

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 1010

By: Quinn of the Senate

and

Moore of the House

6  
7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to insurance; amending 36 O.S. 2011,  
11 Section 1250.4, as last amended by Section 4, Chapter  
12 95, O.S.L. 2018 (36 O.S. Supp. 2018, Section 1250.4),  
13 which relates to response to inquiries; modifying  
14 time frame for certain response; authorizing  
15 Insurance Commissioner to extend certain time frame;  
16 requiring certain inquiry to be delivered  
17 electronically; amending 36 O.S. 2011, Section  
18 1435.8, which relates to insurance producer licenses;  
19 modifying information required for maintaining  
20 licensure; amending 36 O.S. 2011, Section 1435.13,  
21 which relates to suspension and revocation of  
22 license; adding causes for license penalty;  
23 eliminating requirement to return license in certain  
24 circumstances; amending 36 O.S. 2011, Section  
1435.15, as amended by Section 7, Chapter 275, O.S.L.  
2014 (36 O.S. Supp. 2018, Section 1435.15), which  
relates to appointment of producer as agent of  
insurer; modifying timeline of certain filing;  
amending 36 O.S. 2011, Section 1435.18, which relates  
to administrative actions or criminal prosecutions  
against producer; adding persons required to provide  
certain notice to Insurance Commissioner; providing  
for suspension of license for violating provision;  
applying certain provision to certain licenses;  
amending 36 O.S. 2011, Section 1450, which relates to  
licensing procedure; requiring administrator to  
provide notice to Insurance Commissioner of certain  
legal or administrative action; amending 36 O.S.

1 2011, Section 4055.3, which relates to application  
2 procedures; modifying factors Insurance Commissioner  
3 shall consider for licensure; amending 36 O.S. 2011,  
4 Section 6203, which relates to persons not deemed  
5 adjusters or required to obtain license; modifying  
6 situation in which nonresident insurance adjuster is  
7 exempt from licensure; amending 36 O.S. 2011, Section  
8 6206, as amended by Section 13, Chapter 44, O.S.L.  
9 2012 (36 O.S. Supp. 2018, Section 6206), which  
10 relates to mailing addresses; modifying information  
11 required to be submitted to Insurance Commissioner;  
12 amending 36 O.S. 2011, Section 6220, as last amended  
13 by Section 10, Chapter 73, O.S.L. 2016 (36 O.S. Supp.  
14 2018, Section 6220), which relates to suspension,  
15 revocation or refusal to renew license; eliminating  
16 ground for penalty; adding use of certain materials  
17 in licensing exam as ground for penalty; applying  
18 certain restrictions regardless of power of attorney  
19 or other agreements; amending 36 O.S. 2011, Section  
20 6220.1, as amended by Section 6, Chapter 297, O.S.L.  
21 2015 (36 O.S. Supp. 2018, Section 6220.1), which  
22 relates to penalties; amending 36 O.S. 2011, Section  
23 6754, which relates to service contracts; requiring  
24 certain filing and updates of service contracts;  
updating statutory language; updating statutory  
reference; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 1250.4, as  
last amended by Section 4, Chapter 95, O.S.L. 2018 (36 O.S. Supp.  
2018, Section 1250.4), is amended to read as follows:

Section 1250.4. A. An insurer's claim files shall be subject  
to examination by the Insurance Commissioner or by duly appointed  
designees. Such files shall contain all notes and work papers  
pertaining to a claim in such detail that pertinent events and the  
dates of such events can be reconstructed. In addition, the

1 Insurance Commissioner, authorized employees and examiners shall  
2 have access to any of an insurer's files that may relate to a  
3 particular complaint under investigation or to an inquiry or  
4 examination by the Insurance Department.

5 B. Any person subject to the jurisdiction of the Commissioner,  
6 upon receipt of any inquiry from the Commissioner shall, within  
7 ~~thirty (30)~~ twenty (20) calendar days from the date of receipt of  
8 the inquiry, furnish the Commissioner with an adequate response to  
9 the inquiry. The Commissioner may, upon good cause shown and on a  
10 case-by-case basis, extend the time allowed for a response for up to  
11 seven (7) additional calendar days. Any inquiry or response subject  
12 to this subsection shall be delivered electronically.

13 C. Every insurer, upon receipt of any pertinent written  
14 communication including but not limited to e-mail or other forms of  
15 written electronic communication, or documentation by the insurer of  
16 a verbal communication from a claimant which reasonably suggests  
17 that a response is expected, shall, within thirty (30) days after  
18 receipt thereof, furnish the claimant with an adequate response to  
19 the communication.

