

1 ENGROSSED HOUSE  
2 BILL NO. 1512

By: Mulready of the House

3 and

4 Brown of the Senate  
5  
6

7 An Act relating to insurance; requiring confidential  
8 treatment of certain examinations; disallowing  
9 certain persons from testifying in certain actions;  
10 authorizing the Insurance Commissioner to share  
11 certain information; amending 36 O.S. 2011, Section  
12 307, which relates to Insurance Commissioner duties;  
13 providing for statutory and rule citations; amending  
14 36 O.S. 2011, Section 607, which relates to  
15 qualifications to transact insurance; providing  
16 exemption from prohibition from issuing certain  
17 insurance license or certificate to certain tribal  
18 governments; amending 36 O.S. 2011, Section 1452,  
19 which relates to the Third-Party Administrator Act;  
20 exempting certain administrators from an annual  
21 report requirement; amending 36 O.S. 2011, Section  
22 1464, which relates to insurance broker licensure;  
23 removing certain bond requirements; amending 36 O.S.  
24 2011, Sections 1522, 1523, 1524 and 1527, which  
relate to the Risk-based Capital for Insurers Act;  
including a fraternal benefit society in certain  
definitions; including certain references to  
fraternal benefit society; amending 36 O.S. 2011,  
Section 1651, which relates to subsidiaries of  
insurers; adding certain definition; amending 36 O.S.  
2011, Section 1654, which relates to registration of  
insurers; requiring the filing of a certain annual  
report; amending 36 O.S. 2011, Section 4030.9, which  
relates to standard nonforfeiture law for individual  
deferred annuities; modifying the maturity date of  
certain contracts; amending 36 O.S. 2011, Sections  
6123, 6125 and 6125.2, which relate to prepaid  
funeral services; extending period certain statements  
and lists must be kept on file; amending 36 O.S.  
2011, Section 6217, as last amended by Section 14,  
Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2012, Section

1 6217), which relates to insurance adjuster licensing;  
2 increasing hours for certain required continuing  
3 education; amending 36 O.S. 2011, Section 6515, which  
4 relates to the Small Employer Health Insurance Reform  
5 Act; providing employers are not prohibited from  
6 including certain wellness programs in premium rate  
7 development; amending 36 O.S. 2011, Sections 7101 and  
8 7102, which relate to the Perpetual Care Fund Act;  
9 modifying statutory citations; amending 36 O.S. 2011,  
10 Sections 7121, 7123, 7124, 7125, 7127, 7128 and 7129,  
11 which relate to the Cemetery Merchandise Trust Act;  
12 modifying statutory citations; modifying date certain  
13 applications will be accepted; amending 40 O.S. 2011,  
14 Section 500, which relates to nonsmoking as condition  
15 of employment; providing employers not be prohibited  
16 from offering incentives to employees to participate  
17 in certain wellness programs; repealing 36 O.S. 2011,  
18 Section 1657, which relates to confidential treatment  
19 of certain examinations; repealing 36 O.S. 2011,  
20 Section 6821, which relates to medical professional  
21 liability rate setting; providing for codification;  
22 and providing an effective date.

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

24 SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1657.1 of Title 36, unless there  
is created a duplication in numbering, reads as follow Section

A. Documents, materials or other information in the possession  
or control of the Insurance Department that are obtained by or  
disclosed to the Commissioner or any other person in the course of  
an examination or investigation made pursuant to Section 1656 of  
Title 36 of the Oklahoma Statutes and all information reported  
pursuant to paragraph 10 of subsection B of Section 1653 of Title 36

1 of the Oklahoma Statutes, Section 1654 of Title 36 of the Oklahoma  
2 Statutes and Section 1655 of Title 36 of the Oklahoma Statutes shall  
3 be confidential by law and privileged, shall not be subject to open  
4 records or freedom of information requests, shall not be subject to  
5 subpoena, and shall not be subject to discovery or admissible in  
6 evidence in any private civil action. However, the Commissioner is  
7 authorized to use the documents, materials or other information in  
8 the furtherance of any regulatory or legal action brought as part of  
9 the official duties of the Commissioner. The Commissioner shall not  
10 otherwise make the documents, materials or other information public  
11 without the prior written consent of the insurer to which it  
12 pertains unless the Commissioner, after giving the insurer and its  
13 affiliates who would be affected thereby notice and opportunity to  
14 be heard, determines that the interest of the policyholders,  
15 shareholders or the public will be served by the publication  
16 thereof, in which event the Commissioner may publish all or any part  
17 in such manner as may be deemed appropriate.

18 B. Neither the Commissioner nor any person who received  
19 documents, materials or other information while acting under the  
20 authority of the Commissioner or with whom such documents, materials  
21 or other information are shared pursuant to this section shall be  
22 permitted or required to testify in any private civil action  
23 concerning any confidential documents, materials or other  
24 information subject to subsection A of this section.

