

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF PRODUCERS, BAIL BONDSMEN, ADJUSTERS
COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE
SETTLEMENTS PROVIDERS AND BROKERS

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Producers, Brokers, and Limited Lines Producers

365:25-3-1. Insurance producers continuing education [AMENDED]

365:25-3-1.1. Application for Resident Producer License [NEW]

365:25-3-1.2. Provisional Producer License [NEW]

365:25-3-1.3. Approved Insurance Company Training Program [NEW]

365:25-3-3. Licensing of incorporated insurance agency [AMENDED]

365:25-3-12. Insurance consultants and surplus lines insurance brokers [AMENDED]

365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms [AMENDED]

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

365:25-3-16. Examination exemptions [AMENDED]

365:25-Appendix T [NEW]

Subchapter 5. Bail Bondsmen

Part 5. General Provisions Pertaining To Bail Bondsmen

365:25-5-30. Definitions [AMENDED]

365:25-5-34. Professional bondsman deposits [AMENDED]

365:25-5-35. Bondsman license renewal [AMENDED]

365:25-5-43. Appointments [NEW]

Subchapter 7. Companies

Part 5. Oklahoma Insurance Holding Company System Regulatory Act

365:25-7-27.1. Subsidiaries of domestic insurers [AMENDED]

365:25-7-30. Extraordinary dividends and other distributions [AMENDED]

Part 7. Companies In Hazardous Financial Condition

365:25-7-40. Authority [AMENDED]

365:25-7-41. Purpose [AMENDED]

365:25-7-42. Standards for determining hazardous financial condition [AMENDED]

365:25-7-43. Commissioner's authority [AMENDED]

365:25-7-76. Insurance Company Holding Company Act [NEW]

Part 15. Unauthorized Insurers [NEW]

365:25-7-80. Unauthorized Insurers Annual Filing Requirements [NEW]

Subchapter 9. Prepaid Funeral Benefits

365:25-9-3. Forms [AMENDED]

365:25-9-Appendix C. [REVOKED]

365:25-9-Appendix I. [REVOKED]

Subchapter 27. Military Sales Practices Regulation

365:25-27-1. Purpose [NEW]

365:25-27-2. Scope [NEW]

365:25-27.3. Authority [NEW]

365:25-27-4. Exemptions [NEW]

365:25-27-5. Definitions [NEW]

365:25-27-6. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation [NEW]

365:25-27-7. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location [NEW]

365:25-27-8. Severability [NEW]

SUMMARY:

The proposed amendment to 365:25-3-1(d)(3) allows producers to carry forward six (6) credit hours of continuing education to the next licensing period. Currently, producers that take additional continuing education credit are penalized because excess credits may not be carried forward.

The proposed amendment to 365:25-3-1(d)(4) excludes property and casualty and title producers from taking electives in health and welfare coverage. Health and welfare coverage is not applicable to property, casualty, or title insurance.

The proposed amendments to section 365:25-3-1(g) and (h) and 365:25-3-14(g) and (h) are new rules concerning professional designation programs and presumptive continuing education approval. Paragraphs (g) and (h) were promulgated as emergency rules September 11, 2007. Effective July 1, 2007, continuing education requirements for producers and adjusters were amended. Prior to the statutory amendments, specific professional designation programs qualified for continuing education credit. A process of approval is now utilized to expand the number of professional designation programs available for continuing education credit. The statutory revision requires standardized criteria to review professional designation programs for approval. Rules are also necessary to define participation in approved professional designation programs.

The July 1, 2007 statutory amendments also allow certain continuing education programs offered by specified professional associations to receive presumptive approval. Rules are necessary to implement standards for presumptive approval.

Proposed rules 365:25-3-1.1, 1.2., and 1.3 are new. The proposed rules were promulgated as emergency rules September 11, 2007. Effective July 1, 2007, the Commissioner may require applicants for resident producer licenses to either hold a provisional producer license or participate in an approved insurance company training program. The rules implement the requirements for provisional producer licenses and insurance company training programs.

The proposed amendment to 365:25-3-3(b) eliminates the Commissioner's prior approval of a business entity's articles of incorporation. Licensed business entities may now be engaged in any lawful activity. Prior to passage of the Producer Licensing Act, insurance was required to be the primary purpose of a business entity.

The proposed amendment to 365:25-3-12(f) establishes a sliding scale for determining the amount of a third party administrator's surety bond. Third party administrators are required to maintain a surety bond. A sliding scale develops a bond amount that is necessary to protect the interests of insureds.

The proposed amendment to 365:25-3-13 eliminates the requirement for surplus lines broker reports to be submitted in duplicate. The duplication requirement generates unnecessary

paperwork. Proof that a broker report has been received shall be in the form of a cancelled surplus lines premium tax check.

The proposed amendment to 365:25-3-14(c) allows non-resident adjusters to satisfy Oklahoma's continuing education requirements by being licensed in a state that has a continuing education requirement.

The proposed amendment to 365:25-3-16 allows a person licensed in another state that moves to Oklahoma to waive an examination. The applicant qualifies for an examination exemption by providing a clearance letter from the prior state dated within ninety (90) days from the date of receipt of the application.

The proposed amendment to 365:25-5-30 defines the equivalent of a high school diploma. The phrase is not defined by statute. The proposed rule requires a bail bondsman applicant to demonstrate their credentials are acceptable to the State Department of Education for completion of a program that is the equivalent of a high school diploma.

The proposed amendment to 365:25-5-34 clarifies the phrase "required level" as described in 59 O.S. § 1332 (D)(4). The proposed rule defines required level as the professional bail bondsmen's amount on deposit prior to a forfeiture payment. The proposed rule requires professional bail bondsmen to make a deposit equal to the amount withdrawn by the Commissioner to pay a forfeiture within ten (10) days from the receipt of the withdrawal notice or mailing of notice if receipt is not made.

The proposed amendment to 365:25-5-35 explains that a license expires September 30. However, a licensee may renew an expired license until November 30. The rule describes when a license expires and the requirements of a complete renewal filing.

Proposed rule 365:25-5-43 is new. The rule clarifies when a bail bondsman appointment becomes effective. The rule prevents an appointment becoming effective until the appointment is processed and reviewed.

The proposed amendment to 365:25-7-27.1 is a non-substantive change. The proposed amendment corrects an erroneous statutory citation.

The proposed amendment to 365:25-7-30 adds subsections (a)(4)(i, ii, iii, iv, and v). The subparagraphs are erroneously not included in the current Oklahoma Administrative Code.

The proposed amendments to rules 365:25-7-40 through 43 update the rules to the latest NAIC model regulation.

Proposed rule 365:25-7-76 is new. The rule requires holding company filings in electronic format in addition to paper.

Proposed rule 365:25-7-80 is new. The proposed rule requires approved unauthorized insurers to submit an annual report. The annual report includes a premium breakdown of risks located in Oklahoma reflecting the name, location and amount by Oklahoma surplus lines broker. The proposed rule also requires approved unauthorized insurers to submit their annual statutory fees with the report. The purpose of the rule is to reconcile premiums reported by surplus lines brokers.

The proposed amendment to 365:25-9-3(a)(1) removes the prepaid funeral permit application from the rules appendix. The removal of the permit application from the appendix grants the Commissioner flexibility in modifying the application without waiting for a rule to be promulgated.

The proposed amendment to 365:25-9-3(b)(5) removes the prepaid funeral permit renewal application from the rules appendix. The removal of the permit renewal application

allows the Commissioner flexibility in modifying the application without waiting for a rule to be promulgated.

Proposed rules 365:25-27.1-8 are new. The proposed rules were promulgated as emergency rules August 2, 2007. The rules set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29(H), 59 O.S. § 1302(A), 36 O.S. § 1901, et seq, and 36 O.S. § 6123.

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before March 3, 2008. Comments shall be directed to Karl Kramer, First Assistant General Counsel, Oklahoma Insurance Department, P.O. Box 53408, Oklahoma City, Oklahoma 73152-3408.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held March 4, 2008 at 9:30 a.m. at the Oklahoma Insurance Department, 2401 N.W. 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

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 Karl Kramer, First Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before March 3, 2008.

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 prepared prior to February 1, 2008 in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Karl Kramer, First Assistant General Counsel, (405) 521-2746.

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF PRODUCERS, BAIL BONDSMEN, ADJUSTERS
COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE
SETTLEMENTS PROVIDERS AND BROKERS
SUBCHAPTER 3. PRODUCERS, BROKERS AND LIMITED LINES PRODUCERS

365:25-3-1. Insurance producers continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education, which an insurance producer must meet and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"CEC"** means continuing education credit.