20 D. Any violation by an insurer of this section shall subject  
21 the insurer to discipline including a civil penalty of not less than  
22 One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars  
23 (\$5,000.00).  
24

1 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1435.8, is  
2 amended to read as follows:

3 Section 1435.8. A. Unless denied licensure pursuant to Section  
4 1435.13 of this title, persons who have met the requirements of  
5 Sections 1435.6 and 1435.7 of this title shall be issued an  
6 insurance producer license. An insurance producer may receive  
7 qualification for a license in one or more of the following lines of  
8 authority:

9 1. Life - insurance coverage on human lives including benefits  
10 of endowment and annuities, and may include benefits in the event of  
11 death or dismemberment by accident and benefits for disability  
12 income;

13 2. Accident and health or sickness - insurance coverage for  
14 sickness, bodily injury or accidental death and may include benefits  
15 for disability income;

16 3. Property - insurance coverage for the direct or  
17 consequential loss or damage to property of every kind;

18 4. Casualty - insurance coverage against legal liability,  
19 including that for death, injury or disability or damage to real or  
20 personal property;

21 5. Variable life and variable annuity products - insurance  
22 coverage provided under variable life insurance contracts and  
23 variable annuities;

24

1       6. Personal lines - property and casualty insurance coverage  
2 sold to individuals and families for primarily noncommercial  
3 purposes;

4       7. Commercial lines - property and casualty insurance coverage  
5 sold to businesses for primarily commercial purposes;

6       8. Credit - limited line credit insurance;

7       9. Title insurance - insurance coverage that insures or  
8 guarantees the title to real or personal property or any interest  
9 therein or encumbrance thereon;

10       10. Aircraft title insurance - insurance coverage that protects  
11 an aircraft owner or lender against loss of the aircraft or priority  
12 security position in the event of a successful adverse claim on the  
13 title to an aircraft; and

14       11. Any other line of insurance permitted under state laws or  
15 regulations.

16       B. An insurance producer license shall remain in effect unless  
17 revoked or suspended as long as the fee set forth in Section 1435.23  
18 of this title is paid and education requirements for resident  
19 individual producers are met by the due date.

20       C. An individual insurance producer who allows the license to  
21 lapse may, within twelve (12) months from the due date of the  
22 renewal fee, reinstate the same license without the necessity of  
23 passing a written examination unless the license was revoked,  
24 suspended, or continuation thereof was refused by the Commissioner.

1 However, a penalty in the amount of double the unpaid renewal fee  
2 shall be required for any renewal fee received after the due date.  
3 Continuing education requirements must be kept current.

4 D. A licensed insurance producer who is unable to comply with  
5 license renewal procedures due to military service or some other  
6 extenuating circumstance, such as a long-term medical disability,  
7 may request a waiver of those procedures. The producer may also  
8 request a waiver of any examination requirement or any other fine or  
9 sanction imposed for failure to comply with renewal procedures.

10 E. The license shall contain the licensee's name, physical  
11 residential address, physical business address, preferred mailing  
12 address, personal identification number, and the date of issuance,  
13 the lines of authority, the expiration date and any other  
14 information the Insurance Commissioner deems necessary.

15 F. Licensees shall inform by any means acceptable to the  
16 Insurance Commissioner of a change of legal name, address, or e-mail  
17 address within thirty (30) days of the change to permit the  
18 Insurance Commissioner to give proper notice to licensees. A change  
19 in legal name or address submitted more than thirty (30) days after  
20 the change must include an administrative fee of Fifty Dollars  
21 (\$50.00). Failure to provide acceptable notification of a change of  
22 legal name or address to the Insurance Commissioner within forty-  
23 five (45) days of the date the administrative fee is assessed shall  
24 result in penalties pursuant to Section 1435.13 of this title.

1 G. In order to assist in the performance of the Insurance  
2 Commissioner's duties, the Insurance Commissioner may contract with  
3 nongovernmental entities, including the National Association of  
4 Insurance Commissioners (NAIC) or any affiliates or subsidiaries  
5 that the NAIC oversees, to perform any ministerial functions,  
6 including the collection of fees, related to producer licensing that  
7 the Insurance Commissioner and the nongovernmental entity may deem  
8 appropriate.

9 H. The Commissioner may participate, in whole or in part, with  
10 the National Association of Insurance Commissioners, or any  
11 affiliates or subsidiaries the National Association of Insurance  
12 Commissioners oversees, in a centralized producer license registry  
13 where insurance producer licenses and appointments may be centrally  
14 or simultaneously effected for all states that require an insurance  
15 producer license and participate in such centralized producer  
16 license registry. If the Commissioner finds that participation in  
17 such a centralized producer license registry is in the public  
18 interest, the Commissioner may adopt by rule any uniform standards  
19 or procedures as are necessary to participate in the registry. This  
20 includes the central collection of all fees for licenses or  
21 appointments that are processed through the registry.

22 SECTION 3. AMENDATORY 36 O.S. 2011, Section 1435.13, is  
23 amended to read as follows:

24

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

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

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

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

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

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

19 6. Having been convicted of a felony;

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

22 8. Using fraudulent, coercive, or dishonest practices, or  
23 demonstrating incompetence, untrustworthiness or financial  
24



1 irresponsibility in the conduct of business in this state or  
2 elsewhere;

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

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

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

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

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

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

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

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

20 B. In the event that the action by the Insurance Commissioner  
21 is to nonrenew or to deny an application for a license, the  
22 Insurance Commissioner shall notify the applicant or licensee and  
23 advise the applicant or licensee, in writing, of the reason for the  
24 denial or nonrenewal of the applicant's or licensee's license. The

1 applicant or licensee may make written demand upon the Insurance  
2 Commissioner within thirty (30) days of the date of notification of  
3 ~~said~~ the notification by the Insurance Commissioner for a hearing  
4 before the Insurance Commissioner or an independent hearing examiner  
5 to determine the reasonableness of the Insurance Commissioner's  
6 action. The hearing shall be heard within a reasonable time period  
7 and shall be held pursuant to the Oklahoma Administrative Procedures  
8 Act.