1 C. In order to assist in the performance of the Commissioner's  
2 duties, the Commissioner:

3 1. May share documents, materials or other information,  
4 including the confidential and privileged documents, materials or  
5 information subject to subsection A of this section, with other  
6 state, federal and international regulatory agencies, with the NAIC  
7 and its affiliates and subsidiaries, and with state, federal and  
8 international law enforcement authorities, provided that the  
9 recipient agrees in writing to maintain the confidentiality and  
10 privileged status of the document, material or other information,  
11 and has verified in writing the legal authority to maintain  
12 confidentiality;

13 2. Notwithstanding paragraph 1 of this subsection, the  
14 Commissioner may only share confidential and privileged documents,  
15 material or other information reported pursuant to Section 1654 of  
16 Title 36 of the Oklahoma Statutes with commissioners of states  
17 having statutes or regulations substantially similar to subsection A  
18 of this section and who have agreed in writing not to disclose such  
19 information;

20 3. May receive documents, materials or other information,  
21 including otherwise confidential and privileged documents, materials  
22 or other information from the NAIC and its affiliates and  
23 subsidiaries and from regulatory and law enforcement officials of  
24 other foreign or domestic jurisdictions, and shall maintain as

1 confidential or privileged any document, material or other  
2 information received with notice or the understanding that it is  
3 confidential or privileged under the laws of the jurisdiction that  
4 is the source of the document, material or other information; and

5 4. Shall enter into written agreements with the NAIC governing  
6 sharing and use of information provided pursuant to this section  
7 consistent with this subsection that shall:

8 a. specify procedures and protocols regarding the  
9 confidentiality and security of information shared  
10 with the NAIC and its affiliates and subsidiaries  
11 pursuant to this act, including procedures and  
12 protocols for sharing by the NAIC with other state,  
13 federal or international regulators,

14 b. specify that ownership of information shared with the  
15 NAIC and its affiliates and subsidiaries pursuant to  
16 this section remains with the Commissioner and the  
17 NAIC's use of the information is subject to the  
18 direction of the Commissioner,

19 c. require prompt notice to be given to an insurer whose  
20 confidential information in the possession of the NAIC  
21 pursuant to this section is subject to a request or  
22 subpoena to the NAIC for disclosure or production, and

23 d. require the NAIC and its affiliates and subsidiaries  
24 to consent to intervention by an insurer in any

1           judicial or administrative action in which the NAIC  
2           and its affiliates and subsidiaries may be required to  
3           disclose confidential information about the insurer  
4           shared with the NAIC and its affiliates and  
5           subsidiaries pursuant to this section.

6           D. The sharing of information by the Commissioner pursuant to  
7 this section shall not constitute a delegation of regulatory  
8 authority or rulemaking, and the Commissioner is solely responsible  
9 for the administration, execution and enforcement of the provisions  
10 of this section.

11          E. No waiver of any applicable privilege or claim of  
12 confidentiality in the documents, materials or other information  
13 shall occur as a result of disclosure to the Commissioner under this  
14 section or as a result of sharing as authorized in subsection C of  
15 this section.

16          F. Documents, materials or other information in the possession  
17 or control of the NAIC pursuant to this section shall be  
18 confidential by law and privileged, shall not be subject to open  
19 records or freedom of information requests, shall not be subject to  
20 subpoena, and shall not be subject to discovery or admissible in  
21 evidence in any private civil action.

22          SECTION 2.        AMENDATORY        36 O.S. 2011, Section 307, is  
23 amended to read as follows:

1 Section 307. The Insurance Commissioner shall be charged with  
2 the duty of administration and enforcement of the provisions of the  
3 Oklahoma Insurance Code and of any requirements placed on an  
4 insurance company ~~pursuant to subsection L of section 1111 of Title~~  
5 ~~47 of the Oklahoma Statutes~~ by law or rule. The Insurance  
6 Commissioner shall have jurisdiction over complaints against all  
7 persons engaged in the business of insurance, and shall hear all  
8 matters either in person, by authorized disinterested employees, or  
9 by hearing examiners appointed by the Commissioner for that purpose.  
10 It shall be the duty of the Insurance Commissioner to file and  
11 safely keep all books and papers required by law to be filed with  
12 the Insurance Department, and to keep and preserve in permanent form  
13 a full record of proceedings, including a concise statement of the  
14 conditions of such insurers and other entities reported and examined  
15 by the Department and its examiners. The Commissioner shall,  
16 annually, at the earliest practicable date after returns are  
17 received from the several authorized insurers and other  
18 organizations, make a report to the Governor of the State of  
19 Oklahoma of the affairs of the Office of the Insurance Commissioner,  
20 which report shall contain a tabular statement and synopsis of the  
21 several statements, as accepted by the Insurance Commissioner, which  
22 shall include with respect to each insurance company the admitted  
23 assets, liabilities except capital, capital and surplus, Oklahoma  
24 premium income, amount of claims paid in Oklahoma, and such other

1 matters as may be of benefit to the public. The Commissioner may  
2 educate consumers and make recommendations regarding the subject of  
3 insurance in this state, and shall set forth in a statement the  
4 various sums received and disbursed by the Department, from and to  
5 whom and for what purpose. Such report shall be published by and  
6 subject to the order of the said Insurance Commissioner. The  
7 Insurance Commissioner shall, upon retiring from office, deliver to  
8 the qualified successor all furniture, records, papers and property  
9 of the office.