(2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.

(3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.

(4) **"Credit hour"** means at least fifty (50) minutes classroom instruction unless a correspondence or self-study course.

(5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

(6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

(7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance producer.

(8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance producers.

(9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by a producer or producers.

(c) **Exceptions.** The requirements for continuing education in this section shall not apply to:

(1) limited lines producers.

(2) a non-resident producer who resides and is licensed in a state or district having continuing education requirements and the producer meets all the requirements of that state or district to practice therein. The non-resident producer shall be responsible for completing any reporting requirements necessary to verify completion.

(3) a non-resident producer of a state that does not require continuing education hours may fulfill the requirements of any other state's continuing education requirements and shall be deemed to have complied with this rule upon proof of completion of said hours.

(d) **Continuing education requirements.**

(1) **CEC during twenty-four month period.** All licensees shall complete the required hours of continuing education as set forth in 36 O.S. § 1435.29 during each twenty-four month period. The twenty-four month period begins the first day of the month following the month in which the license is granted. The credit hours completed must be in those lines in which the producer is licensed. Ethics shall include, but not be limited to, the study of fiduciary responsibility, commingling of funds, payment and acceptance of commissions, unfair claims practices, policy replacement consideration, and conflicts of interest.

(2) **Certificates of course completion required for license renewal.** If requested by the Insurance Department, each producer shall submit upon each licensing renewal certificate(s) of course completion as approved by the Insurance Department, which verify courses completed during the previous twenty-four month period.

(3) **Credits carried over.** ~~Six (6) Credit~~ credit hours in excess of the minimum twenty-four month period requirement ~~will not~~ shall carry forward to the next twenty-four month period. ~~However, excess~~ Excess hours may be applied to bring a lapsed license into compliance.

(4) **Elective Credit.**

(a) At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:

- (A) state legislative updates
- (B) federal legislative updates
- (C) health coverage
- (D) welfare coverage

(b) Electives in health and welfare coverage shall not apply to property and casualty and title producers.

(5) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session.

(6) **Prerequisite for renewal or reinstatement.** As a prerequisite for licensure renewal or upon reinstatement following a lapse of license, a producer must submit, on his or her renewal/reinstatement date, the appropriate forms as specified in this section which establish that the education requirements have been met for the previous year(s).

(e) **Approval of continuing education providers.**

(1) **Information required, fee.** Each provider shall apply for approval from the Commissioner. Each provider, with the exception of public funded educational institutions, federal agencies or Oklahoma state agencies shall submit after its approval a provider fee of Two Hundred Dollars (\$200.00), and all providers, including public funded educational institutions, federal agencies and Oklahoma agencies shall provide:

- (A) Name and address of the provider;
- (B) Contact person and his or her address and telephone number;
- (C) The location of the courses or programs, if known, unless it is an individual self- study course;
- (D) The number of CEC hours requested for each course;

(E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes;

(F) The names and qualification of instructors. An instructor shall have one of the following qualifications:

(i) Three (3) years of recent experience in the subject area being taught; or

(ii) A degree related to the subject area being taught; or

(iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(G) If a prior approved course has materially changed, a summarization of those changes;

(2) **Renewal fee.** An annual renewal fee of Two Hundred Dollars (\$200.00) shall be payable on or before the approval anniversary date of each year by each provider to renew the approval of the provider. A fee of double the annual renewal fee shall be paid if the application for renewal is late or incomplete on the approval anniversary date.

(3) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records.**

(1) **Timeline for approval.** At least thirty (30) days prior to the use of any course and not less than ten (10) days prior to the Continuing Education Advisory Committee meeting immediately preceding the course date, the provider shall apply to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CEC hours awarded for an approved course and the line or lines of insurance for which the course qualifies.

(2) **Written approval required.** All courses shall require written approval by the Commissioner. ~~Courses shall be deemed to have been approved by the Commissioner if the courses are provided by national professional associations or local affiliates of national professional associations approved by the Commissioner to act as providers of continuing education.~~

(3) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any CEC hours attained under the course previous to the withdrawal.

(4) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(5) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(6) **Content of courses.** Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, and subjects not relating to the insurance license. However, agency management courses

designed to assist producers in becoming more efficient, profitable, and assuring their perpetuation, will be deemed to be in the best interest of the insuring public and thereby subject to approval. Each such agency management course must include the description, the effects the course is designed to accomplish toward the purposes of efficiency, profitability, and/or perpetuation and each course will be reviewed for approval on its own merits.

(7) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance producer a "Certificate of Course Completion" Form.

(8) **List of producers completing course to Commissioner; producer license numbers.** Within ten (10) business days after completion of each course, the provider shall provide the Commissioner a list of all insurance producers who completed the course on the Course Completion Form. This list shall contain the course number, date of completion and license numbers of all insurance producers completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(9) **Course records maintained four years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(10) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date and instructor's name.

(11) **Course evaluation.** The provider shall require each producer listed on the Course Completion Form to complete a course evaluation form to be submitted to the Department within ten (10) business days after completion of each course.

(g) Approved Professional Designation Programs

(1) Definitions.

(A) Participation. As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) Approved Professional Designation Program. As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) Requirements. A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) The program shall have a sponsoring organization;

(B) The program's sponsoring organization shall maintain and govern a code of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a

minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive Continuing Education Credit Approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

(E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.

(3) **Notification of approval or disapproval.**

(A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.

(B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.

(C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)(6) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with 365:25-3-1(f)(6) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.

(D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

(4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.

(5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.

(6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.

(7) **Agency Management Courses.** Agency management courses shall not be considered for presumptive continuing education approval.

~~(g)~~(i) **Self study and Distance Learning Courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed, updated as appropriate, and published annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the producer and revocation of the course approval and or provider status for the provider.

~~(h)~~(j) **Repeating courses.** An insurance producer may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the producer may not during the twenty-four month period earn more than the maximum credits designated for the course. A producer may repeat a course after two years have elapsed and receive the maximum credits designated for the course. This section shall not apply to ethics courses.

~~(i)~~(k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twenty-four-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the

licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

~~(j)~~(l) **Course approval.** Prior to the Commissioner's approval or disapproval of a course in 365:25-3-1(f), a continuing education advisory committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted in 365:25-3-1(e) regarding the course or additional information regarding the course, if necessary, the number of CEC hours awarded for an approved course and the line or lines of insurance for which the course qualifies. Each course approval shall be valid for a period of not more than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course approval following the review of material changes shall reset the validity period. At the expiration of the validity period, providers shall submit the course for approval by the Commissioner if the provider wants to continue to offer the course for continuing education credit.

~~(k)~~(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-1.1. Application for Resident Producer License

(a) **Requirements.** An applicant for a resident insurance producer license shall either hold a provisional producer license and complete eight (8) hours of pre-licensing education required by 36 O.S. § 1435.7A(B)(4) or participate in an approved insurance company training program.

(b) **Exceptions.** A provisional producer license or participation in an approved insurance company training program is not required for the following producer license applicants:

(1) Limited lines producer;

(2) Surplus lines insurance broker;

(3) A title insurance producer licensed prior to November 1, 2006, who is an applicant for an aircraft title producer license;

(4) A person licensed as an insurance producer in another state who moves to this state and makes application to become a resident licensee within ninety (90) days of establishing legal residence in Oklahoma; and

(5) A person reinstating a lapsed license within twenty-four (24) months from the due date of the renewal fee; and

(6) Variable annuity producers.

365:25-3-1.2. Provisional Producer Licensees

(a) **Sponsoring producers.** A sponsoring producer may supervise no more than five (5) provisional licensees at any time.

(b) **Pre-licensing education.** The Commissioner shall develop and publish the topic outlines covered in the eight (8) hours of pre-licensing education. Providers and course submissions shall be approved by the Commissioner in the same manner as applicable to continuing education

courses. Course submission shall include all course materials. All courses shall be offered as classroom instruction.

(c) **Time requirements-exceptions.** A provisional producer license may be held for up to six (6) months to complete pre-licensing education requirements. A licensee who is unable to comply with pre-licensing education requirements due to military service, a medical condition, or other extenuating circumstance may request an extension of time to complete the requirements. The request shall be in writing.

365:25-3-1.3. Approved Insurance Company Training Program

(a) **Requirements.** An insurance company shall certify on the affidavit required by Appendix T of this chapter that its training program satisfies all criteria required by the affidavit.

(b) **Notification.** An insurance company shall notify the Commissioner within thirty (30) days if changes to its training program do not fulfill the requirements set forth in the affidavit.