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

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

23 E. Every licensee licensed pursuant to the provisions of the  
24 Oklahoma Producer Licensing Act shall keep at the licensee's place

1 of business the usual and customary records pertaining to  
2 transactions authorized by the license. All records as to any  
3 particular transactions shall be kept available and open to the  
4 inspection of the Commissioner at any time during business hours  
5 during the three (3) years immediately following the date of  
6 completion of the transaction. The Commissioner may require a  
7 financial or market conduct examination during any investigation of  
8 a licensee. The cost of such examination shall be apportioned among  
9 all of the appointing insurers of the licensee.

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

18 G. Files pertaining to investigations or legal matters which  
19 contain information concurring a current and ongoing investigation  
20 of allegations of violations of the Oklahoma Insurance Code by a  
21 licensed agent shall not be available for public inspection without  
22 proper judicial authorization; however, a licensee under  
23 investigation for alleged violations of the Oklahoma Insurance Code,  
24 or against whom an action for alleged violations of the Oklahoma

1 Insurance Code has been commenced, may view evidence and complaints  
2 pertaining to the investigation, other than privileged information,  
3 at reasonable times at the Commissioner's office. All qualification  
4 examination materials, booklets and answers for any license  
5 authorized to be issued by the Commissioner under any statute shall  
6 not be available for public inspection. The residence address,  
7 residence telephone number, birth date, and social security number  
8 of a licensee shall not be available for public inspection. A  
9 separate business or mailing address provided by the licensee shall  
10 be considered a public record. If the residence and business  
11 addresses or residence and business telephone numbers are the same,  
12 such addresses or telephone numbers shall be considered a public  
13 record.

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

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

24

1 J. ~~Any licensee who ceases to maintain residency in this state~~  
2 ~~shall deliver the licensee's insurance license to the Commissioner~~  
3 ~~by personal delivery or by mail with return receipt requested within~~  
4 ~~ten (10) days after terminating residency.~~

5 K. The Commissioner may issue a duplicate license for any lost,  
6 stolen or destroyed license issued pursuant to ~~this act~~ the Oklahoma  
7 Producer Licensing Act upon an affidavit of the licensee prescribed  
8 by the Commissioner concerning the facts of such loss, theft or  
9 destruction.

10 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1435.15, as  
11 amended by Section 7, Chapter 275, O.S.L. 2014 (36 O.S. Supp. 2018,  
12 Section 1435.15), is amended to read as follows:

13 Section 1435.15. A. An insurance producer shall not act as an  
14 agent of an insurer unless the insurance producer becomes an  
15 appointed agent of that insurer. An insurance producer who is not  
16 acting as an agent of an insurer is not required to become  
17 appointed.

18 B. To appoint a producer as its agent, the appointing insurer,  
19 or an authorized representative of the insurer, shall file, in a  
20 format approved by the Insurance Commissioner, a notice of  
21 appointment within fifteen (15) days from the date the ~~agency agent~~  
22 ~~contract is executed or the first insurance application is~~  
23 ~~submitted.~~ For purposes of this section, an "authorized  
24 representative of the insurer" means a person or entity licensed by

1 the Commissioner pursuant to the laws of this state who is  
2 authorized in writing by the appointing insurer to file appointments  
3 for the appointing insurer. An insurer or authorized representative  
4 of an insurer may also elect to appoint a producer to all or some  
5 insurers within the insurer's holding company system or group by the  
6 filing of a single appointment request.

7 C. Upon receipt of the notice of appointment, the Insurance  
8 Commissioner shall verify within a reasonable time not to exceed  
9 thirty (30) days that the insurance producer is eligible for  
10 appointment. If the insurance producer is determined to be  
11 ineligible for appointment, the Commissioner shall notify the  
12 insurer and the authorized representative of the insurer within five  
13 (5) days of its determination.

14 D. An insurer or authorized representative of an insurer shall  
15 pay an appointment fee, in the amount and method of payment set  
16 forth in Section 1435.23 of this title, for each insurance producer  
17 appointed by the insurer for each insurer for which the insurance  
18 producer is appointed.

19 E. It shall be unlawful for any insurer to discriminate among  
20 or between the insurance producers it has appointed. Any person or  
21 company convicted of violating the provisions of this section shall  
22 be guilty of a misdemeanor and shall be punished by the imposition  
23 of a fine of not more than Five Hundred Dollars (\$500.00) or  
24 imprisonment in the county jail for not less than six (6) months nor

1 more than one (1) year, or be punished by both fine and  
2 imprisonment.

3 SECTION 5. AMENDATORY 36 O.S. 2011, Section 1435.18, is  
4 amended to read as follows:

5 Section 1435.18. A. A Whether an applicant for, a person  
6 licensed as or a person seeking a renewal for a producer license,  
7 that person shall report to the Insurance Commissioner any  
8 administrative action taken against ~~the producer~~ that person in  
9 another jurisdiction or by another governmental agency in this state  
10 within thirty (30) days of the final disposition of the matter.  
11 This report shall include a copy of the order, consent to order or  
12 other relevant legal documents.

13 B. Within thirty (30) days of the initial pretrial hearing  
14 date, an applicant for, a person licensed as or a person seeking a  
15 renewal for a producer license shall report to the Insurance  
16 Commissioner any criminal prosecution of ~~the producer~~ that person  
17 taken in any jurisdiction. The report shall include a copy of the  
18 initial complaint filed, the order resulting from the hearing and  
19 any other relevant legal documents.