10 SECTION 3. AMENDATORY 36 O.S. 2011, Section 607, is  
11 amended to read as follows:

12 Section 607. A. To qualify for and hold authority to transact  
13 insurance in Oklahoma an insurer must be otherwise in compliance  
14 with the provisions of this Code and with its charter powers, and  
15 must be an incorporated stock insurer, an incorporated mutual  
16 insurer, a mutual benefit association, a nonprofit hospital service  
17 and medical indemnity corporation, a farmers mutual fire insurance  
18 association, a Lloyd's association or a reciprocal insurer, of the  
19 same general type as may be formed as a domestic insurer under this  
20 Code; except, that no foreign or alien insurer shall be authorized  
21 to transact insurance in Oklahoma which does not maintain reserves  
22 as required by Article 15 ~~(Assets and Liabilities)~~ of this Code  
23 applicable to the kind or kinds of insurance transacted by such  
24 insurer.



1 B. No certificate of authority or license to transact any kind  
2 of insurance business in this state shall be issued, renewed or  
3 continued in effect, to any domestic, foreign or alien insurance  
4 company or other insurance entity which is owned or financially  
5 controlled in whole or in part by another state of the United  
6 States, or by a foreign government, or by any political subdivision  
7 of either, or which is an agency of any such state, government or  
8 subdivision.

9 C. Any insurance company or other insurance entity which is  
10 owned or financially controlled in whole or in part by any federally  
11 recognized American Indian tribe or nation may apply for a  
12 certificate of authority or license to transact insurance business  
13 in this state and will not be subject to subsection B of this  
14 section.

15 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1452, is  
16 amended to read as follows:

17 Section 1452. A. On or before June 1 of each year, all  
18 licensed administrators shall file an annual report for the previous  
19 calendar year. The report shall have been reviewed by a certified  
20 public accountant who shall be independent of the administrator.  
21 The report shall be subscribed and sworn to by the president and  
22 attested to by the secretary or other proper officers substantiating  
23 that the information contained in the report is true and factual  
24 concerning each of the plans they administer which are governed

1 pursuant to the provisions of the Third-party Administrator Act.  
2 The report shall include the name and address of each fund and a  
3 statement of fund equity, paid claims by the covered unit, the  
4 accumulated year-to-date paid claims, and the year-to-date reserve  
5 status. Failure of any third-party administrator to execute and  
6 file the annual reports as required by this section shall constitute  
7 cause, after notice and opportunity for hearing, for censure,  
8 suspension, or revocation of administrator licensure to transact  
9 business in this state, or a civil penalty of not less than One  
10 Hundred Dollars (\$100.00) or more than One Thousand Dollars  
11 (\$1,000.00) for each occurrence, or both censure, suspension, or  
12 revocation and civil penalty.

13 B. If a licensed administrator has had no business or activity  
14 in the past calendar year, has not administered any insurance plans  
15 or business in the past calendar year and no funds are under the  
16 licensed administrator's oversight and administration, then the  
17 annual report described in subsection A of this section may be  
18 waived upon application to the Commissioner by the administrator.  
19 Upon applying for a waiver, the administrator shall state under oath  
20 that the administrator has had no business, has not administered any  
21 funds and the licensee's administration of claims has been dormant  
22 for the past calendar year.

23 SECTION 5. AMENDATORY 36 O.S. 2011, Section 1464, is  
24 amended to read as follows:

1 Section 1464. A. 1. To be licensed as a resident life or  
2 accident and health insurance broker, an individual or legal entity  
3 shall have been a licensed resident agent or agency in this state  
4 continuously for at least two (2) years immediately prior to  
5 application and such agent's license shall remain in effect in order  
6 to maintain the broker's license. A nonresident life or accident  
7 and health insurance broker applicant may receive a license in this  
8 state if they are licensed and in good standing in their home state,  
9 and if the home state of the applicant awards nonresident licenses  
10 to residents of this state on the same basis.

11 2. Any applicant for a broker's license shall have no Oklahoma  
12 Insurance Code violations or record with the Insurance Commissioner  
13 or an insurance regulatory body of another state and shall not have  
14 been convicted, or pleaded guilty or nolo contendere to any felony  
15 or to a misdemeanor involving moral turpitude or dishonesty.

16 3. The fee for a life or accident and health insurance broker's  
17 license shall be Fifty Dollars (\$50.00). The license may be renewed  
18 each year for the same fee. Late application for renewal of a  
19 license shall require a fee of double the amount of the original  
20 current license fee. The fees shall be placed in the State  
21 Insurance Commissioner Revolving Fund.