(c) **Participation.** A producer shall document participation by completing a form provided by the Commissioner. The form shall be submitted with the producer application.

365:25-3-3. Licensing of incorporated insurance agency

(a) **Purpose.** The purpose of this section is to set forth the rule regarding a corporation to submit its Articles of Incorporation for approval by the Insurance Commission prior to obtaining an insurance producer's license.

(b) ~~Approval and filing~~ **Filing of articles of incorporation.** ~~No resident corporation shall be licensed as an insurance producer in this State, unless its articles of incorporation are approved by the Insurance Commissioner's office and then filed with the Secretary of State. A certified copy thereof must then be filed with the Insurance Commissioner.~~ A resident business entity shall file its articles of incorporation or other organizational documents with the Secretary of State for approval. A resident business entity shall file a certified copy of its articles of incorporation or other organizational documents with the Insurance Commissioner prior to licensure.

365:25-3-12. Insurance consultants and surplus lines insurance brokers

(a) **Purpose.** The purpose of this section is to require surplus lines brokers and insurance consultants to post bonds with the Insurance Commissioner in the amounts specified.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Bond"** means a surety bond in the penal sum as determined in accordance with (d) of this section which shall be obtained in favor of the Commissioner from authorized corporate sureties approved by the Commissioner and conditioned upon the licensee conducting his/its business in accordance with applicable law. Any surety issuing such bond shall notify the Commissioner of any reductions or cancellations in the bond of any licensee. No such bond shall be terminated unless at least thirty days written notice thereof is given by the surety to the licensee and the Commissioner. All surety protection under such bond shall insure to the benefit of any party aggrieved by the acts of the licensee thereunder.

(2) **"Commissioner"** means the Insurance Commissioner of the State of Oklahoma.

- (3) **"Gross fee"** means the total of all fees received by any Insurance Consultant derived by offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued or delivered in this state.
- (4) **"Gross premium"** means the total of all premiums received by any Surplus Lines Insurance Broker less those reductions permitted by 36 O.S. § 1115.
- (5) **"Insurance consultant"** means an individual, partnership or corporation who, for a fee, holds himself or itself out to the public as engaged in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance that could be issued or delivered in this state.
- (6) **"Person"** means any individual, partnership or corporation or other entity.
- (7) **"Surplus lines insurance broker"** means an individual, partnership or corporation who solicits, negotiates or procures a policy of insurance in an insurance company not licensed to transact business in this state which cannot be procured from insurers licensed to do business in this state. All transactions under such license shall be subject to 36 O.S. §§ 1101 et seq.
- (8) **"Resident"** means any individual or business entity that either resides in the State of Oklahoma or maintains its principal place of business in the State of Oklahoma.
- (c) **Bond required.**
- (1) **Surplus lines insurance broker.** No resident shall act as a Surplus Lines Insurance Broker in this state until such person has filed with the Commissioner, and thereafter maintained in force, a bond in an amount prescribed in (d) of this section.
- (2) **Insurance consultant.** No resident person shall act as an Insurance Consultant in this state until such person has filed with the Commissioner, and thereafter maintained in force, a bond in the amount prescribed in (d) of this section.
- (3) **Cash in lieu of bond.** In either (1) or (2) of paragraph (c) of this section, cash in lieu of a bond will be considered an acceptable substitute.
- (d) **Amount of bond.** The bond required by (c) of this section shall be as follows:
- (1) For \$1,000,000 and above gross premium or gross fees as applicable - \$40,000 bond required;
- (2) For \$500,000 to \$999,999 gross premium or gross fees as applicable - \$35,000 bond required;
- (3) For \$250,000 to \$499,999 gross premium or gross fees as applicable - \$30,000 bond required;
- (4) For \$100,000 to \$249,999 gross premium or gross fees as applicable - \$25,000 bond required;
- (5) For \$75,000 to \$99,999 gross premium or gross fees as applicable - \$20,000 bond required;
- (6) For \$50,000 to 74,999 gross premium or gross fees as applicable - \$15,000 bond required;
- (7) For \$25,000 to \$49,999 gross premium or gross fees as applicable - \$10,000 bond required;
- (8) For all gross premium or gross fees below \$25,000 as applicable - \$5000 bond required.

(e) **Reports required.** Every Insurance Consultant shall, on or before the first day of April of each year, file with the Commissioner a verified statement of all fees received by such consultant as a result of business conducted pursuant to such consultant's license.

(f) **Third party administrators.** Pursuant to 36 O.S. § 1448, the amount of bond for a third party administrator must be stipulated by the Insurance Commissioner in an amount that will be sufficient to protect those with which the administrator deals and not less than ten thousand dollars. The bond required by Section 1448 shall be set by the Insurance Commissioner but shall be no less than the following amounts as reported in the annual report of the third party administrator for the immediately preceding calendar year:

(1) For \$1,000,000 and above in premiums collected or claims paid, whichever is higher - \$40,000 bond required;

(2) For \$500,000 to \$999,999 in premiums collected or claims paid, whichever is higher - \$35,000 bond required;

(3) For \$250,000 to \$499,999 in premiums collected or claims paid, whichever is higher - \$30,000 bond required;

(4) For \$100,000 to \$249,999 in premiums collected or claims paid, whichever is higher - \$25,000 bond required;

(5) For \$75,000 to \$99,999 in premiums collected or claims paid, whichever is higher - \$20,000 bond required;

(6) For \$50,000 to 74,999 in premiums collected or claims paid, whichever is higher - \$15,000 bond required;

(7) For \$49,999 or less in premiums collected or claims paid, whichever is higher - \$10,000 bond required.

365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms

(a) Purpose. The purpose of this section is to set forth the requirements regarding the procurement of policies from non-admitted carriers.

(b) **Placement with licensed broker.** No licensed insurance producer, solicitor, broker or general agent shall place, or cause to be placed with any nonadmitted insurer any policy of insurance upon property and/or any other risks, or any insurable interest therein, having a situs in the State of Oklahoma, except through a duly licensed surplus line broker; and, then, any such policy shall only be procured by strict compliance with the applicable statutes of this State and the Rules issued under the authority of the Insurance Department of the State of Oklahoma.

(c) **Application for placement.**

(1) After procuring any surplus lines insurance, surplus line brokers shall execute and file affidavits and reports with the Insurance Commissioner as required pursuant to Section 1107 of Title 36 on Form SL-3(a-d). All Forms SL-3 (a-d) shall be retained in the files of the brokers, to support the policy issued thereunder, for a period of not less than three years.

(2) All applications (Form SL-3) shall be ~~submitted in duplicate~~, completely filled out and verified under oath by the broker submitted for each policy for which approval for issuance is sought; provided, that in the event any group insurance is determined to constitute a surplus line of insurance, a specific method of reporting additional individual certificates issued or cancelled under such group policy shall be agreed upon between the

Insurance Commissioner and the broker concerned.

(3) After procuring surplus lines insurance, an insured filing a direct placement shall execute and file affidavits and reports with the Insurance Commissioner as required by 36 O.S. § 1115 on form DSL-3 (a-d).

(d) **Broker tax collection and remittance.**

(1) All taxes due on any insurance policy issued as a surplus line policy, through any non-admitted insurer, shall be collected by the surplus line broker who procures such policy's issuance. Such taxes shall, in each instance be collected in full on or before the issuance of the policy to the insured, except as hereinafter expressly provided for by (b) of this section. All such taxes shall be duly remitted to the State of Oklahoma, through the Insurance Commissioner, on or before the end of each month following each calendar quarter by letter of transmittal accompanying such tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective premium adjustments shall be collected by the broker concerned and remitted to the Insurance Commissioner within thirty (30) days next succeeding the last date included in the policy period considered in computing such retrospective premium adjustment.

(e) **Broker tax refunds; warrants.**

(1) Claims for tax refunds on surplus line policies shall be separately submitted on Form SL-3(d), which shall be prepared under oath, and executed by the broker concerned. Every such verified claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was paid. Only one claim for tax refund shall be submitted on each Form SL-3(d). Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. Any claim for a tax refund shall be filed following the close

of the calendar quarter that contains the policy period considered in computing the tax refund three (3) years from the date of tax payment. The broker shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ex parte administrative consideration or action by the Insurance Commissioner. Any claim for tax refund which is not timely filed, or any claim for tax refund which is denied by ex parte action of the Insurance Commissioner, may be set down for public hearing upon timely application therefore by the party or parties aggrieved by such claims denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.

(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the broker concerned within thirty days next succeeding the receipt of such claims by the Insurance Commissioner.

(3) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the broker who originally submitted the tax in question.