20 C. Failure to comply with this statute shall result in  
21 immediate suspension of an application for, a license of or renewal  
22 of a producer license.

23 D. The provisions of this section shall apply to all licenses  
24 under Sections 4055.1 et seq. of this title, the Unauthorized

1 Insurers and Surplus Lines Insurance Act, Section 1100 et seq. of  
2 this title, the Oklahoma Producer Licensing Act, Section 1435.1 et  
3 seq. of this title and the Insurance Adjusters Licensing Act,  
4 Section 6201 et seq. of this title.

5 SECTION 6. AMENDATORY 36 O.S. 2011, Section 1450, is  
6 amended to read as follows:

7 Section 1450. A. No person shall act as or present himself or  
8 herself to be an administrator, as defined by the provisions of the  
9 Third-party Administrator Act, in this state, unless the person  
10 holds a valid license as an administrator which is issued by the  
11 Insurance Commissioner.

12 B. An administrator shall not be eligible for a nonresident  
13 administrator license under this section if the administrator does  
14 not hold a home state certificate of authority or license in a state  
15 that has adopted the Third-party Administrator Act or that applies  
16 substantially similar provisions as are contained in the Third-party  
17 Administrator Act to that administrator. If the Third-party  
18 Administrator Act in the administrator's home state does not extend  
19 to stop-loss insurance, but if the home state otherwise applies  
20 substantially similar provisions as are contained in the Third-party  
21 Administrator Act to that administrator, then that omission shall  
22 not operate to disqualify the administrator from receiving a  
23 nonresident administrator license in this state.

24



1           1. "Home state" means the United States jurisdiction that has  
2 adopted the Third-party Administrator Act or a substantially similar  
3 law governing third-party administrators and which has been  
4 designated by the administrator as its principal regulator. The  
5 administrator may designate either its state of incorporation or its  
6 principal place of business within the United States if that  
7 jurisdiction has adopted the Third-party Administrator Act or a  
8 substantially similar law governing third-party administrators. If  
9 neither the administrator's state of incorporation nor its principal  
10 place of business within the United States has adopted the Third-  
11 party Administrator Act or a substantially similar law governing  
12 third-party administrators, then the third-party administrator shall  
13 designate a United States jurisdiction in which it does business and  
14 which has adopted the Third-party Administrator Act or a  
15 substantially similar law governing third-party administrators. For  
16 purposes of this definition, "United States jurisdiction" means the  
17 District of Columbia or a state or territory of the United States.

18           2. "Nonresident administrator" means a person who is applying  
19 for licensure or is licensed in any state other than the  
20 administrator's home state.

21           C. In the case of a partnership which has been licensed, each  
22 general partner shall be named in the license and shall qualify  
23 therefore as though an individual licensee. The Commissioner shall  
24 charge a full additional license fee and a separate license shall be

1 issued for each individual so named in such a license. The  
2 partnership shall notify the Commissioner within fifteen (15) days  
3 if any individual licensed on its behalf has been terminated, or is  
4 no longer associated with or employed by the partnership. Any  
5 entity or partnership licensed as administrators under the Third-  
6 party Administrators Act shall provide National Association of  
7 Insurance Commissioner Biographical Affidavits as required for  
8 domestic insurers pursuant to the insurance laws of this state.

9 D. An application for an administrator's license shall be in a  
10 form prescribed by the Commissioner and shall be accompanied by a  
11 fee of One Hundred Dollars (\$100.00). This fee shall not be  
12 refundable if the application is denied or refused for any reason by  
13 either the applicant or the Commissioner.

14 E. The administrator's license shall continue in force no  
15 longer than twelve (12) months from the original month of issuance.  
16 Upon filing a renewal form prescribed by the Commissioner,  
17 accompanied by a fee of One Hundred Dollars (\$100.00), the license  
18 may be renewed annually for a one-year term. Late application for  
19 renewal of a license shall require a fee of double the amount of the  
20 original license fee. The administrator shall submit, together with  
21 the application for renewal, a list of the names and addresses of  
22 the persons with whom the administrator has contracted in accordance  
23 with Section 1443 of this title. The Commissioner shall hold this

24

1 information confidential except as provided in Section 1443 of this  
2 title.

3 F. 1. The administrator's license shall be issued or renewed  
4 by the Commissioner unless, after notice and opportunity for  
5 hearing, the Commissioner determines that the administrator is not  
6 competent, trustworthy, or financially responsible, or has had any  
7 insurance license denied for cause by any state, has been convicted  
8 or has pleaded guilty or nolo contendere to any felony or to a  
9 misdemeanor involving moral turpitude or dishonesty.

10 2. The administrator shall report to the Insurance Commissioner  
11 any administrative or criminal action taken against the  
12 administrator in another jurisdiction or by another governmental  
13 agency in this state within thirty (30) calendar days of the final  
14 disposition of the matter. This report shall include a copy of the  
15 order, consent to order, copy of any payment required as a result of  
16 the administrative or criminal action, or other relevant legal  
17 documents.

