of the controlled insurer on business the
12 controlling producer places with the controlled insurer, except that
13 the controlling producer may bind facultative reinsurance contracts
14 pursuant to obligatory facultative agreements if the contract with
15 the controlled insurer contains underwriting guidelines including,
16 for both reinsurance assumed and ceded, a list of reinsurers with
17 which such automatic agreements are in effect, the coverages and
18 amounts of percentages that may be reinsured and commission
19 schedules.

20 C. Audit Committee. Every controlled insurer shall have an
21 Audit Committee of the Board of Directors composed of independent
22 directors. The Audit Committee shall annually meet with management,
23 the insurer's licensed public accountant or a certified public
24 accountant holding a permit to practice in this state and an

1 independent casualty actuary or other independent loss reserve
2 specialist acceptable to the Commissioner to review the adequacy of
3 the insurer's loss reserves.

4 D. Reporting requirements.

5 1. In addition to any other required loss reserve
6 certification, the controlled insurer shall annually, on April 1 of
7 each year, file with the Commissioner an opinion of an independent
8 casualty actuary, or such other independent loss reserve specialist
9 acceptable to the Commissioner, reporting loss ratios for each line
10 of business written and attesting to the adequacy of loss reserves
11 established for losses incurred and outstanding as of year-end,
12 including incurred but not reported losses, on business placed by
13 the producer; and

14 2. The controlled insurer shall annually report to the
15 Commissioner the amount of commissions paid to the producer, the
16 percentage such amount represents of the net premiums written and
17 comparable amounts and percentage paid to noncontrolling producers
18 for placements of the same kinds of insurance.

19 SECTION 42. AMENDATORY 36 O.S. 2011, Section 4502, is
20 amended to read as follows:

21 Section 4502. A. Each group accident and health policy shall
22 contain in substance the following provisions:

23 1. A provision that, in the absence of fraud, all statements
24 made by the policyholder or by any insured person shall be deemed

1 representations and not warranties, and that no statement made for
2 the purpose of effecting insurance shall avoid such insurance or
3 reduce benefits unless contained in a written instrument signed by
4 the policyholder or the insured person, a copy of which has been
5 furnished to such policyholder or to such person or his or her
6 beneficiary-;

7 2. A provision that the insurer will furnish to the
8 policyholder, for delivery to each employee or member of the insured
9 group, an individual certificate setting forth in summary form a
10 statement of the essential features of the insurance coverage of
11 such employee or member and to whom benefits are payable. If
12 dependents or family members are included in the coverage additional
13 certificates need not be issued for delivery to such dependents or
14 family members-; and

15 3. A provision that to the group originally insured may be
16 added from time to time eligible new employees or members or
17 dependents, as the case may be, in accordance with the terms of the
18 policy.

19 B. Each group health policy certificate subject to the
20 provisions of the Federal Health Insurance Portability and
21 Accountability Act, Public Law 104-191, (HIPAA) laws shall contain
22 in substance the following provisions, which shall be in addition to
23 the provisions required by subsection A of this section.

24

1 1. A provision that a health benefit plan shall not deny,
2 exclude or limit benefits for a covered individual for losses
3 incurred more than twelve (12) months following the effective date
4 of the individual's coverage due to a preexisting condition;

5 2. A provision that a health benefit plan shall not define a
6 preexisting condition more restrictively than:

7 a. a condition for which medical advice, diagnosis, care
8 or treatment was recommended or received during the
9 six (6) months immediately preceding the effective
10 date of coverage,

11 b. pregnancy and genetic information shall not be
12 considered preexisting conditions,

13 c. a health benefit plan may exclude a preexisting
14 condition for late enrollees for a period not to
15 exceed eighteen (18) months from the date the
16 individual enrolls for coverage,

17 d. the period of any such preexisting condition exclusion
18 shall be reduced by the aggregate of the periods of
19 creditable coverage as defined in the Federal HIPAA
20 laws,

21 e. a period of creditable coverage shall not be counted
22 if after such period and before the enrollment date,
23 there was a sixty-three-day period during all of which
24

