

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF PRODUCERS, ADJUSTERS, BAIL BONDSMEN,
COMPANIES, PREPAID FUNERAL BENEFITS, CEMETERY MERCHANDISE
TRUSTS, AND VIATICAL SETTLEMENT PROVIDERS AND BROKERS

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Producers, Brokers, Limited Lines Producers and Vehicle
Protection Product Warrantors

365:25-3-14. Insurance adjusters continuing education [AMENDED]

Subchapter 5. Bail Bondsmen

Part 5. General Provisions Pertaining to Bail Bondsmen

365:25-5-31. ~~Business and residence~~ Residence, business, mailing, and e-mail
addresses on applications [AMENDED]

365:25-5-33. Change of mailing address, legal name, e-mail address, or
telephone requirements [AMENDED]

Subchapter 15. Captive Insurance Companies Regulation

365:25-15-1. Purpose and authority [AMENDED]

365:25-15-2. Annual reporting requirements [AMENDED]

365:25-15-3. Annual Audit [AMENDED]

365:25-15-4. Independent Certified Public Accountant [AMENDED]

365:25-15-5. Deposit Requirement [AMENDED]

365:25-15-6. Organizational examination [AMENDED]

365:25-15-9. Executive officers and directors [AMENDED]

365:25-15-12. Acquisition of control of or merger with domestic company
[AMENDED]

365:25-15-13. Change of business [AMENDED]

365:25-15-14. Prior approval [AMENDED]

365:25-15-15. Severability Provision [NEW]

Subchapter 19. Annuity Disclosure Regulation

365:25-19-5. Standards for the disclosure document and buyer's guide
[AMENDED]

Appendix S. Buyer's Guide to Fixed Deferred Annuities [REVOKED]

SUMMARY:

The amendment to 365:25-3-14(g) is a clean-up to reflect a 2013 legislative change to 36 O.S. § 6217(C), which changed the biennial continuing education requirement for licensed adjusters from 20 to 24 hours.

The amendment to 365:25-5-31 clarifies a confusing rule and reflects current Department policy of maintaining the resident, business, and mailing addresses of bail bondsmen. The amendment to 365:25-5-33 is a clean-up to reflect a 2013 legislative change to 59 O.S. § 1310(A)(23).

The amendments to Subchapter 15 – Captive Insurance Companies Regulation cleans up the language and reflects the 2013 legislative changes made to the Oklahoma Captive Insurance Company Act, 36 O.S. § 6470.1 et seq. The amendment to 365:25-15-1 provides consistency with terminology used elsewhere in Chapter 25. The amendment to 365:25-15-2 distinguishes the annual financial reporting requirements for risk retention groups as opposed to other types of

captive insurance companies. Risk retention groups are still required to report pursuant to 36 O.S. § 311, but other captive insurance companies can now financially report pursuant to the Oklahoma Captive Company Annual Report prescribed by the Insurance Commissioner. The amendment to 365:25-15-3 allows a pure captive to apply to file its annual audited financial report within sixty days of the close of the fiscal year as opposed to June 30 each year; but the captive must still file certain parts of the financial report before March 1 of each year to support the premium tax return. In addition, the opinion of the independent certified public accountant, the report of evaluation of internal controls, and the notes to financial statements may now apply generally accepted accounting principles, as opposed to the previously required statutory accounting principles. A distinction is made in 365:25-15-3(e)(5) between reserves for property and casualty reserves and life, health, or annuity reserves as captives were previously formed only as property and casualty insurance companies. An exemption from the annual audit requirement has been added to 365:25-15-3 for companies who have no more than \$2,000,000.00 of direct written premium. 365:25-15-4 requires independent certified public accountants to apply for approval from the Insurance Commissioner before transacting annual audits for captive insurers and provides that either the company's captive manager or the captive company shall report notification of adverse financial condition to the Insurance Commissioner. 365:25-15-5 changes the deposit requirement from the requirements of 36 O.S. § 613 and Article 17 to as approved by the Commissioner and also adds that a clean irrevocable letter of credit issued by a bank may be used as a deposit. 365:25-15-6 adds that an organizational examination may be performed after, in addition to before, an applicant is licensed and deletes that independent third parties must perform biographical background checks as part of the organizational examination. 365:25-15-9 also deletes the requirement of independent third party biographical background checks when there is a change in a captive's executive officers or directors. 365:25-15-12 provides that the Insurance Commissioner may waive or modify the requirements for public hearing pursuant to 36 O.S. § 1653 if the Commissioner deems it not necessary due to limited public interest in the change of control. While any change in the nature of the captive business from that stated in the company's plan of operation still requires prior approval from the Commissioner, 365:25-15-13 adds that any other changes must be filed within sixty days of the change but does not require prior approval from the Commissioner. 365:25-15-14 adds a severability provision.

The amendment to 365:25-19-5(a)(1) allows an applicant for an annuity contract have access to the most recent version of the National Association of Insurance Commissioners' (NAIC) Buyer's Guide to Annuities in a face-to-face meeting with the seller of the annuity contract. This change renders Appendix S obsolete.

Appendix S is revoked because of the change to 365:25-19-5, which renders the form obsolete.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 6217, 6470.21; 59 O.S. § 1302(A)

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before March 5, 2014. Comments shall be directed to Buddy Combs, Director of Public Policy and Assistant General Counsel, Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held March 6, 2014, at 1:30 p.m. at the Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Buddy Combs, Director of Public Policy and Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before March 5, 2014.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be available on and after February 3, 2014, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Buddy Combs, Director of Public Policy and Assistant General Counsel, (405) 522-4609.