18 G. After notice and opportunity for hearing, and upon  
19 determining that the administrator has violated any of the  
20 provisions of the Oklahoma Insurance Code or upon finding reasons  
21 for which the issuance or nonrenewal of such license could have been  
22 denied, the Commissioner may either suspend or revoke an  
23 administrator's license or assess a civil penalty of not more than  
24 Five Thousand Dollars (\$5,000.00) for each occurrence. The payment

1 of the penalty may be enforced in the same manner as civil judgments  
2 may be enforced.

3 H. Any person who is acting as or presenting himself or herself  
4 to be an administrator without a valid license shall be subject,  
5 upon conviction, to a fine of not less than One Thousand Dollars  
6 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for each  
7 occurrence. This fine shall be in addition to any other penalties  
8 which may be imposed for violations of the Oklahoma Insurance Code  
9 or other laws of this state.

10 I. Except as provided for in subsections F and G of this  
11 section, any person convicted of violating any provisions of the  
12 Third-party Administrator Act shall be guilty of a misdemeanor and  
13 shall be subject to a fine of not more than One Thousand Dollars  
14 (\$1,000.00).

15 SECTION 7. AMENDATORY 36 O.S. 2011, Section 4055.3, is  
16 amended to read as follows:

17 Section 4055.3. A. 1. A person shall not operate as a  
18 viatical settlement provider or viatical settlement broker without  
19 first obtaining a license from the Insurance Commissioner of the  
20 state of residence of the viator.

21 2. a. A life insurance producer who has been duly licensed  
22 as a resident insurance producer with a life line of  
23 authority in this state or his or her home state for  
24 at least one (1) year and is licensed as a nonresident

1 producer in this state shall be deemed to meet the  
2 licensing requirements of this section and shall be  
3 permitted to operate as a viatical settlement broker.

4 b. Not later than thirty (30) days from the first day of  
5 operating as a viatical settlement broker, the life  
6 insurance producer shall notify the Commissioner that  
7 he or she is acting as a viatical settlement broker on  
8 a form prescribed by the Commissioner, and shall pay  
9 any applicable fee to be determined by the  
10 Commissioner. Notification shall include an  
11 acknowledgement by the life insurance producer that he  
12 or she will operate as a viatical settlement broker in  
13 accordance with the Viatical Settlements Act of 2008.

14 c. The insurer that issued the policy being viaticated  
15 shall not be responsible for any act or omission of a  
16 viatical settlement broker or viatical settlement  
17 provider arising out of or in connection with the  
18 viatical settlement transaction, unless the insurer  
19 receives compensation for the placement of a viatical  
20 settlement contract from the viatical settlement  
21 provider or viatical settlement broker in connection  
22 with the viatical settlement contract.

23 3. A person licensed as an attorney, certified public  
24 accountant or financial planner accredited by a nationally

1 recognized accreditation agency, who is retained to represent the  
2 viator, whose compensation is not paid directly or indirectly by the  
3 viatical settlement provider, may negotiate viatical settlement  
4 contracts on behalf of the viator without having to obtain a license  
5 as a viatical settlement broker.

6 B. Application for a viatical settlement provider or a viatical  
7 settlement broker license shall be made to the Commissioner by the  
8 applicant on a form prescribed by the Commissioner. The application  
9 shall be accompanied by a fee of Five Hundred Dollars (\$500.00).

10 C. Licenses may be renewed from year to year on the anniversary  
11 date upon payment of the annual renewal fees of Five Hundred Dollars  
12 (\$500.00). Failure to pay the fees by the renewal date results in  
13 expiration of the license.

14 D. The applicant shall provide information on forms required by  
15 the Commissioner. The Commissioner shall have authority, at any  
16 time, to require the applicant to fully disclose the identity of all  
17 stockholders, partners, officers, members and employees, and the  
18 Commissioner may, in the exercise of the Commissioner's discretion,  
19 refuse to issue a license in the name of a legal entity if not  
20 satisfied that any officer, employee, stockholder, partner or member  
21 thereof who may materially influence the applicant's conduct meets  
22 the standards of the Viatical Settlements Act of 2008.

23 E. A license issued to a legal entity authorizes all partners,  
24 officers, members and designated employees to act as viatical

1 settlement providers, viatical settlement brokers as applicable,  
2 under the license, and all those persons shall be named in the  
3 application and any supplements to the application.

4 F. Upon the filing of an application and the payment of the  
5 license fee, the Commissioner shall make an investigation of each  
6 applicant and issue a license if the Commissioner finds that the  
7 applicant:

8 1. If a viatical settlement provider, has provided a detailed  
9 plan of operation;

10 2. Is competent and trustworthy and intends to act in good  
11 faith in the capacity involved by the license applied for;

12 3. Has a good business reputation and has had experience,  
13 training or education so as to be qualified in the business for  
14 which the license is applied for;

15 4. a. If a viatical settlement provider, has demonstrated  
16 evidence of financial responsibility in a format  
17 prescribed by the Commissioner, through a surety bond  
18 executed and issued by an insurer authorized to issue  
19 surety bonds in this state, a policy of errors and  
20 omissions insurance, or a deposit of cash,  
21 certificates of deposit or securities or any  
22 combination thereof in ~~an~~ the amount ~~not to exceed~~ of  
23 Fifty Thousand Dollars (\$50,000.00), or  
24