1 the individual was not covered under any creditable
2 coverage,

3 f. "enrollment date" means the date of enrollment of the
4 individual in the plan or coverage or, if earlier, the
5 first day of the waiting period for such enrollment,
6 and

7 g. "late enrollee" means a participant or beneficiary who
8 enrolls under the plan other than during the first
9 period in which the individual is eligible to enroll
10 under the plan or a special enrollment period;

11 3. A provision that individuals losing other coverage shall be
12 permitted to enroll for coverage under the terms of the plan if each
13 of the following conditions is met:

14 a. the employee or dependent was covered under a group
15 health plan or had health insurance coverage at the
16 time coverage was previously offered to the employee
17 or dependent,

18 b. the employee stated in writing at such time that
19 coverage under a group health plan or health insurance
20 coverage was the reason for declining enrollment, but
21 only if the plan sponsor or issuer required such a
22 statement at such time and provided the employee with
23 notice of such requirement, and the consequences of
24 such requirement, at such time,

1 c. the employee's or dependent's coverage was under a
2 COBRA continuation provision and the coverage under
3 such provision was exhausted; or was not under such a
4 provision and either the coverage was terminated as a
5 result of loss of eligibility for the coverage,
6 including as a result of legal separation, divorce,
7 death, termination of employment, or reduction in the
8 number of hours of employment, or employer
9 contributions toward such coverage were terminated,
10 and

11 d. under the terms of the plan, the employee requests
12 such enrollment not later than thirty (30) days after
13 the date of exhaustion of coverage;

14 4. A provision that for any period that an individual is in a
15 waiting period for any coverage under a group health plan or for
16 group health insurance coverage or is in an affiliation period, that
17 period shall not be taken into account in determining the continuous
18 period of creditable coverage. "Affiliation period" means a period
19 which, under the terms of the health insurance coverage offered by a
20 health maintenance organization, must expire before the health
21 insurance coverage becomes effective. The organization is not
22 required to provide health care services or benefits during such
23 period and no premium shall be charged to the participant or
24 beneficiary for any coverage during the period;

1 5. A provision that preexisting condition exclusions will not
2 apply to newborns, who, as the last day of the thirty-day period
3 beginning with the date of birth, are covered under creditable
4 coverage;

5 6. A provision that preexisting condition exclusions will not
6 apply to a child who is adopted or placed for adoption before
7 attaining eighteen (18) years of age;

8 7. A provision that dependents are eligible for a special
9 enrollment period if the group health plan makes coverage available
10 with respect to a dependent of an individual, and the individual is
11 a participant under the plan, or has met any waiting period
12 applicable to becoming a participant under the plan and is eligible
13 to be enrolled under the plan but for a failure to enroll during a
14 previous enrollment period, and a person becomes such a dependent of
15 the individual through marriage, birth or adoption or placement for
16 adoption. The special enrollment period shall apply to that person
17 or, if not otherwise enrolled, the individual, the dependent of the
18 individual, and in the case of the birth or adoption of a child, the
19 spouse of the individual may be enrolled as a dependent of the
20 individual if such spouse is otherwise eligible for coverage.

21 a. The dependent special enrollment period shall be a
22 period of not less than thirty (30) days and shall
23 begin on the later of the date dependent coverage is
24

1 made available, or the date of the marriage, birth, or
2 adoption or placement for adoption.

3 b. There is no waiting period if an individual seeks to
4 enroll a dependent during the first thirty (30) days
5 of such a dependent special enrollment period.

6 c. The coverage for the dependent shall become effective
7 in the case of marriage, not later than the first day
8 of the first month beginning after the date the
9 completed request for enrollment is received, in the
10 case of a dependent's birth, as of the date of such
11 birth, in the case of a dependent's adoption or
12 placement for adoption, the date of such adoption or
13 placement for adoption;

14 8. A provision that eligibility or continued eligibility of any
15 individual will not be based on any of the following health-status-
16 related factors in relation to the individual or a dependent of the
17 individual: health status, medical condition, including both
18 physical and mental illnesses, claims experience, receipt of health
19 care, medical history, genetic information, evidence of
20 insurability, including conditions arising out of acts of domestic
21 violence or disability.