22 B. 1. Every applicant for a life or accident and health  
23 insurance broker's license shall file with the Commissioner and,  
24 upon approval of the application, maintain in force while licensed

1 and for at least two (2) years following termination of the license,  
2 evidence satisfactory to the Commissioner of an errors and omissions  
3 policy covering the individual applicant in an amount of not less  
4 than One Hundred Thousand Dollars (\$100,000.00) annual aggregate for  
5 all claims made during the policy period, or covering the applicant  
6 under a blanket liability policy insuring other life or accident and  
7 health insurance agents or brokers in an amount of not less than  
8 Five Hundred Thousand Dollars (\$500,000.00) annual aggregate for all  
9 claims made during the policy period.

10 2. Such policy shall be issued by an insurance company  
11 authorized to do business in this state, shall be continuous in  
12 form, and shall provide coverage acceptable to the Commissioner for  
13 errors and omissions of the life or accident and health insurance  
14 broker. The policy carrier shall notify the Commissioner of any  
15 lapse or termination of errors and omissions coverage.

16 3. Failure to maintain a policy in force shall result in  
17 automatic termination of licensure, and the license shall be  
18 returned by its lawful custodian to the Commissioner for further  
19 cancellation.

20 C. ~~1. Every applicant shall also provide a bond in favor of~~  
21 ~~the people of Oklahoma executed by an authorized surety company and~~  
22 ~~payable to any party injured under the term of the bond.~~

23 ~~2. The bond shall be continuous in form and in the amount of~~  
24 ~~Five Thousand Dollars (\$5,000.00) total aggregate liability, or more~~

1 ~~if the Commissioner deems it necessary. The bond shall be~~  
2 ~~conditioned upon full accounting and due payments to the person or~~  
3 ~~company entitled thereto as an incident of life or accident and~~  
4 ~~health insurance transactions and funds brought into the life or~~  
5 ~~accident and health insurance broker's possession under his or her~~  
6 ~~license.~~

7 ~~3. The bond shall remain in force and effect until the surety~~  
8 ~~is released from liability by the Commissioner or until the bond is~~  
9 ~~canceled by the surety. The surety may cancel the bond and be~~  
10 ~~released from further liability thereunder upon thirty (30) days of~~  
11 ~~written notice, in advance, to the Commissioner. Said cancellation~~  
12 ~~shall not affect any liability incurred or accrued thereunder before~~  
13 ~~the termination of the thirty-day period. Upon receipt of any~~  
14 ~~notice of cancellation, the Commissioner shall immediately notify~~  
15 ~~the licensee.~~

16 ~~4. The license shall automatically terminate upon there being~~  
17 ~~no bond in force, and the license shall be returned by its lawful~~  
18 ~~custodian to the Commissioner for further cancellation.~~

19 ~~D.~~ Life or accident and health insurance brokers shall be  
20 subject to the same violations, fines, and penalties as stated in  
21 Section ~~1428~~ 1435.13 of this title. Violations of the provisions of  
22 the Oklahoma Life, Accident and Health Insurance Broker Act may  
23 result, after notice and hearing, in censure, suspension, or  
24 revocation of license or a civil penalty of not less than One

1 Hundred Dollars (\$100.00), nor more than One Thousand Dollars  
2 (\$1,000.00), or a combination thereof for each occurrence.

3 SECTION 6. AMENDATORY 36 O.S. 2011, Section 1522, is  
4 amended to read as follows:

5 Section 1522. As used in this act:

6 1. "Adjusted RBC Report" means an RBC report which has been  
7 adjusted by the Insurance Commissioner in accordance with subsection  
8 D of Section 4 1523 of this ~~act~~ title;

9 2. "Corrective order" means an order issued by the Commissioner  
10 specifying corrective actions which the Commissioner has determined  
11 are required;

12 3. "Domestic insurer" means any insurance company domiciled in  
13 this state;

14 4. "Foreign insurer" means any insurance company which has a  
15 certificate of authority to do business in this state but is not  
16 domiciled in this state;

17 5. "Life or health insurer" means any insurance company with a  
18 certificate of authority to write life or health insurance, or a  
19 licensed property and casualty insurer writing only accident and  
20 health insurance;

21 6. "Negative trend" means, with respect to a life or health  
22 insurer or a fraternal benefit society, negative trend over a period  
23 of time, as determined in accordance with the "Trend Test  
24 Calculation" included in the Life or Fraternal RBC Instructions;

1       7. "NAIC" means the National Association of Insurance  
2 Commissioners;

3       8. "Property and casualty insurer" means any insurance company  
4 with a certificate of authority to write property or casualty  
5 insurance, and shall not include monoline mortgage guaranty  
6 insurers, financial guaranty insurers, or title insurers;

7       9. "RBC" means risk-based capital;

8       10. "RBC Instructions" means the RBC Report including risk-  
9 based capital instructions adopted by the NAIC, as adopted by the  
10 Commissioner by rule, and any amendments thereto adopted by the  
11 Commissioner by rule;