1           b.    If a viatical settlement broker, has demonstrated  
2                   evidence of financial responsibility in a format  
3                   prescribed by the Commissioner, through a surety bond  
4                   executed and issued by an insurer authorized to issue  
5                   surety bonds in this state, a policy of errors and  
6                   omissions insurance, or a deposit of cash,  
7                   certificates of deposit or securities or any  
8                   combination thereof in ~~an~~ the amount ~~not to exceed~~ of  
9                   Fifty Thousand Dollars (\$50,000.00), or

10           c.    The Commissioner may ask for evidence of financial  
11                   responsibility at any time the Commissioner deems  
12                   necessary;

13           5.    If a legal entity, provides a certificate of good standing  
14                   from the state of its domicile; and

15           6.    If a viatical settlement provider or viatical settlement  
16                   broker, has provided an antifraud plan that meets the requirements  
17                   of subsection G of Section 13 of Enrolled Senate Bill No. 1980 of  
18                   the 2nd Session of the 51st Oklahoma Legislature.

19           G.    The Commissioner shall not issue a license to a nonresident  
20                   applicant, unless a written designation of an agent for service of  
21                   process is filed and maintained with the Commissioner, or the  
22                   applicant has filed with the Commissioner the applicant's written  
23                   irrevocable consent that any action against the applicant may be  
24



1 commenced against the applicant by service of process on the  
2 Commissioner.

3 H. A viatical settlement provider, viatical settlement broker  
4 or viatical settlement investment agent shall provide to the  
5 Commissioner new or revised information about officers, ten percent  
6 (10%) or more stockholders, partners, directors, members or  
7 designated employees within thirty (30) days of the change.

8 I. An individual licensed as a viatical settlement broker shall  
9 complete on a biennial basis eight (8) hours of training related to  
10 viatical settlements and viatical settlement transactions, as  
11 required by the Commissioner; provided, however, that a life  
12 insurance producer who is operating as a viatical settlement broker  
13 pursuant to paragraph 2 of subsection A of this section shall not be  
14 subject to the requirements of this subsection. Any person failing  
15 to meet the requirements of this subsection shall be subject to the  
16 penalties imposed by the Commissioner.

17 SECTION 8. AMENDATORY 36 O.S. 2011, Section 6203, is  
18 amended to read as follows:

19 Section 6203. The definition of an insurance adjuster shall not  
20 be deemed to include, and a license as an insurance adjuster shall  
21 not be required of, the following:

22 1. A licensed agent or general agent of an insurer who  
23 processes undisputed or uncontested losses for ~~said~~ the insurers  
24 solely pursuant to the provisions of policies issued by the agent,

1 or his agency, if the agent or general agent receives no extra  
2 compensation for such services;

3 2. A person engaged in investigating, adjusting, negotiating,  
4 or processing claims arising pursuant to the provisions of life  
5 insurance, annuity, or accident and health insurance contracts;

6 3. A nonresident who occasionally is in this state to adjust a  
7 single loss or losses arising pursuant to the provisions of a policy  
8 of marine insurance;

9 4. A salaried employee of a licensed insurer whose primary  
10 duties are not adjusting, investigating, or supervising insurance  
11 claims;

12 5. A licensed attorney in the State of Oklahoma who adjusts  
13 insurance losses from time to time, incidental to the practice of  
14 law, and who does not advertise or represent that he is an adjuster;

15 6. A person employed solely for the purpose of furnishing  
16 technical assistance to a licensed adjuster, including but not  
17 limited to photographers, appraisers, estimators, private  
18 detectives, engineers, handwriting experts, and attorneys-at-law;

19 7. A person who performs clerical duties for a licensed insurer  
20 or organization that handles claims and who does not negotiate  
21 disputed or contested claims for the insurer or organization that  
22 handles claims;

23 8. A nonresident insurance adjuster who is actively licensed in  
24 another state and who is in this state no more than once a year for

1 the purpose of adjusting a single loss ~~or losses arising out of an~~  
2 ~~occurrence common to all such losses,~~ or who is acting as a  
3 temporary substitute for a licensed adjuster; or

4 9. An individual who collects claim information from, or  
5 furnishes claim information to, insured customers or claimants, and  
6 who conducts data entry including entering data into an automated  
7 claims adjudication system, provided that the individual is an  
8 employee of a licensed independent adjuster or an affiliate where no  
9 more than twenty-five persons are under the supervision of one  
10 licensed independent adjuster or licensed agent. A licensed agent  
11 acting as a supervisor pursuant to this paragraph is not required to  
12 be licensed as an adjuster.

13 SECTION 9. AMENDATORY 36 O.S. 2011, Section 6206, as  
14 amended by Section 13, Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2018,  
15 Section 6206), is amended to read as follows:

16 Section 6206. A. The Insurance Commissioner shall license as  
17 an adjuster only an individual who has fully complied with the  
18 provisions of the Insurance Adjusters Licensing Act, including the  
19 furnishing of evidence satisfactory to the Commissioner that the  
20 applicant:

- 21 1. Is at least eighteen (18) years of age;
- 22 2. Is a bona fide resident of this state or is a resident of a  
23 state or country which permits adjusters who are residents of this  
24 state to act as adjusters in such other state or country;

1           3. If a nonresident of the United States, has complied with all  
2 federal laws pertaining to employment and the transaction of  
3 business in the United States;

4           4. Is a trustworthy person;

5           5. Has had experience or special education or training of  
6 sufficient duration and extent with reference to the handling of  
7 loss claims pursuant to insurance contracts to make the applicant  
8 competent to fulfill the responsibilities of an adjuster;

9           6. Has successfully passed an examination as required by the  
10 Commissioner within two (2) years prior to date of application, or  
11 has been exempted from examination, in accordance with the  
12 provisions of Section 6208 of this title; and

13           7. If the application is for a public adjuster's license, the  
14 applicant has filed the bond required by Section 6214 of this title.

