

ENROLLED HOUSE
JOINT
RESOLUTION NO. 1058

By: Gray of the House

and

Weedn of the Senate

A Joint Resolution relating to a promulgated rule of the Oklahoma Insurance Department; disapproving promulgated permanent rule OAC 365:25-9-8(b) and (e)(1)(J), relating to prepaid funeral benefits; providing for distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is not consistent with legislative intent and disapprove any rule or any portion thereof at any time; and

WHEREAS, on May 15, 2000, the Oklahoma Insurance Commissioner promulgated permanent rule OAC 365:25-9-8(b) and (e)(1)(J), regarding conversion from trust-funded to insurance-funded prepaid funeral benefits; and

WHEREAS, the Legislature recognizes that the amendments to the permanent rule are not consistent with legislative intent and violate public policy.

NOW THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 2ND SESSION OF THE 47TH OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves the following language of permanent rule OAC 365:25-9-8(b): "Post-conversion Administrator" means the administrator of the prepaid funeral benefits contracts who holds and administers the prepaid funeral contracts after conversion and assumes responsibility for receiving the proceeds of the insurance policy upon maturity of a contract and processing payment to the funeral provider after verifying that the funeral service and merchandise under the prepaid funeral contract have been delivered.

SECTION 2. The Legislature hereby disapproves promulgated permanent rule OAC 365:25-9-8(e)(1)(J), which reads as follows: If for any reason the Commissioner deems it necessary before final approval of the conversion order, the Commissioner may order a financial examination of the applicant. The cost of the said financial examination shall be paid by the applicant and conducted in accordance with Okla. Stat. tit. 36, §§ 309.1 - 309.7 as the Commissioner deems warranted. The applicant must demonstrate

compliance with the Oklahoma Insurance Code and if, for any reason, the applicant and/or the applicant's application does not demonstrate such compliance the Commissioner may request an examination of the applicant as set forth in Okla. Stat. tit. 36 § 309.2.

SECTION 3. The Legislature hereby directs the Oklahoma Insurance Commissioner to immediately promulgate emergency rules, pursuant to the Oklahoma Administrative Procedures Act, and advises that the following language is consistent with legislative intent: OAC 365:25-9-8(b). "Post-conversion Administrator" means the administrator, who shall be the funeral home requesting conversion or an administrator selected by the funeral home requesting conversion, of the prepaid funeral benefits contracts who holds and administers the prepaid funeral contracts after conversion and assumes responsibility for receiving the proceeds of the insurance policy upon maturity of a contract and processing payment to the funeral provider after verifying that the funeral service and merchandise under the prepaid funeral contract have been delivered.

SECTION 4. The Legislature hereby directs the Oklahoma Insurance Commissioner to immediately promulgate emergency rules, pursuant to the Oklahoma Administrative Procedures Act, and advises that the following language is consistent with legislative intent: OAC 365:25-9-8(e)(1)(J). If for any reason the Commissioner deems it necessary before final approval of the conversion order, the Commissioner may order a financial examination of the trust. The cost of the said financial examination shall be paid by the applicant and conducted in accordance with Section 6129.1 of Title 36 of the Oklahoma Statutes, as the Commissioner deems warranted. The applicant shall demonstrate compliance with the Oklahoma Insurance Code, and if the applicant fails to do so, the Commissioner may request an examination of the trust as set forth in Section 6129.1 of Title 36 of the Oklahoma Statutes.

SECTION 5. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Oklahoma Insurance Commissioner and the Editor of "The Oklahoma Register".

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this resolution shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 19th day of May, 2000.

Speaker of the House of
Representatives

Passed the Senate the 25th day of May, 2000.

President of the Senate