12       11. "RBC Level" means an insurer's Company Action Level RBC,  
13 Regulatory Action Level RBC, Authorized Control Level RBC, or  
14 Mandatory Control Level RBC, where:

15           a. "Company Action Level RBC" means, with respect to any  
16 insurer, the product of 2.0 and its Authorized Control  
17 Level RBC,

18           b. "Regulatory Action Level RBC" means the product of 1.5  
19 and its Authorized Control Level RBC,

20           c. "Authorized Control Level RBC" means the number  
21 determined under the risk-based capital formula in  
22 accordance with RBC Instructions, and

23           d. "Mandatory Control Level RBC" means the product of  
24 0.70 and the Authorized Control Level RBC;

1 12. "RBC Plan" means a comprehensive financial plan containing  
2 the elements specified in subsection B of Section 5 1524 of this ~~act~~  
3 title;

4 13. "Revised RBC Plan" means an RBC Plan which is rejected by  
5 the Commissioner and which is revised by the insurer with or without  
6 the Commissioner's recommendations;

7 14. "RBC Report" means the report required in Section 4 1523 of  
8 this ~~act~~ title; and

9 15. "Total adjusted capital" means the sum of:

- 10 a. an insurer's statutory capital and surplus as  
11 determined in accordance with the statutory accounting  
12 applicable to the annual financial statements required  
13 to be filed with the Commissioner, and  
14 b. such other items, if any, as the RBC Instructions, as  
15 adopted by rule by the Commissioner, may provide.

16 SECTION 7. AMENDATORY 36 O.S. 2011, Section 1523, is  
17 amended to read as follows:

18 Section 1523. A. Every domestic insurer shall, on or prior to  
19 each March 1, which shall be known as the filing date, prepare and  
20 submit to the Insurance Commissioner a report of its RBC Levels as  
21 of the end of the calendar year just ended, in a form and containing  
22 such information as is required by the RBC Instructions, as adopted  
23 by the Commissioner by rule. In addition, every domestic insurer  
24



1 shall file its RBC Report with the NAIC if required by the  
2 Commissioner.

3 B. 1. A life and health insurer's or fraternal benefit  
4 society's RBC shall be determined in accordance with the formula set  
5 forth in the RBC Instructions, as adopted by the Commissioner by  
6 rule. The formula shall take into account, and may adjust for the  
7 covariance between, the following factors:

- 8 a. the risk with respect to the insurer's assets,
- 9 b. the risk of adverse insurance experience with respect  
10 to the insurer's liabilities and obligations,
- 11 c. the interest rate risk with respect to the insurer's  
12 business, and
- 13 d. all other business risks and such other relevant risks  
14 as are set forth in the RBC Instructions.

15 2. These factors shall be determined in each case by applying  
16 the factors in the manner set forth in the RBC Instructions.

17 C. 1. A property and casualty insurer's RBC shall be  
18 determined in accordance with the formula set forth in the RBC  
19 Instructions, as adopted by the Commissioner by rule. The formula  
20 shall take into account, and may adjust for the covariance between,  
21 the following factors:

- 22 a. asset risk,
- 23 b. credit risk,
- 24 c. underwriting risk, and

1 d. all other business risks and such other relevant risks  
2 as are set forth in the RBC Instructions.

3 2. These factors shall be determined in each case by applying  
4 the factors in the manner set forth in the RBC Instructions.

5 D. If a domestic insurer files an RBC Report which in the  
6 judgment of the Commissioner is inaccurate, then the Commissioner,  
7 after notice and opportunity for comment, shall adjust the RBC  
8 Report to correct the inaccuracy and shall notify the insurer of the  
9 adjustment. The notice shall contain a statement of the reason for  
10 the adjustment. An RBC Report so adjusted shall be referred to as  
11 an "Adjusted RBC Report".

12 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1524, is  
13 amended to read as follows:

14 Section 1524. A. "Company Action Level Event" means any of the  
15 following events:

16 1. The filing of an RBC Report by an insurer which indicates  
17 that:

18 a. the insurer's Total Adjusted Capital is greater than  
19 or equal to its Regulatory Action Level RBC but less  
20 than its Company Action Level RBC,

21 b. if a life or health insurer, the insurer or fraternal  
22 benefit society has Total Adjusted Capital which is  
23 greater than or equal to its Company Action Level RBC  
24

1 but less than the product of its Authorized Control  
2 Level RBC and ~~2.5~~ 3.0 and has a negative trend, or  
3 c. if a property and casualty insurer, the insurer has  
4 total adjusted capital which is greater than or equal  
5 to its Company Action Level RBC but less than the  
6 product of its Authorized Control Level RBC and 3.0  
7 and triggers the trend test determined in accordance  
8 with the trend test calculation included in the  
9 Property and Casualty RBC instructions;

10 2. The notification by the Insurance Commissioner to the  
11 insurer of an Adjusted RBC Report that indicates an event described  
12 in paragraph 1 of this subsection, provided the insurer does not  
13 challenge the Adjusted RBC Report under Section 1528 of this title;  
14 or

15 3. If, pursuant to Section 1528 of this title, an insurer  
16 challenges an Adjusted RBC Report that indicates the event described  
17 in paragraph 1 of this subsection, the notification by the  
18 Commissioner to the insurer that the Commissioner has, after  
19 opportunity for a hearing, rejected the insurer's challenge.