15           B. Residence addresses and telephone listings, birth dates, and  
16 social security numbers for insurance adjusters and public adjusters  
17 on file with the Insurance Department are exempt from disclosure as  
18 public records. A separate business or mailing address as provided  
19 by the adjuster shall be considered a public record and upon request  
20 shall be disclosed. If an adjuster's residence and business address  
21 or residence and business telephone number are the same, such  
22 address or telephone number shall be considered a public record.

23           C. The mailing address shall appear on all licenses of the  
24 licensee, and the licensee shall promptly notify the Insurance

1 Commissioner within thirty (30) days of any change in legal name or  
2 preferred mailing address, physical business address, e-mail  
3 address, or ~~residence~~ physical residential address of the licensee.

4 A change in legal name or address thirty (30) days after the change  
5 must include an administrative fee of Fifty Dollars (\$50.00).

6 Failure to provide acceptable notification of a change of legal name  
7 or address to the Insurance Commissioner within forty-five (45) days  
8 of the date the administrative fee is assessed will result in  
9 penalties pursuant to Section 6220 of this title.

10 SECTION 10. AMENDATORY 36 O.S. 2011, Section 6220, as  
11 last amended by Section 10, Chapter 73, O.S.L. 2016 (36 O.S. Supp.  
12 2018, Section 6220), is amended to read as follows:

13 Section 6220. A. The Commissioner may censure, suspend,  
14 revoke, or refuse to issue or renew a license after hearing for any  
15 of the following causes:

16 1. Material misrepresentation or fraud in obtaining an  
17 adjuster's license;

18 2. Any cause for which original issuance of a license could  
19 have been refused;

20 3. Misappropriation, conversion to the personal use of the  
21 licensee, or illegal withholding of monies required to be held by  
22 the licensee in a fiduciary capacity;

23 4. Material misrepresentation of the terms and effect of any  
24 insurance contract, with intent to deceive, or engaging in, or

1 attempting to engage in, any fraudulent transaction with respect to  
2 a claim or loss that the licensee or the trainee is adjusting and,  
3 in the case of a public adjuster, misrepresentation of the services  
4 offered or the fees or commission to be charged;

5 5. Conviction of or pleading guilty or nolo contendere to a  
6 felony pursuant to the laws of this state, any other state, the  
7 United States, or any foreign country;

8 6. If in the conduct of business affairs, the licensee or  
9 trainee has shown himself to be, and is so deemed by the  
10 Commissioner, incompetent, untrustworthy or a source of injury to  
11 the public;

12 7. Refusal to comply with any lawful order of the Commissioner;

13 8. Violation of any provision of the Insurance Adjusters  
14 Licensing Act;

15 9. Adjusting losses or negotiating claim settlements arising  
16 pursuant to provisions of insurance contracts on behalf of an  
17 insurer or insured without proper licensing from the Commissioner  
18 and authority from the licensed insurer or the insured party;

19 10. Failing to respond to any inquiry (including electronic  
20 communications) from the Department within thirty (30) calendar days  
21 of receipt of such inquiry;

22 11. Forging another's name to any document;

23 12. ~~Obtaining or attempting to obtain a license through~~  
24 ~~misrepresentation or fraud~~ Improperly using notes or any other

1 reference material to complete an examination for an insurance  
2 license;

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

5 14. Having an insurance adjuster license or its equivalent  
6 denied, suspended, censured, placed on probation or revoked in any  
7 other state, province, district or territory;

8 15. Failing to inform the Department, by any means acceptable  
9 to the Department, of a change of address, change of legal name or  
10 change of information submitted on the application within thirty  
11 (30) days of the change; or

12 16. Providing services as a public adjuster, company adjuster  
13 or independent adjuster on the same claim.

14 B. In addition to or in lieu of any applicable denial,  
15 suspension, or revocation of a license, any person violating the  
16 provisions of the Insurance Adjusters Licensing Act may be subject  
17 to a civil fine of not more than One Thousand Dollars (\$1,000.00)  
18 for each violation. This fine may be enforced in the same manner in  
19 which civil judgment may be enforced.

20 C. If the license of an adjuster is suspended, revoked, or not  
21 renewed, the licensee shall surrender ~~said~~ the license to the  
22 Commissioner.

23 D. The Commissioner shall not reinstate a license to any person  
24 whose license has been suspended, revoked, or refused renewal until

1 the Commissioner determines that the cause or causes for the  
2 suspension, revocation, or nonrenewal of ~~said~~ the license no longer  
3 exist.

4 E. The Department shall retain the authority to enforce the  
5 provisions of and impose any penalty or remedy authorized by this  
6 title against any person who is under investigation for or charged  
7 with a violation even if the person's license or registration has  
8 been surrendered or has lapsed by operation of law.