22 a. Carriers are not required to provide particular
23 benefits other than those provided under the terms of
24 the plan or coverage.

1 b. Carriers may establish limitations or restrictions on
2 the amount, level, extent, and nature of the benefits
3 or coverage for similarly situated individuals
4 enrolled in the plan or coverage; and

5 9. A provision that the group health plan is guaranteed
6 renewable, except as provided pursuant to the federal provisions
7 found in HIPAA, which are as follows:

- 8 a. nonpayment of premium,
9 b. fraud,
10 c. violation of participation and/or contribution rules,
11 d. termination of coverage:

12 (1) in any case in which an issuer decides to
13 discontinue offering a particular type of group
14 health insurance coverage offered in the large or
15 small group market, coverage of such type may be
16 discontinued by the issuer only if: the issuer
17 provides notice to each plan sponsor provided
18 coverage of this type in such market, and
19 participants and beneficiaries covered under such
20 coverage, of such discontinuation at least ninety
21 (90) days prior to the date of the
22 discontinuation of such coverage and makes
23 available the option to purchase all or, in the
24 case of the large group market, any other health

1 insurance coverage currently being offered by the
2 issuer to a group health plan in such market and
3 in exercising the option to discontinue coverage
4 of this type and in offering the option of
5 coverage pursuant to this provision, the issuer
6 acts uniformly without regard to the claims
7 experience of those sponsors or any health-
8 status-related factor relating to any
9 participants or beneficiaries covered or new
10 participants or beneficiaries who may become
11 eligible for such coverage,

12 (2) in any case in which an issuer decides to
13 discontinue offering a particular type of group
14 health insurance coverage offered in the large or
15 small group market, coverage of such type may be
16 discontinued by the issuer only if: the issuer
17 provides notice to the Oklahoma Insurance
18 Department and to each plan sponsor and
19 participants and beneficiaries covered under such
20 coverage of such discontinuation at least one
21 hundred eighty (180) days prior to the date of
22 the discontinuation of such coverage; and all
23 health insurance issued or delivered for issuance
24 in the state in such market or markets are

1 discontinued and coverage under such health
2 insurance coverage in such market or markets is
3 not renewed, and

4 (3) in the case of a discontinuation under division
5 (2) of this subparagraph in a market, the issuer
6 shall not provide for the issuance of any health
7 insurance coverage in the market and in this
8 state during the five-year period beginning on
9 the date of the discontinuation of the last
10 health insurance coverage not so renewed,

11 e. movement outside the service area, and

12 f. association membership ceases; ~~and~~

13 ~~10. A provision that certification of creditable coverage will~~
14 ~~be issued individuals covered:~~

15 ~~a. at the time an individual ceases to be covered under~~
16 ~~the plan or otherwise becomes covered under a COBRA~~
17 ~~continuation provision,~~

18 ~~b. in the case of an individual becoming covered under~~
19 ~~such a provision, at the time the individual ceases to~~
20 ~~be covered under such provision, and~~

21 ~~e. on the request on behalf of an individual made not~~
22 ~~later than twenty-four (24) months after the date of~~
23 ~~cessation of the coverage described in subparagraph a~~
24 ~~or b of this paragraph, whichever is later.~~

1 ~~The certification described in this paragraph is a written~~
2 ~~certification of the period of creditable coverage of the individual~~
3 ~~under such plan and the coverage, if any, under such COBRA~~
4 ~~continuation provision, and the waiting period, if any, and~~
5 ~~affiliation period, if applicable, imposed with respect to the~~
6 ~~individual for any coverage under such plan.~~

7 SECTION 43. AMENDATORY 36 O.S. 2011, Section 6041, is
8 amended to read as follows:

9 Section 6041. ~~A.~~ Payment or each periodic payment not
10 exceeding One Thousand Dollars (\$1,000.00) for emergency living
11 expenses made to any policyholder or his or her dependents or
12 beneficiaries under an insurance policy for:

- 13 1. Fire insurance;
- 14 2. Casualty insurance;
- 15 3. Property insurance, including what may be termed a
16 homeowner's policy; or
- 17 4. Any other type of policy that insures against personal loss
18 as a consequence of loss of or damage to real or personal property;
19 which provides for payment or periodic payments for emergency living
20 expenses; and payments made under workers' compensation or
21 employers' liability insurance as defined in Section 707 of ~~Title 36~~
22 ~~of the Oklahoma Statutes~~ this title, shall be made through the use
23 of United States legal tender, or through a means acceptable to the
24 recipient of the payment including, but not limited to, electronic

1 funds transfer, prepaid cards, negotiable instruments payable on
2 demand or negotiable drafts.

3 SECTION 44. AMENDATORY 36 O.S. 2011, Section 6103.3, is
4 amended to read as follows:

5 Section 6103.3 A. For the purposes of Sections 6103.1 through
6 6103.11 of this title, "person" shall include an individual, a
7 partnership, a corporation, a limited liability company, an
8 association, a joint stock company, a trust, an unincorporated
9 organization, any similar group, entity or any combination of the
10 foregoing acting in concert.

11 B. No person or insurer shall directly or indirectly do any of
12 the acts of an insurance business set forth in Sections 6103.1
13 through 6103.11 of this title, except as provided by and in
14 accordance with the specific authorization of statute. In respect
15 to the insurance of subjects resident, located or to be performed
16 within this state, this section shall not prohibit the collection of
17 premium or other acts performed outside of this state by persons or
18 insurers authorized to do business in this state provided such
19 transactions and insurance contracts otherwise comply with statute.

20 C. Any person which the Insurance Commissioner has reason to
21 believe is doing any of the acts specified in Section 6103.2 of this
22 title, upon written request by the Commissioner, shall immediately
23 provide to the Commissioner such information as requested in
24 relation to such acts.

1 D. A person or entity who violates any provision of Sections
2 6103.1 through 6103.11 of this title is subject to a civil penalty
3 of not more than Ten Thousand Dollars (\$10,000.00) for each act of
4 violation and for each day of violation to be recovered as provided
5 in this section.

6 E. Whenever the Commissioner has reason to believe or it
7 appears that any person or insurer has violated or is threatening to
8 violate any provision of Sections 6103.1 through 6103.11 of this
9 title or any rule promulgated pursuant thereto, or that any person
10 or insurer acting in violation of Sections 6103.1 through 6103.11 of
11 this title has engaged in or is threatening to engage in any unfair
12 method of competition or any unfair or deceptive act or practice as
13 defined by Section 1201 et seq. of this title or any rule
14 promulgated pursuant thereto, the Commissioner may:

- 15 1. Issue an ex parte cease and desist order under the
16 procedures provided by Sections 6103.5 and 6103.6 of this title;
- 17 2. Institute in the district court of Oklahoma County a civil
18 suit for injunctive relief to restrain the person from continuing
19 the violation or threat of violation;
- 20 3. Institute in the district court of Oklahoma County a civil
21 suit to recover a civil penalty as provided for in this section; or
- 22 4. Exercise any combination of the acts provided for in this
23 subsection.

1 F. On application for injunctive relief and a finding that a
2 person is violating or threatening to violate any provision of
3 Sections 6103.1 through 6103.11 of this title, the district court
4 shall grant the injunctive relief and the injunction shall be issued
5 without bond.

6 G. The remedies provided in Sections 6103.1 through 6103.11 of
7 this title for administrative action against unauthorized insurers
8 shall also apply to unauthorized individuals or persons engaged in
9 the business of bail bonds or any other business which is subject to
10 the jurisdiction of the Insurance Commissioner.

11 H. This section shall not be construed to limit the Insurance
12 Commissioner to the remedies specified herein. It is the intent of
13 the Legislature that persons engaging in the business of insurance,
14 or any other business for which authorization from the Insurance
15 Commissioner is required, without statutory authorization constitute
16 an imminent peril to the public welfare and should immediately be
17 stopped and enjoined from doing so, provided, the Insurance
18 Commissioner and the State of Oklahoma should be able to choose at
19 any time any available remedy or action to bring about such a result
20 without regard to prior proceedings under this section.