20 B. In the event of a Company Action Level Event, the insurer  
21 shall, unless otherwise directed by the Commissioner, prepare and  
22 submit to the Commissioner an RBC Plan which shall include the  
23 following five elements:  
24

- 1           1. Conditions which contribute to the Company Action Level  
2 Event;
- 3           2. Proposals of corrective actions which the insurer intends to  
4 take and which would be expected to result in the elimination of the  
5 Company Action Level Event;
- 6           3. Projections of the insurer's financial results in the  
7 current year and at least the four (4) succeeding years, both in the  
8 absence of proposed corrective actions and giving effect to the  
9 proposed corrective actions, including projections of statutory  
10 operating income, net income, or capital and surplus. Unless the  
11 Commissioner otherwise directs, the projections for both new and  
12 renewal business shall include separate projections for each major  
13 line of business and separately identify each significant income,  
14 expense and benefit component;
- 15           4. The key assumptions impacting the insurer's projections and  
16 the sensitivity of the projections to the assumptions; and
- 17           5. The quality of, and problems associated with, the insurer's  
18 business, including, but not limited to, its assets, anticipated  
19 business growth and associated surplus strain, extraordinary  
20 exposure to risk, mix of business, and use of reinsurance, if any,  
21 in each case.
- 22           C. The RBC Plan shall be submitted:
- 23           1. Within forty-five (45) days of the Company Action Level  
24 Event; or

1           2. If the insurer challenges an Adjusted RBC Report pursuant to  
2 Section 1528 of this title, within forty-five (45) days after  
3 notification to the insurer that the Commissioner has, after  
4 opportunity for a hearing, rejected the insurer's challenge.

5           D. Within sixty (60) days after the submission by an insurer of  
6 an RBC Plan to the Commissioner, the Commissioner shall notify the  
7 insurer whether the RBC Plan shall be implemented or is, in the  
8 judgment of the Commissioner, unsatisfactory. If the Commissioner  
9 determines the RBC Plan is unsatisfactory, the notification to the  
10 insurer shall set forth the reasons for the determination, and may  
11 set forth proposed revisions which will render the RBC Plan  
12 satisfactory, in the judgment of the Commissioner. Upon  
13 notification from the Commissioner, the insurer shall prepare a  
14 Revised RBC Plan, which may incorporate by reference any revisions  
15 proposed by the Commissioner, and shall submit the Revised RBC Plan  
16 to the Commissioner:

17           1. Within forty-five (45) days after the notification from the  
18 Commissioner; or

19           2. If the insurer challenges the notification from the  
20 Commissioner under Section 1528 of this title, within forty-five  
21 (45) days after a notification to the insurer that the Commissioner  
22 has, after opportunity for a hearing, rejected the insurer's  
23 challenge.

24

1 E. In the event of a notification by the Commissioner to an  
2 insurer that the insurer's RBC Plan or Revised RBC Plan is  
3 unsatisfactory, the Commissioner may at the Commissioner's  
4 discretion, subject to the insurer's right to a hearing under  
5 Section 1528 of this title, specify in the notification that the  
6 notification constitutes a Regulatory Action Level Event.

7 F. Every domestic insurer that files an RBC Plan or Revised RBC  
8 Plan with the Commissioner shall file a copy of the RBC Plan or  
9 Revised RBC Plan with the insurance commissioner in any state in  
10 which the insurer is authorized to do business if:

11 1. The state has an RBC provision substantially similar to  
12 subsection A of Section 1531 of this title; and

13 2. The insurance commissioner of that state has notified the  
14 insurer of its request for the filing in writing. If such a request  
15 is made, the insurer shall file a copy of the RBC Plan or Revised  
16 RBC Plan in that state no later than the later of:

17 a. fifteen (15) days after the receipt of the request to  
18 file a copy of its RBC Plan or Revised RBC Plan with  
19 the state, or

20 b. the date on which the RBC Plan or Revised RBC Plan is  
21 filed under subsections C and D of this section.