9 F. It shall be unlawful for any person, firm, association,  
10 company or corporation to act as an adjuster without first obtaining  
11 a license pursuant to the Insurance Adjusters Licensing Act. Any  
12 person convicted of violating the provisions of this subsection  
13 shall be guilty of a misdemeanor and shall be punished as set forth  
14 in Section 10 of Title 21 of the Oklahoma Statutes. The restriction  
15 set forth in this subsection shall apply regardless of whether the  
16 person, firm, association, company or corporation has obtained power  
17 of attorney from an insurance claimant or has entered into any other  
18 agreement with an insurance claimant to act on the behalf of the  
19 claimant.

20 SECTION 11. AMENDATORY 36 O.S. 2011, Section 6220.1, as  
21 amended by Section 6, Chapter 297, O.S.L. 2015 (36 O.S. Supp. 2018,  
22 Section 6220.1), is amended to read as follows:

23 Section 6220.1. A. No adjuster may, directly or indirectly,  
24 own or have a pecuniary interest in any business entity which



1 provides construction or reconstruction related services on behalf  
2 of an insurance claimant or insured for which the adjuster is  
3 providing services, nor may the adjuster, directly or indirectly,  
4 own or have a pecuniary interest in any other business entity which  
5 furnishes any supplies, material, services, or equipment purchased  
6 by or on behalf of the claimant or insured in settlement of the  
7 claim, other than usual and customary supplies, materials, services,  
8 or equipment utilized in the adjusting process.

9 B. Any person who violates the provisions of this section shall  
10 be subject to disciplinary action or a civil fine, or both, as set  
11 forth in Section 6220 of this title.

12 C. This section shall not apply to an adjuster providing  
13 services on a claim which is located in a municipality having a  
14 population of less than six thousand (6,000) persons; provided,  
15 however, the adjuster shall give written disclosure of the potential  
16 conflict of interest to both the insured and insurer prior to the  
17 performance of any adjuster services.

18 D. The restrictions set forth in subsection A of this section  
19 shall apply regardless of whether the person or entity has obtained  
20 power of attorney from an insurance claimant or has entered into any  
21 other agreement with an insurance claimant to act on the behalf of  
22 the claimant.

23 SECTION 12. AMENDATORY 36 O.S. 2011, Section 6754, is  
24 amended to read as follows:

1 Section 6754. A. Service contracts marketed, sold, offered for  
2 sale, issued, made, proposed to be made, or administered in this  
3 state shall be written, printed, or typed in clear, understandable  
4 language that is easy to read, and shall disclose the requirements  
5 set forth in this section, as applicable. Each service contract  
6 provider shall, upon initial registration and at renewal of its  
7 registration, file a copy of each of its current contracts issued in  
8 this state for informational purposes. The provider shall update a  
9 filing any time a change is made to the service contract that  
10 materially affects the rights or obligations of a contract holder or  
11 upon written request by the Department.

12 B. Service contracts insured under an insurance policy pursuant  
13 to paragraph 3 of subsection C of Section ~~4 of this act~~ 6753 of this  
14 title shall contain a statement in substantially the following form:  
15 "Obligations of the provider under this service contract are insured  
16 under a service contract reimbursement insurance policy." The  
17 service contract shall also state the name and address of the  
18 insurer.

19 C. Service contracts not insured under an insurance policy  
20 pursuant to paragraph 3 of subsection C of Section ~~4 of this act~~  
21 6753 of this title shall contain a statement in substantially the  
22 following form: "Obligations of the provider under this service  
23 contract are backed by the full faith and credit of the provider."  
24

1 D. Service contracts shall state the name and address of the  
2 provider, and shall identify any administrator if different from the  
3 provider, the service contract seller, and the service contract  
4 holder to the extent that the name of the service contract holder  
5 has been furnished by the service contract holder. The identities  
6 of such parties are not required to be preprinted on the service  
7 contract and may be added to the service contract at the time of  
8 sale.

9 E. Service contracts shall state the total purchase price and  
10 the terms under which service contract is sold. The purchase price  
11 is not required to be preprinted on the service contract and may be  
12 negotiated at the time of sale with the service contract holder.

13 F. Service contracts shall state the existence of any trade  
14 service fee, if applicable.

15 G. Service contracts shall specify the merchandise and services  
16 to be provided and any limitations, exceptions, or exclusions.

17 H. Service contracts shall state any restrictions governing the  
18 transferability of the service contract, if applicable.

19 I. Service contracts shall state the terms, restrictions or  
20 conditions governing cancellation of the service contract.

21 J. Service contracts shall set forth all of the obligations and  
22 duties of the service contract holder, such as the duty to protect  
23 against any further damage and any requirement to follow the owner's  
24 manual.

1 K. Service contracts shall state whether or not the service  
2 contract provides for or excludes consequential damages or  
3 preexisting conditions, if applicable. Service contracts may, but  
4 are not required to, cover damage resulting from rust, corrosion or  
5 damage caused by a noncovered part or system.

6 L. If prior approval of repair work is required, a service  
7 contract shall state the procedure for obtaining prior approval and  
8 for making a claim, including a toll-free telephone number for claim  
9 service and a procedure for obtaining emergency repairs performed  
10 outside of normal business hours.

11 SECTION 13. This act shall become effective November 1, 2019.

12  
13 57-1-1821 CB 2/25/2019 10:24:22 AM

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24