(f) **Direct Placement Tax Collection and Remittance.**

(1) All taxes due on any insurance policy issued as a direct placement surplus lines policy through any non-admitted insurer shall be collected by the affiant or other representative of the insured who procured such policy's issuance. Such taxes shall, in each instance, be collected in full on or before the issuance of the policy to the insured except as hereinafter expressly provided for by Section 365:25-3-13 (f)(2)(B). All such taxes shall be duly remitted to the State of Oklahoma, through the Insurance Commissioner, within thirty (30) days following the issuance of the policy. The Direct Placement by and Insured Summary shall accompany the tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at the date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective

premium adjustments shall be collected by the broker concerned and remitted to the Insurance Commissioner within thirty (30) days following the policy period considered in computing such retrospective premium adjustment.

(g) **Direct Placement-Tax refunds; warrants.**

(1) Claims for tax refunds on surplus lines policies shall be separately submitted on Form

DSL-3d, which shall be prepared under oath and executed by the insured or a representative of the insured. Every verified claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was paid. Only one claim for tax refund shall be submitted on each Form DSL-3d. Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. Any claim for tax refund shall be filed within three (3) years from the date of tax payment. The insured or a representative of the insured shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ex parte administrative consideration or action by the Insurance Commissioner. Any claim for tax refund that is not timely filed, or any claim for tax refund that is denied by ex parte action of the Insurance Commissioner, may be set down for public hearing upon timely application by the party or parties aggrieved by the claim denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.

(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the affiant or other representative of the insurance within thirty (30) days next succeeding the receipt of such claims by the Insurance Commissioner.

(3) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the insured that originally paid the tax in question.

(h) **Forms**

(1) Surplus line brokers shall reproduce Forms SL-2 and SL-3 in quantities sufficient for their respective requirements.

(2) The applications and forms required by this section shall be supplementary and in addition to the Annual Statements and Annual Tax Returns required to be filed by each licensed surplus line broker. The Annual Statements and Annual Tax Returns of all surplus line brokers shall be duly filed, according to 36 O.S. §1114 upon the forms prescribed for such purposes.

365:25-3-14. Insurance adjusters continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education which an insurance adjuster must meet, and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

- (1) **"CEC"** means continuing education credit.
 - (2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.
 - (3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.
 - (4) **"Credit hour"** means at least fifty (50) minutes of classroom instruction, unless a correspondence or self-study course.
 - (5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.
 - (6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.
 - (7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance adjuster.
 - (8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance adjusters.
 - (9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by an adjuster or adjusters.
- (c) **Exceptions.** ~~The requirements for continuing education in this section shall not apply to:~~
- ~~(1) a non resident adjuster who resides and is licensed in a state or district having continuing education requirements and the adjuster meets all the requirements of that state or district to practice therein. The non resident adjuster shall be responsible for completing any reporting requirements necessary to verify completion.~~
 - ~~(2) a non resident adjuster of a state that does not require continuing education hours may fulfill the continuing education requirements of any other state in which the individual is licensed and shall be deemed to have complied with this rule upon proof of completion of said hours.~~ Continuing education requirements shall not apply to non-resident adjusters licensed in a state that has a continuing education requirement for adjusters.
- (d) **Continuing education requirements.**
- (1) **Twelve hours of CEC during twenty-four month period.** All licensees shall complete twelve (12) credit hours of continuing education during each twenty-four month period. The twenty-four month period begins the first day of the month following the month in which the license is granted. The credit hours completed must be in those lines in which the adjuster is licensed. Courses taken in excess of twelve (12) hours will not carry forward. However, courses taken in excess of twelve (12) hours may be applied retroactively in order to bring a lapsed license into compliance.
 - (2) **Certificates of course completion required for license renewal.** If course completion is not reflected on the license renewal form issued by the Insurance Department, each adjuster shall attach, if requested by the Commissioner, an approved course completion certificate to the license renewal form returned to the Department for

verification of course completion. The Commissioner shall maintain a cumulative total of continuing education credit hours to insure compliance within the twenty-four (24) month period.

(3) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.

(4) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must submit the appropriate forms as specified in this section that establish the educational requirements have been met if not currently recorded by the Oklahoma Insurance Department.

(e) **Approval of continuing education providers.**

(1) **Information required.** Each provider shall apply for approval by the Commissioner. All providers, including publicly funded educational institutions, federal agencies, or Oklahoma state agencies, shall provide:

(A) Name and address of the provider.

(B) Contact person and his or her address and telephone number(s).

(C) The location of the courses or programs, if known, unless it is an individual self-study course.

(D) The number of CEC hours requested for each course.

(E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.

(F) The names and qualification of instructors. An instructor shall have one of the following qualifications:

(i) Three (3) years of recent experience in the subject area being taught; or

(ii) A degree related to the subject area being taught; or

(iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(G) If a prior approved course has materially changed, a summarization of those changes.

(2) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records.**

(1) **Course approval timeline.** A provider shall apply to the Commissioner for course approval by submitting forms and materials to the Commissioner the first day of the month one full month prior to the date of the first course offering. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CEC hours awarded for an approved course and the line or lines of insurance for which the course qualifies.

(2) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date, location and instructor's name.

(3) **Written approval required.** All courses shall require written approval by the Commissioner.

(4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course. This withdrawal will not affect any CEC hours attained under the course previous to the withdrawal.

(5) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(6) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(7) **Content of courses.** Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre-licensing principles of adjusting, and subjects not relating to the adjuster's license.

(8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance adjuster a "Certificate of Course Completion" Form.

(9) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider shall provide the Commissioner a list of all insurance adjusters who completed the course on the Course Completion Form. This list shall contain the course number, date of completion and license numbers of all insurance adjusters completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(10) **Course records maintained four (4) years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(g) **Approved Professional Designation Programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved Professional Designation Program.** As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

(A) **The program shall have a sponsoring organization;**

(B) **The program's sponsoring organization shall maintain and govern a code**

of conduct;

(C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;

(D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and

(E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

(A) The sponsoring organization's code of conduct;

(B) The sponsoring organization's membership requirements;

(C) The professional designation program's course requirements; and

(D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive Continuing Education Credit Approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

(A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;

(B) The association shall maintain and govern a code of member conduct;

(C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and

(D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

(A) The association's mission statement;

(B) The association's code of member conduct;

(C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;

(D) The mailing address and primary contact for the association; and

(E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.

(3) **Notification of approval or disapproval.**

(A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.

(B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.

(C) If the Commissioner receives a report or reports that the content of a continuing education course may violate 365:25-3-1(f)(7) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with 365:25-3-1(f)(7) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.

(D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.

(4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.

(5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.

(6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph (3)(B) of this section during the fourth quarter of the last approval year.

(7) **Agency Management Courses.** Agency management courses shall not be considered for presumptive continuing education approval.

~~(g)~~(i) **Self study and distance learning courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed and updated as appropriate and published on the Commissioner's website annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the adjuster and revocation of the course approval and or provider status for the Provider.

~~(h)~~(j) **Repeating courses.** An insurance adjuster may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the adjuster may not during the twelve month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) license renewal dates have elapsed and receive the maximum credits designated for the course.

~~(j)~~ **(k) Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twelve-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

~~(j)~~ **(l) Continuing education advisory committee.**

(1) There shall hereby be established the Continuing Education Advisory Committee. This committee shall consist of representatives from the Agents Licensing Division, and representatives from the industry (not to exceed three (3) individuals) as designated by the Commissioner. Members of the Advisory Board established by 36 O.S. § 6221 may also serve on the Continuing Education Advisory Committee. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith.

(2) Prior to the Commissioner's approval or disapproval of a course in 365:25-3-14(e), the Continuing Education Advisory Committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted pursuant to 365:25-3-14(e) and additional information regarding the course, if necessary. Each course approval shall be valid for a period of no longer than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course materials may be resubmitted as requested for review at the time of expiration. All existing courses previously approved and current with the Commissioner shall be submitted in accordance with the expiration date as granted by the Commissioner unless the course has a material change, as previously detailed.

~~(k)~~ **(m) Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

365:25-3-16. Examination exemptions

~~Applicants for the following licenses~~ The following applicants are cognizant of and capable of fulfilling the responsibilities of the license without an examination:

- (1) limited lines producers,
- (2) surplus lines brokers,
- (3) aircraft title producer license if the applicant was licensed as a title insurance producer prior to November 1, 2006.
- (4) a person licensed as an insurance producer in another state who moves to this state and makes application to become a resident licensee within ninety (90) days of establishing legal residence. The examination exemption shall apply for the lines of authority held in the prior state. A person shall qualify for this exemption by providing a clearance letter from the prior state dated within ninety (90) days from the date of receipt of the application.