22 SECTION 9. AMENDATORY 36 O.S. 2011, Section 1527, is  
23 amended to read as follows:

24

1 Section 1527. A. "Mandatory Control Level Event" means any of  
2 the following events:

3 1. The filing of an RBC Report which indicates that the  
4 insurer's Total Adjusted Capital is less than its Mandatory Control  
5 Level RBC;

6 2. Notification by the Commissioner to the insurer of an  
7 Adjusted RBC Report that indicates the event in paragraph 1 of this  
8 subsection, provided the insurer does not challenge the Adjusted RBC  
9 Report under Section ~~9~~ 1528 of this ~~act~~ title; or

10 3. If, pursuant to Section ~~9~~ 1528 of this ~~act~~ title, the  
11 insurer challenges an Adjusted RBC Report that indicates the event  
12 in paragraph 1 of this subsection, notification by the Commissioner  
13 to the insurer that the Commissioner has, after opportunity for a  
14 hearing, rejected the insurer's challenge.

15 B. In the event of a Mandatory Control Level Event:

16 1. With respect to a life insurer or fraternal benefit society,  
17 the Commissioner may take the actions necessary to place the insurer  
18 under regulatory control under Article 18 or 19 of the Insurance  
19 Code. In that event, the Mandatory Control Level Event is deemed  
20 sufficient grounds for the Commissioner to take action under Article  
21 18 or 19 of the Insurance Code, and the Commissioner shall have the  
22 rights, powers, and duties with respect to the insurer which are set  
23 forth in Article 18 or 19 of the Insurance Code. If the  
24 Commissioner takes actions pursuant to an Adjusted RBC Report, the

1 insurer shall be entitled to notice and opportunity for a hearing as  
2 required by the provisions of Article 18 or 19 of the Insurance  
3 Code; and

4 2. With respect to a property and casualty insurer, the  
5 Commissioner may take the actions necessary to place the insurer  
6 under regulatory control under Article 18 or 19 of the Insurance  
7 Code, or, in case of an insurer which is writing no business and  
8 which is running-off its existing business, may allow the insurer to  
9 continue its run-off under the supervision of the Commissioner. In  
10 either event, the Mandatory Control Level Event is deemed sufficient  
11 grounds for the Commissioner to take action under Article 18 or 19  
12 of the Insurance Code and the Commissioner shall have the rights,  
13 powers, and duties with respect to the insurer which are set forth  
14 in Article 18 or 19 of the Insurance Code. If the Commissioner  
15 takes actions pursuant to an Adjusted RBC Report, the insurer shall  
16 be entitled to notice and opportunity for a hearing as required by  
17 the provisions of Article 18 or 19 of the Insurance Code.

18 SECTION 10. AMENDATORY 36 O.S. 2011, Section 1651, is  
19 amended to read as follows:

20 Section 1651. As used in this act, the following terms shall  
21 have the respective meanings hereinafter set forth, unless the  
22 context shall otherwise require:

23 ~~(a) Affiliate.~~ 1. An "affiliate" of, or person "affiliated"  
24 with, the specific person, is a person that directly or indirectly



1 through one or more intermediaries, controls, or is controlled by,  
2 or is under common control with, the person specified-;

3 ~~(b) Commissioner.~~ 2. The term "Commissioner" shall mean the  
4 Insurance Commissioner, ~~his~~ the deputies, or the Insurance  
5 Department, as appropriate-;

6 ~~(c) Control.~~ 3. The term "control" (including the terms  
7 "controlling", "controlled by" and "under common control with")  
8 means the possession, direct or indirect, of the power to direct or  
9 cause the direction of the management and policies of a person,  
10 whether through the ownership of voting securities, by contract or  
11 otherwise, unless the power is the result of an official position  
12 with or corporate office held by the person. Control shall be  
13 presumed to exist if any person, directly or indirectly, owns,  
14 controls, holds with the power to vote, or holds proxies  
15 representing ten percent (10%) or more of the voting securities of  
16 any other person. This presumption may be rebutted by a showing  
17 that control does not exist in fact in the manner provided in  
18 ~~Section 4(i)~~ subsection I of Section 1654 of this title. The  
19 Commissioner may determine, after furnishing all persons in interest  
20 notice and opportunity to be heard and making specific findings of  
21 fact to support such determination, that control exists in fact,  
22 notwithstanding the absence of a presumption to that effect-;

23 ~~(d) Insurance Holding Company System.~~ 4. "Enterprise risk"  
24 shall mean any activity, circumstance, event or series of events

1 involving one or more affiliates of an insurer that, if not remedied  
2 promptly, is likely to have a material adverse effect upon the  
3 financial condition or liquidity of the insurer or its insurance  
4 holding company system as a whole, including, but not limited to,  
5 anything that would cause the insurer's risk-based capital to fall  
6 into company action level as set forth in Section 1524 of this title  
7 or would cause the insurer to be in hazardous financial condition as  
8 specified by the Insurance Commissioner by rule;

9     5. An "insurance holding company system" consists of two or  
10 more affiliated persons, one or more of which is an insurer;i

11     ~~(e) Insurer. The term "insurer"~~ 6. "Insurer" shall have the  
12 same meaning as set forth in ~~36 Oklahoma Statutes,~~ Section 103 of  
13 this title, except that it shall not include agencies, authorities  
14 or instrumentalities of the United States, its possessions and  
15 territories, the Commonwealth of Puerto Rico, the District of  
16 Columbia, or a state or political subdivision of a state;i