21 SECTION 45. AMENDATORY 36 O.S. 2011, Section 6811, is
22 amended to read as follows:

23 Section 6811. A. ~~An~~ The Insurance Commissioner may require
24 that an insuring entity or self-insured entity shall file, between

1 ~~January 1 and March 15 of each year,~~ a closed claim report. These
2 reports shall be filed within thirty (30) days after the
3 Commissioner's request and shall include data for all claims closed
4 in the preceding calendar year and ~~any adjustments to data reported~~
5 ~~in prior years~~ other information required by the Commissioner.

6 B. Any violation by an insurer of the Medical Professional
7 Liability Insurance Closed Claim Reports Act shall subject the
8 insurer to discipline including a civil penalty of not less than
9 Five Thousand Dollars (\$5,000.00).

10 C. ~~Every insuring entity or self-insurer that provides medical~~
11 ~~professional liability insurance to any facility or provider in this~~
12 ~~state shall report each medical professional liability closed claim~~
13 ~~to the Insurance Commissioner.~~

14 ~~D.~~ A closed claim that is covered under a primary policy and
15 one or more excess policies shall be reported only by the insuring
16 entity that issued the primary policy. The insuring entity that
17 issued the primary policy shall report the total amount, if any,
18 paid with respect to the closed claim, including any amount paid
19 under an excess policy, any amount paid by the facility or provider,
20 and any amount paid by any other person on behalf of the facility or
21 provider.

22 ~~E.~~ D. If a claim is not covered by an insuring entity or self-
23 insurer, the facility or provider named in the claim shall report it
24 to the Commissioner after a final claim disposition has occurred due

1 to a court proceeding or a settlement by the parties. Instances in
2 which a claim may not be covered by an insuring entity or self-
3 insurer include situations in which:

4 1. The facility or provider did not buy insurance or maintained
5 a self-insured retention that was larger than the final judgment or
6 settlement;

7 2. The claim was denied by an insuring entity or self-insurer
8 because it did not fall within the scope of the insurance coverage
9 agreement; or

10 3. The annual aggregate coverage limits had been exhausted by
11 other claim payments.

12 ~~F.~~ E. If a claim is covered by an insuring entity or self-
13 insurer that fails to report the claim to the Commissioner, the
14 facility or provider named in the claim shall report it to the
15 Commissioner after a final claim disposition has occurred due to a
16 court proceeding or a settlement by the parties.

17 1. If a facility or provider is insured by a risk retention
18 group and the risk retention group refuses to report closed claims
19 and asserts that the federal Liability Risk Retention Act (95 Stat.
20 949; 15 U.S.C. Sec. 3901 et seq.) preempts state law, the facility
21 or provider shall report all data required by the Medical
22 Professional Liability Insurance Closed Claim Reports Act on behalf
23 of the risk retention group.

24

1 2. If a facility or provider is insured by an unauthorized
2 insurer and the unauthorized insurer refuses to report closed claims
3 and asserts a federal exemption or other jurisdictional preemption,
4 the facility or provider shall report all data required by the
5 Medical Professional Liability Insurance Closed Claim Reports Act on
6 behalf of the unauthorized insurer.

7 3. If a facility or provider is insured by a captive insurer
8 and the captive insurer refuses to report closed claims and asserts
9 a federal exemption or other jurisdictional preemption, the facility
10 or provider shall report all data required by the Medical
11 Professional Liability Insurance Closed Claim Reports Act on behalf
12 of the captive insurer.

13 SECTION 46. REPEALER 36 O.S. 2011, Sections 924.4, as
14 amended by Section 1, Chapter 44, O.S.L. 2012 and 924.5, as amended
15 by Section 2, Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2014, Sections
16 924.4 and 924.5), are hereby repealed.

17 SECTION 47. This act shall become effective November 1, 2015.

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24

1 Passed the Senate the 23rd day of February, 2015.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2015.

7
8 _____
9 Presiding Officer of the House
10 of Representatives