SUBCHAPTER 5. BAIL BONDSMEN

PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-30. Definitions

The following words or terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Limited surety agent" means any individual who is duly licensed by the Commissioner and is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and receives or is promised money or other things of value.

"Premium" means a sum of money charged by the bail bondsman for services rendered on behalf of the principal. Nothing in this section shall be construed to include collateral security received by the bail bondsman in the definition of premium.

"High school diploma or equivalent" The equivalent of a high school diploma, as described by 59 O.S. §1305(A)(8), shall be the successful completion of all parts of the General Educational Development program or completion of a similar program authorized and approved by the Oklahoma State Department of Education. An applicant shall provide documentation that the Oklahoma State Department of Education considers the applicant's educational qualifications to be the equivalent of a high school diploma if necessary.

365:25-5-34. Professional bondsman deposits

(a) Bondsman making an original deposit required by 59 O.S. § 1306, or replacing any portion of a deposit shall deliver the deposit to the office of the Insurance Commissioner in Oklahoma City, Oklahoma. The bondsman shall appear in person at the office of the Insurance Commissioner to execute an assignment of the deposit to the Insurance Commissioner as instructed by 59 O.S. § 1306.

(b) The phrase "required level," as described by 59 O.S. § 1332 (D)(4)(b), shall be the bondsman's amount on deposit prior to a forfeiture payment. A bondsman shall make a deposit equal to the amount withdrawn by the Commissioner following the Commissioner's withdrawal of professional securities to pay a bond forfeiture. The deposit shall be made within ten (10) days from receipt of the withdrawal notice or mailing of the notice if no receipt is made. The bondsman shall follow the provisions of paragraph a of this section for the deposit.

365:25-5-35. Bondsman license renewal

(a) Pursuant to 59 O.S. § 1309, bondsmen are required to renew their licenses annually. Requirements for a complete renewal filing for a bondsman shall be submitted by September 15 each year and must include each of the following:

- (1) \$100 renewal fee,
- (2) proof of completion of eight (8) hours of continuing education, and
- (3) for professional bondsmen, a financial statement prepared in accordance with 59 O.S. § 1309(B).
- (4) In case of renewal of a property bondsman license, the application shall also provide a county assessor's written statement stating the property's assessed value for

each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds. The written statements shall be submitted by September 15 of each year.

(b) Renewal filings or partial renewal filings submitted after September 30 will be assessed a \$100 late renewal fee in addition to the usual \$100 renewal fee.

(c) Failure to complete the renewal process by November 30 will result in non-renewal and the bondsman will be required to apply for a license as a new applicant.

(d) All licenses of bail bondsmen shall expire September 30 unless the Commissioner receives a complete renewal filing. A complete renewal filing consists of all necessary items required by paragraph a of this section as well as any other items required by the Commissioner.

(e) The November 30 date utilized in 59 O.S. § 1309(D) does not authorize a bail bondsman to continue acting as a bail bondsman if the license has not been renewed by September 30.

(f) The Commissioner shall mail all renewal licenses to the bondsman's address of record.

365:25-5-43. Appointments

The effective date of the bondsman appointment described in 59 O.S. § 1317 shall be the date the Commissioner mails the completed appointment form to the appointed bondsman.

SUBCHAPTER 7. COMPANIES

PART 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

365:25-7-27.1. Subsidiaries of domestic insurers

The authority to invest in subsidiaries under Section ~~4616~~ 1652 of the Act is in addition to any authority to invest in subsidiaries which may be contained in any other provision of the Insurance Code.

365:25-7-30. Extraordinary dividends and other distributions

(a) **Request for approval of extraordinary dividends.** Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:

- (1) the amount of the proposed dividend;
- (2) the date established for payment of the dividend;
- (3) a statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
- (4) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:

(i) the amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and

commencing on the day after the same day of the same month in the last preceding year;

(ii) surplus as regards policyholders (total capital and surplus) as of the 31st day of the December next preceding;

(iii) if the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;

(iv) if the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding and the two preceding 12-months periods; and

(v) if the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years.

(5) a balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(6) a brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(b) **Report of dividends and distributions.** Subject to subsection (e) of Section 1655 of the Act, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by Section 1655(a) and (b).

PART 7. COMPANIES IN HAZARDOUS FINANCIAL CONDITION

365:25-7-40. Authority

This part is adopted and promulgated by the Oklahoma Insurance Commissioner pursuant to ~~36 O.S. 1981~~ Section 307.1 and Section 1901, et seq., of Title 36 of the Oklahoma Insurance Code Statutes.

365:25-7-41. Purpose

(a) The purpose of this part is to set forth the criteria which the Commissioner may ~~consider in making a determination that the use for identifying insurers found to be in such condition of any insurer is such that continuation~~ as to render the continuance of such insurer's their business may be hazardous to the public or to holders of its-their policies or certificates of insurance.

(b) This part shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this state, nor shall this part be interpreted to supersede any laws or parts of laws of this state.

365:25-7-42. Standards for determining hazardous financial condition

The following, standards, either singly or a combination of two or more, may be considered by the Commissioner to determine whether the continued operation of any insurer transacting an insurance business in this state might be deemed to be hazardous to the policyholders, creditors or the general public. The Commissioner may consider:

- (1) Adverse findings reported in financial condition and market conduct examination reports;
- (2) The National Association of Insurance Commissioners Insurance Regulatory Information System and its related reports;
- (3) The ratios of commission expense, general insurance expense, policy benefits and reserve increases as to annual premium and net investment income that could lead to an impairment of capital and surplus;
- (4) The insurer's ~~assets~~ asset portfolio when viewed in light of current economic conditions is not of sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature;
- (5) The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer.;
- (6) Whether the insurer's operating results—loss for the last twelve month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum required;
- (7) ~~the financial condition of the insurer's affiliates, subsidiaries, or reinsurers~~Whether any affiliate, subsidiary or reinsurer is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations;
- (8) Contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the Commissioner may affect the solvency of the insurer;
- (9) Whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer;
- (10) The age and collectibility of receivables;
- (11) Whether competence and fitness of the management of the insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position;
- (12) Whether ~~the~~ management of an insurer has failed to respond to the Commissioner's inquiries relative to the condition of the insurer or has furnished false and misleading information in response to such inquiries or concerning such inquiries;
- (13) Whether ~~the~~ management of an insurer either has filed any false or misleading sworn financial statement or statements, or has released a false or misleading financial statement or statements to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer;
- (14) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;
- (15) Whether the ~~company—insurer~~ insurer has experienced or will experience in the foreseeable future cash flow and/or liquidity problems.

365:25-7-43. Commissioner's authority

(a) For the purposes of making a determination of an insurer's financial condition under this part, the Commissioner may, ~~if consistent with the facts and existing law:~~

- (1) Disregard any credit or amount receivable resulting from transactions with a reinsurer ~~which~~ that is insolvent, impaired or otherwise subject to a delinquency proceedings;
- (2) Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates;
- (3) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor;
- (4) Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial ~~likelihood~~ risk that the insurer will be called upon to meet the obligation undertaken within the next 12-month period.

(b) If the Commissioner determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, then the Commissioner may, upon his determination, issue an order making such finding and including a list of requirements necessary to abate such finding. Such list may include among, other things:

- (1) Reduce the total amount of present and potential liability for policy benefits by reinsurance;
- (2) Reduce, suspend or limit the volume of business being accepted or renewed;
- (3) Reduce general insurance and commission expenses by specified methods;
- (4) Increase the insurer's capital and surplus;
- (5) Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders;
- (6) File reports in a form acceptable to the Commissioner concerning the market value of an insurer's assets;
- (7) Limit or withdraw from certain investments or discontinue certain investment practices to the extent the Commissioner deems necessary;
- (8) Document the adequacy of premium rates in relation to the risks insured;
- (9) File, in addition to regular annual statements, interim financial reports on the form adopted by the National Association of Insurance Commissioners or on such format as promulgated by the Commissioner.

(c) If the insurer is a foreign insurer, the Commissioner's order may be limited to the extent provided by statute.

PART 13. ELECTRONIC FILINGS

365:25-7-76. Insurance Company Holding Company Act.

Paper filings with the Insurance Department made pursuant to the Insurance Holding Company System Act, 36 O.S. § 1651, et seq. shall also be made by electronic means and format as approved by the Insurance Commissioner. The Insurance Commissioner may exclude a

specific filing, filings or categories of filings from the requirements of this section at the Commissioner's discretion.

