

1 **SENATE FLOOR VERSION**

2 April 5, 2021

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2403

By: Russ of the House

and

Quinn of the Senate

6
7
8
9 An Act relating to licenses and certificates;
10 amending 36 O.S. 2011, Section 1435.13, as amended by
11 Section 3, Chapter 294, O.S.L. 2019 (36 O.S. Supp.
12 2020, Section 1435.13), which relates to the Oklahoma
13 Producer Licensing Act; requiring certain
14 notification before termination of certain license;
15 providing exemption; and providing an effective date.

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

17 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1435.13, as
18 amended by Section 3, Chapter 294, O.S.L. 2019 (36 O.S. Supp. 2020,
19 Section 1435.13), is amended to read as follows:

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

- 1 1. Providing incorrect, misleading, incomplete or materially
2 untrue information in the license application;
- 3 2. Violating any insurance laws, or violating any regulation,
4 subpoena or order of the Insurance Commissioner or of another
5 state's Insurance Commissioner;
- 6 3. Obtaining or attempting to obtain a license through
7 misrepresentation or fraud;
- 8 4. Improperly withholding, misappropriating or converting any
9 monies or properties received in the course of doing insurance
10 business;
- 11 5. Intentionally misrepresenting the terms of an actual or
12 proposed insurance contract or application for insurance;
- 13 6. Having been convicted of a felony;
- 14 7. Having admitted or been found to have committed any
15 insurance unfair trade practice or fraud;
- 16 8. Using fraudulent, coercive, or dishonest practices, or
17 demonstrating incompetence, untrustworthiness or financial
18 irresponsibility in the conduct of business in this state or
19 elsewhere;
- 20 9. Having an insurance producer license, or its equivalent,
21 denied, suspended, censured, placed on probation or revoked in any
22 other state, province, district or territory;
- 23 10. Forging another's name to an application for insurance or
24 to any document related to an insurance transaction;

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

3 12. Knowingly accepting insurance business from an individual
4 who is not licensed;

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

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

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

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

13 B. 1. In the event that the action by the Insurance
14 Commissioner is to nonrenew or to deny an application for a license,
15 the Insurance Commissioner shall notify the applicant or licensee
16 and advise the applicant or licensee, in writing, of the reason for
17 the denial or nonrenewal of the applicant's or licensee's license.
18 The applicant or licensee may make written demand upon the Insurance
19 Commissioner within thirty (30) days of the date of notification of
20 the notification by the Insurance Commissioner for a hearing before
21 the Insurance Commissioner or an independent hearing examiner to
22 determine the reasonableness of the Insurance Commissioner's action.
23 The hearing shall be heard within a reasonable time period and shall
24 be held pursuant to the Oklahoma Administrative Procedures Act.

1 2. The Insurance Department shall only terminate a license
2 issued pursuant to the Oklahoma Producer Licensing Act that failed
3 to renew after a twelve-month inactive period upon notification by
4 first-class mail ninety (90) days prior to termination of the
5 license. The provisions of this subsection shall not apply to a
6 licensee that willfully and knowingly violates any provision of this
7 Code as to which refusal, suspension or revocation is mandatory.

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

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

22 E. Every licensee licensed pursuant to the provisions of the
23 Oklahoma Producer Licensing Act shall keep at the licensee's place
24 of business the usual and customary records pertaining to

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

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

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

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

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

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

23 J. The Commissioner may issue a duplicate license for any lost,
24 stolen or destroyed license issued pursuant to the Oklahoma Producer

1 Licensing Act upon an affidavit of the licensee prescribed by the
2 Commissioner concerning the facts of such loss, theft or
3 destruction.

4 SECTION 2. This act shall become effective November 1, 2021.

5 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
6 April 5, 2021 - DO PASS AS AMENDED
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24