PART 15. UNAUTHORIZED INSURERS

365:25-7-80. Unauthorized Insurers Annual Filing Requirements

- (a) **Definitions.** For purposes of this section,
- (1) **"Alien Unauthorized Insurer"** means an unauthorized insurer formed under the laws of a country other than the United States.
 - (2) **"Certificate of Approval"** means authority granted by the Commissioner to act as an unauthorized insurer in the State of Oklahoma pursuant to Article 11 of Title 36 of the Oklahoma statutes.
 - (3) **"Foreign Unauthorized Insurer"** means an unauthorized insurer formed under the laws of another state or government of the United States.
 - (4) **"Insurer"** means every individual, company, association, organization, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, Lloyd's association, and entity, and association, group or department of underwriters engaged in the business of making contracts of insurance or indemnity.
 - (5) **"Unauthorized Insurer"** means an insurer not licensed to do insurance business in the State of Oklahoma and conducting the business of insurance in this state pursuant to Article 11 of Title 36 of the Oklahoma statutes.
- (b) **Foreign Unauthorized Insurers.** Foreign unauthorized insurers shall file an annual report with the Insurance Commissioner on or before August 30 to maintain approval as an unauthorized insurer. The annual report shall be made under one cover and shall include the following information:
- (1) Jurat page with original signatures and company seal;
 - (2) \$650.00 fee as authorized by Section 321 of Title 36 of the Oklahoma statutes;
 - (3) Premium breakdown of risks located in Oklahoma reflecting name, location and amount by Oklahoma surplus lines broker. The premium breakdown shall report premium equal to the amount reported for Oklahoma on Schedule T of the unauthorized insurers financial statement for the twelve (12) month period ending the 31st day of December last preceding. The report shall contain surplus lines broker subtotals and a grand total. The report shall indicate the Oklahoma licensed surplus lines broker utilized to place the risk or designate that the risk was a direct placement.
- (c) **Alien Unauthorized Insurers.** Alien unauthorized insurers shall file an annual report with the Insurance Commissioner containing the required information in paragraph (b) (1) and (b) (3) to maintain approval as an unauthorized insurer. The annual report and a \$150.00 fee as authorized by Section 321 of Title 36 shall be remitted on or before August 30.
- (d) **Penalties.** An unauthorized insurer's certificate of approval may be revoked after notice and opportunity for hearing if the insurer fails to file an annual report, files an incomplete report, or repeatedly fails to file its annual report by August 30.

SUBCHAPTER 9. PREPAID FUNERAL BENEFITS

365:25-9-3. Forms

(a) **General requirements.** Bond forms, Applications for Original Permit, Contracts and Applications for Conversion from trust-funded prepaid funeral benefits to insurance funded prepaid funeral benefits shall be submitted to the Insurance Commissioner for approval by submitting an original and two copies.

(1) **Application for original permit form.** Application for Original Permit, Form PFB-1, ~~as set forth in Appendix C of this chapter,~~ must be filed with and approved by the Insurance Commissioner before any contracts covered by this act may be marketed. The statutory fee must accompany this application.

(2) **Bond form requirements.** Appendix D of this chapter, is a sample bond to be used in connection with "The Act". Any variance from this form must have the prior written approval of the Insurance Commissioner. If any bond required by "The Act" is canceled for any reason, a thirty (30) day written notice must be given by the insurer to the Insurance Commissioner.

(3) **Conversion Forms.** Applications for Conversion from a trust funded prepaid funeral benefit to an insurance-funded prepaid funeral benefit shall be filed with and approved by the Insurance Commissioner before any contracts covered by "The Act" may be converted. Applications for Conversion shall be filed using the Application for Conversion form as set forth in Appendix R of this chapter. Any variance from this form must have prior written approval by the Insurance Commissioner.

(b) **Additional general requirements.** Withdrawal forms, individual refunds, annual reports, renewal applications, and the annual statement of financial condition shall be submitted to the Insurance Commissioner for review by submitting one copy of the withdrawal form and individual refund. Submit the original annual report, renewal application and annual statement of financial condition.

(1) **Withdrawal forms.** Appendix E of this chapter is the application which must be submitted to the Insurance Commissioner in order to withdraw funds after a contract has been fulfilled.

(2) **Individual refunds.** Appendix F of this chapter, must be submitted to the Insurance Commissioner when a person desires to withdraw any funds deposited for prepaid funeral expenses prior to fulfillment of the contract.

(3) **Annual reports.**

(A) Annual reports must be filed in accordance with Section 6128 of "The Act". Such reports should be submitted in columnar form in alphabetical order according to the last name of the contract holder. Appendix G of this chapter is included for the sole purpose of establishing guidelines for this report. A complete annual report shall be composed of the following items arranged in the order shown below:

- (i) PF-1-a
- (ii) PF-1-b
- (iii) PF-1-c
- (iv) PF-1-d
- (v) PF-2-a
- (vi) PF-2-b
- (vii) PF-2-c

(B) Computer print-outs may be submitted in lieu of the reports listed above so long as each legibly provides no less information than shown in the Insurance Commissioner's sample forms. Not less than one page of each annual report form shown above, other than the PF-2-b, shall be submitted. However, where a particular form is not relevant to the operations of a given permitholder, it may be submitted clearly marked, "Not Applicable".

(4) **Annual statement of financial condition.** An Annual Statement of Financial Condition (Reconciliation of Trust Accounts) must be filed in accordance with Section 6129 of "The Act". Appendix H of this chapter (Form PF-3) is included for the sole purpose of establishing guidelines for this statement.

(5) **Renewal application.** A renewal application (PFB-2) ~~as set forth in Appendix I of this Chapter,~~ must be filed with the Commissioner no later than December 31 of each year in order to renew the permit for the succeeding calendar year. The statutory fee must accompany this renewal application.

SUBCHAPTER 27. MILITARY SALES PRACTICES REGULATION

365:25-27-1. Purpose

(a) The purpose of this regulation is to set forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain identified practices to be false, misleading, deceptive or unfair.

(b) Nothing herein shall be construed to create or imply a private cause of action for a violation of this regulation.

365:25-27-2. Scope

This regulation shall apply only to the solicitation or sale of any life insurance or annuity product by an insurer or insurance producer to an active duty service member of the United States Armed Forces.

365:25-27-3. Authority

This regulation is issued under the authority of the Oklahoma Unfair Trade Practices Act, 36 O.S. § 1201, et seq.

365:25-27-4. Exemptions

(a) This regulation shall not apply to solicitations or sales involving:

(1) Credit insurance;

(2) Group life insurance or group annuities where there is no in-person, face-to-face solicitation of individuals by an insurance producer or where the contract or certificate does not include a side fund;

(3) An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or, when the existing policy or contract is being replaced by the same insurer pursuant to a program filed with and approved by the commissioner; or, when a term conversion privilege is exercised among corporate affiliates;

(4) Individual stand-alone health policies, including disability income policies;

(5) Contracts offered by Service members' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI), as authorized by 38 U.S.C. Section 1965, et seq.;

(6) State Sponsored Life Insurance (SSLI) provided by a State or through a State National Guard Association pursuant to 37 U.S.C. Section 707(a);

(7) Life insurance contracts offered through or by a non-profit military association, qualifying under Section 501(c)(23) of the Internal Revenue Code (IRC), and which are not underwritten by an insurer; or

(8) Contracts used to fund:

(A) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act (ERISA);

(B) A plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;

(C) A government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under Section 457 of the IRC;

(D) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

(E) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

(F) Prearranged funeral contracts.

(b) Nothing herein shall be construed to abrogate the ability of nonprofit organizations (and/or other organizations) to educate members of the United States Armed Forces in accordance with Department of Defense DoD Instruction 1344.07 – Personal Commercial Solicitation on DoD Installations or successor directive.

(c) For purposes of this regulation, general advertisements, direct mail and internet marketing shall not constitute "solicitation." Telephone marketing shall not constitute "solicitation" provided the caller explicitly and conspicuously discloses that the product concerned is life insurance and makes no statements that avoid a clear and unequivocal statement that life insurance is the subject matter of the solicitation. Provided however, nothing in this subsection shall be construed to exempt an insurer or insurance producer from this regulation in any in-person, face-to-face meeting established as a result of the "solicitation" exemptions identified in this subsection.

365:25-27-5. Definitions

The following words and terms, when used in this Subchapter shall have the following meaning, unless the context clearly indicates otherwise:

"Active Duty" means full-time duty in the active military service of the United States and includes members of the reserve component (National Guard and Reserve) while serving under published orders for active duty or full-time training. The term does not include members of the reserve component who are performing active duty or active duty for training under military calls or orders specifying periods of less than 31 calendar days.

"Department of Defense (DoD) Personnel" means all active duty service members and all civilian employees, including nonappropriated fund employees and special government employees, of the Department of Defense.

"Door to Door" means a solicitation or sales method whereby an insurance producer proceeds randomly or selectively from household to household without prior specific appointment.

"General Advertisement" means an advertisement having as its sole purpose the promotion of the reader's or viewer's interest in the concept of insurance, or the promotion of the insurer or the insurance producer.

"Insurer" means an insurance company required to be licensed under the laws of this state to provide life insurance products, including annuities.

"Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.

"Known" or "Knowingly" means, depending on its use herein, the insurance producer or insurer had actual awareness, or in the exercise of ordinary care should have known, at the time of the act or practice complained of, that the person solicited:

(A) is a service member; or

(B) is a service member with a pay grade of E-4 or below.

"Life Insurance" means insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income and unless otherwise specifically excluded, includes individually issued annuities.

"Military Installation" means any federally owned, leased, or operated base, reservation, post, camp, building, or other facility to which service members are assigned for duty, including barracks, transient housing, and family quarters.

"MyPay" is a Defense Finance and Accounting Service (DFAS) web-based system that enables service members to process certain discretionary pay transactions or provide updates to personal information data elements without using paper forms.

"Service Member" means any active duty officer (commissioned and warrant) or enlisted member of the United States Armed Forces.

"Side Fund" means a fund or reserve that is part of or otherwise attached to a life insurance policy (excluding individually issued annuities) by rider, endorsement or other mechanism which accumulates premium or deposits with interest or by other means. The term does not include:

(A) accumulated value or cash value or secondary guarantees provided by a universal life policy;

(B) cash values provided by a whole life policy which are subject to standard nonforfeiture law for life insurance; or

(C) a premium deposit fund which:

(i) contains only premiums paid in advance which accumulate at interest;

(ii) imposes no penalty for withdrawal;

(iii) does not permit funding beyond future required premiums;

(iv) is not marketed or intended as an investment; and

(v) does not carry a commission, either paid or calculated.

"Specific Appointment" means a prearranged appointment agreed upon by both parties and definite as to place and time.

"United States Armed Forces" means all components of the Army, Navy, Air Force, Marine Corps, and Coast Guard.

365:25-27-6. Practices Declared False, Misleading, Deceptive or Unfair on a Military Installation

(a) The following acts or practices when committed on a military installation by an insurer or insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false, misleading, deceptive or unfair:

(1) Knowingly soliciting the purchase of any life insurance product "door to door" or without first establishing a specific appointment for each meeting with the prospective purchaser.

(2) Soliciting service members in a group or "mass" audience or in a "captive" audience where attendance is not voluntary.

(3) Knowingly making appointments with or soliciting service members during their normally scheduled duty hours.

(4) Making appointments with or soliciting service members in barracks, day rooms, unit areas, or transient personnel housing or other areas where the installation commander has prohibited solicitation.

(5) Soliciting the sale of life insurance without first obtaining permission from the installation commander or the commander's designee.

(6) Posting unauthorized bulletins, notices or advertisements.

(7) Failing to present DD Form 2885, Personal Commercial Solicitation Evaluation, to service members solicited or encouraging service members solicited not to complete or submit a DD Form 2885.

(8) Knowingly accepting an application for life insurance or issuing a policy of life insurance on the life of an enlisted member of the United States Armed Forces without first obtaining for the insurer's files a completed copy of any required form which confirms that the applicant has received counseling or fulfilled any other similar requirement for the sale of life insurance established by regulations, directives or rules of the DoD or any branch of the Armed Forces.

(b) The following acts or practices when committed on a military installation by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

(1) Using DoD personnel, directly or indirectly, as a representative or agent in any official or business capacity with or without compensation with respect to the solicitation or sale of life insurance to service members.

(2) Using an insurance producer to participate in any United States Armed Forces sponsored education or orientation program.

365:25-27-7. Practices Declared False, Misleading, Deceptive or Unfair Regardless of Location

(a) The following acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair:

(1) Submitting, processing or assisting in the submission or processing of any allotment form or similar device used by the United States Armed Forces to direct a

service member's pay to a third party for the purchase of life insurance. The foregoing includes, but is not limited to, using or assisting in using a service member's "MyPay" account or other similar internet or electronic medium for such purposes. This subsection does not prohibit assisting a service member by providing insurer or premium information necessary to complete any allotment form.

(2) Knowingly receiving funds from a service member for the payment of premium from a depository institution with which the service member has no formal banking relationship. For purposes of this section, a formal banking relationship is established when the depository institution:

(A) provides the service member a deposit agreement and periodic statements and makes the disclosures required by the Truth in Savings Act, 12 U.S.C. § 4301, et seq. and the regulations promulgated thereunder; and

(B) permits the service member to make deposits and withdrawals unrelated to the payment or processing of insurance premiums.

(3) Employing any device or method or entering into any agreement whereby funds received from a service member by allotment for the payment of insurance premiums are identified on the service member's Leave and Earnings Statement or equivalent or successor form as "Savings" or "Checking" and where the service member has no formal banking relationship as defined in Paragraph (a)(2) of this Section.

(4) Entering into any agreement with a depository institution for the purpose of receiving funds from a service member whereby the depository institution, with or without compensation, agrees to accept direct deposits from a service member with whom it has no formal banking relationship.

(5) Using DoD personnel, directly or indirectly, as a representative or agent in any official or unofficial capacity with or without compensation with respect to the solicitation or sale of life insurance to service members who are junior in rank or grade, or to the family members of such personnel.

(6) Offering or giving anything of value, directly or indirectly, to DoD personnel to procure their assistance in encouraging, assisting or facilitating the solicitation or sale of life insurance to another service member.

(7) Knowingly offering or giving anything of value to a service member with a pay grade of E-4 or below for his or her attendance to any event where an application for life insurance is solicited.

(8) Advising a service member with a pay grade of E-4 or below to change his or her income tax withholding or State of legal residence for the sole purpose of increasing disposable income to purchase life insurance.

(b) The following acts or practices by an insurer or insurance producer lead to confusion regarding source, sponsorship, approval or affiliation and are declared to be false, misleading, deceptive or unfair:

(1) Making any representation, or using any device, title, descriptive name or identifier that has the tendency or capacity to confuse or mislead a service member into believing that the insurer, insurance producer or product offered is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, the United States Armed Forces, or any state or federal agency or government entity. Examples of prohibited insurance producer titles include, but are not

limited to, "Battalion Insurance Counselor," "Unit Insurance Advisor," "Servicemen's Group Life Insurance Conversion Consultant" or "Veteran's Benefits Counselor." Nothing herein shall be construed to prohibit a person from using a professional designation awarded after the successful completion of a course of instruction in the business of insurance by an accredited institution of higher learning. Such designations include, but are not limited to, Chartered Life Underwriter (CLU), Chartered Financial Consultant (ChFC), Certified Financial Planner (CFP), Master of Science In Financial Services (MSFS), or Masters of Science Financial Planning (MS).

(2) Soliciting the purchase of any life insurance product through the use of or in conjunction with any third party organization that promotes the welfare of or assists members of the United States Armed Forces in a manner that has the tendency or capacity to confuse or mislead a service member into believing that either the insurer, insurance producer or insurance product is affiliated, connected or associated with, endorsed, sponsored, sanctioned or recommended by the U.S. Government, or the United States Armed Forces.

(c) The following acts or practices by an insurer or insurance producer lead to confusion regarding premiums, costs or investment returns and are declared to be false, misleading, deceptive or unfair:

(1) Using or describing the credited interest rate on a life insurance policy in a manner that implies that the credited interest rate is a net return on premium paid.

(2) Excluding individually issued annuities, misrepresenting the mortality costs of a life insurance product, including stating or implying that the product "costs nothing" or is "free."

(d) The following acts or practices by an insurer or insurance producer regarding SGLI or VGLI are declared to be false, misleading, deceptive or unfair:

(1) Making any representation regarding the availability, suitability, amount, cost, exclusions or limitations to coverage provided to a service member or dependents by SGLI or VGLI, which is false, misleading or deceptive.

(2) Making any representation regarding conversion requirements, including the costs of coverage, or exclusions or limitations to coverage of SGLI or VGLI to private insurers which is false, misleading or deceptive.

(3) Suggesting, recommending or encouraging a service member to cancel or terminate his or her SGLI policy or issuing a life insurance policy which replaces an existing SGLI policy unless the replacement shall take effect upon or after the service member's separation from the United States Armed Forces.

(e) The following acts or practices by an insurer and or insurance producer regarding disclosure are declared to be false, misleading, deceptive or unfair:

(1) Deploying, using or contracting for any lead generating materials designed exclusively for use with service members that do not clearly and conspicuously disclose that the recipient will be contacted by an insurance producer, if that is the case, for the purpose of soliciting the purchase of life insurance.

(2) Failing to disclose that a solicitation for the sale of life insurance will be made when establishing a specific appointment for an in-person, face-to-face meeting with a prospective purchaser.

- (3) Excluding individually issued annuities, failing to clearly and conspicuously disclose the fact that the product being sold is life insurance.
- (4) Failing to make, at the time of sale or offer to an individual known to be a service member, the written disclosures required by Section 10 of the "Military Personnel Financial Services Protection Act," Pub. L. No. 109-290, p.16.
- (5) Excluding individually issued annuities, when the sale is conducted in-person face-to-face with an individual known to be a service member, failing to provide the applicant at the time the application is taken:
- (A) an explanation of any free look period with instructions on how to cancel if a policy is issued; and
- (B) either a copy of the application or a written disclosure. The copy of the application or the written disclosure shall clearly and concisely set out the type of life insurance, the death benefit applied for and its expected first year cost. A basic illustration that meets the requirements of the Oklahoma Life Insurance Illustration Regulation, Section 365:10-3-50, et seq., shall be deemed sufficient to meet this requirement for a written disclosure.
- (f) The following acts or practices by an insurer or insurance producer with respect to the sale of certain life insurance products are declared to be false, misleading, deceptive or unfair:
- (1) Excluding individually issued annuities, recommending the purchase of any life insurance product which includes a side fund to a service member in pay grades E-4 and below unless the insurer has reasonable grounds for believing that the life insurance death benefit, standing alone, is suitable.
- (2) Offering for sale or selling a life insurance product which includes a side fund to a service member in pay grades E-4 and below who is currently enrolled in SGLI, is presumed unsuitable unless, after the completion of a needs assessment, the insurer demonstrates that the applicant's SGLI death benefit, together with any other military survivor benefits, savings and investments, survivor income, and other life insurance are insufficient to meet the applicant's insurable needs for life insurance.
- (A) "Insurable needs" are the risks associated with premature death taking into consideration the financial obligations and immediate and future cash needs of the applicant's estate and/or survivors or dependents.
- (B) "Other military survivor benefits" include, but are not limited to: the Death Gratuity, Funeral Reimbursement, Transition Assistance, Survivor and Dependents' Educational Assistance, Dependency and Indemnity Compensation, TRICARE Healthcare benefits, Survivor Housing Benefits and Allowances, Federal Income Tax Forgiveness, and Social Security Survivor Benefits.
- (3) Excluding individually issued annuities, offering for sale or selling any life insurance contract which includes a side fund:
- (A) unless interest credited accrues from the date of deposit to the date of withdrawal and permits withdrawals without limit or penalty;
- (B) unless the applicant has been provided with a schedule of effective rates of return based upon cash flows of the combined product. For this disclosure, the effective rate of return will consider all premiums and cash contributions made by the policyholder and all cash accumulations and cash surrender values available to the policyholder in addition to life insurance coverage. This schedule will be

provided for at least each policy year from one (1) to ten (10) and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and (C) which by default diverts or transfers funds accumulated in the side fund to pay, reduce or offset any premiums due.

(4) Excluding individually issued annuities, offering for sale or selling any life insurance contract which after considering all policy benefits, including but not limited to endowment, return of premium or persistency, does not comply with standard nonforfeiture law for life insurance.

(5) Selling any life insurance product to an individual known to be a service member that excludes coverage if the insured's death is related to war, declared or undeclared, or any act related to military service except for an accidental death coverage, e.g., double indemnity, which may be excluded.

365:25-27-8. Severability

If any provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end all provisions of these sections are declared to be severable.

**APPENDIX C. APPLICATION FOR ORIGINAL PERMIT
Form PFB-1 [REVOKED]**

APPLICANT (NAME OF FUNERAL ESTABLISHMENT)

NAME TRUST FUND IS TO BE HELD UNDER

OWNER OF TRUST (PLEASE INCLUDE MIDDLE NAME, BIRTHDATE, SSN)

PERMANENT MAILING ADDRESS OF TRUST

NAME OF PERSON MANAGING TRUST, IF DIFFERENT FROM ABOVE
(PLEASE INCLUDE MIDDLE NAME, BIRTHDATE, SSN)

TELEPHONE NUMBER

GENERAL INTERROGATORIES

(all questions must be answered)

1. Financial Institutions where trust monies will be deposited. A Trust Agreement in a form prescribed by the Insurance Commissioner must be completed for each financial institution where trust monies will be deposited.

Name	Address	City	Zip
------	---------	------	-----

Name	Address	City	Zip
------	---------	------	-----

2. Designated agents who will be responsible for deposit of funds collected under contracts for prepaid funeral benefits. (Attach an additional sheet if necessary.)

Name	Address	City	Zip	SSN
------	---------	------	-----	-----

Name	Address	City	Zip	SSN
------	---------	------	-----	-----

3. Has the owner or any principal employee of the organization been admonished, censored, suspended or fined within the last year by the State Embalmers and Funeral Directors Board for violations involving funeral home activities?

Yes_____ No_____

If yes, explain.

4. Have you or your organization ever applied for a permit from this Department?

Yes_____ No_____

Were you approved or denied?

Approved_____ Denied_____

If denied, what was the reason(s)?

If approved, did your permit lapse, was it sold, or other? Please explain.

5. Have any of the principals (owner, manager, etc.) ever been convicted of a felony or misdemeanor involving moral turpitude?

Yes_____ No_____

If yes, explain.

*

I, _____, being first duly sworn, state that I have read the within and foregoing application and that the answers supplied by me therein are true and correct to the best of my knowledge and belief and further that I will comply with the Prepaid Funeral Benefit laws of Oklahoma and the Rules of the State Insurance Commissioner in all my conduct under the permit.

STATE OF _____)
) ss.
COUNTY OF _____)

Signature of Applicant

Date

Notary Public

My Commission Expires

**APPENDIX I. APPLICATION
FOR RENEWAL OF PERMIT
Form PFB-2 [REVOKED]**

Name of Trust Fund

Address

Hereby makes application for a renewal of permit number _____ from the State of Oklahoma for the year of 19__ to operate a Prepaid Funeral Benefits Trust Fund as authorized by Title 36 Oklahoma Statutes 1991, Section 6121 et seq.

The applicant agrees to comply with all requirements of the Prepaid Funeral Benefits laws, 36 O.S. (1991), §§6121-6136.

The following are currently designated as agents who will be responsible for deposits of funds collected under contracts for prepaid funeral benefits: (attach additional sheet if necessary)

name address city / zip

name address city / zip

A valid cash bond, letter of credit or fidelity bond is currently on file with the Insurance Commissioner in the amount of \$_____ as required by 36 O.S. (Supp.1991), §6125(I).

Dated this ____ day of _____, 19__, at _____.

Signature

Title or Position

Signed or attested before me on this ____ day of _____, 19__.

Notary Public

My Commission Expires:

APPENDIX T. INSURANCE COMPANY TRAINING PROGRAM AFFIDAVIT [NEW]

KIM HOLLAND
OKLAHOMA INSURANCE COMMISSIONER

P.O. Box 53408
Oklahoma City, OK 73152-3408
(405)-521-3916 Fax (405)522-3642

INSURANCE COMPANY TRAINING PROGRAM AFFIDAVIT

Our training program for resident producers includes the following components and satisfies the requirements of 36 O.S. § 1435.7 and OKLA. ADMIN. CODE § 365:25-3-1.3.

1. Instruction in insurance coverage for each line of authority the producer seeks to be licensed.
2. Business practice training associated with placing and servicing contracts of insurance. The training may include supervised interaction with customers or prospective customers, role playing, and customer interaction case studies.
3. Standards for measuring successful completion for each segment of the training program.
4. Instruction in Oklahoma statutes and regulations affecting industry and producer licensing, the regulatory and consumer assistance roles of the Oklahoma Insurance Department, and the role of the National Association of Insurance Commissioners in setting policy for the insurance industry.

The training program requirements are standard for all participating resident producer trainees. The instructional material is developed and administered in accordance with corporate requirements for our company. The company is responsible for ensuring course materials and programs satisfy the requirements of this affidavit.