17     ~~(f) Person.~~ 7. A "person" is an individual, a corporation, a  
18 partnership, an association, a joint stock company, a trust, an  
19 unincorporated organization, any similar entity or any combination  
20 of the foregoing acting in concert, but shall not include any  
21 securities broker performing no more than the usual and customary  
22 broker's function;i

23     ~~(g) Securityholder.~~ 8. A "securityholder" of a specified person  
24 is one who owns any security of such person, including common stock,

1 preferred stock, debt obligations, and any other security  
2 convertible into or evidencing the right to acquire any of the  
3 foregoing-i

4 ~~(h) Subsidiary.~~ 9. A "subsidiary" of a specified person is an  
5 affiliate controlled by such person directly, or indirectly, through  
6 one or more intermediaries-; and

7 ~~(i) Voting Security.~~ 10. The term "voting security" shall  
8 include any security convertible into or evidencing a right to  
9 acquire a voting security.

10 SECTION 11. AMENDATORY 36 O.S. 2011, Section 1654, is  
11 amended to read as follows:

12 Section 1654. ~~(a) Registration.~~ A. Every insurer which is  
13 authorized to do business in this state and which is a member of an  
14 insurance holding company system and every individual who controls  
15 an insurer shall annually register with the Insurance Commissioner,  
16 except a foreign insurer subject to disclosure requirements and  
17 standards adopted by statute or regulation in the jurisdiction of  
18 its domicile which are substantially similar to those contained in  
19 this section. Any insurer which is subject to registration under  
20 this section shall register thirty (30) days after it becomes  
21 subject to registration, unless the Commissioner for good cause  
22 shown extends the time for registration, and then within such  
23 extended time. The Commissioner may require any authorized insurer  
24 which is a member of a holding company system which is not subject

1 to registration under this section to furnish a copy to the  
2 Commissioner of the registration statement or other information  
3 filed by such insurance company with the insurance regulatory  
4 authority of domiciliary jurisdiction.

5 ~~(b) Information and Form Required.~~ B. Every insurer subject to  
6 registration shall file a registration statement on a form  
7 prescribed by the National Association of Insurance Commissioners,  
8 which shall contain current information about:

9 ~~(i) the~~

10 1. The capital structure, general financial condition,  
11 ownership and management of the insurer and any person controlling  
12 the insurer;

13 ~~(ii) the~~

14 2. The identity and relationship of every member of the  
15 insurance holding company system;

16 ~~(iii) the~~

17 3. The following agreements in force, relationships subsisting,  
18 and transactions currently outstanding or which have occurred during  
19 the previous calendar year between such insurer and its affiliates:

20 ~~(1)~~ a. loans, other investments or purchases, sales or  
21 exchanges of securities of the affiliates by the  
22 insurer or of the insurer by its affiliates~~†~~†

23 ~~(2)~~ b. purchases, sales or exchanges of assets~~†~~†

24 ~~(3)~~ c. transactions not in the ordinary course of business~~†~~†

1       ~~(4)~~ d. guarantees or undertakings for the benefit of an  
2                   affiliate which result in an actual contingent  
3                   exposure of the insurer's assets to liability, other  
4                   than insurance contracts entered into in the ordinary  
5                   course of the insurer's business~~;~~;

6       ~~(5)~~ e. all management and service contracts and all cost-  
7                   sharing arrangements~~;~~;

8       ~~(6)~~ f. reinsurance agreements covering all or substantially  
9                   all of one or more lines of insurance of the ceding  
10                  company~~;~~;

11       ~~(7)~~ g. dividends and other distributions to shareholders~~;~~;  
12                  and

13       ~~(8)~~ h. consolidated tax allocation agreements~~;~~;

14                  ~~(iv)~~ ~~other~~

15       4. Other matters concerning transactions between registered  
16       insurers or society and any affiliates as may be included from time  
17       to time in any registration forms adopted or approved by the  
18       Commissioner; and

19                  ~~(v)~~ ~~any~~

20       5. Any pledge of the insurer's stock, including stock of any  
21       subsidiary or controlling affiliate, for a loan made to any member  
22       of the insurance holding company system.

23       ~~(e) Materiality.~~ C. No information need be disclosed on the  
24       registration statement filed pursuant to subsection ~~(b)~~ B of this

1 section if such information is not material for the purposes of this  
2 section. Unless the Commissioner by rule, regulation or order  
3 provides otherwise, sales purchases, exchanges, loans or extensions  
4 of credit, or investments, involving one-half of one percent (1/2 of  
5 1%) or less of an insurer's admitted assets as of ~~the 31st day of~~  
6 December 31 next preceding shall not be deemed material for purposes  
7 of this section.

8 ~~(d) Amendments to Registration Statements.~~ D. Each registered  
9 insurer shall keep current the information required to be disclosed  
10 in its registration statement by reporting all material changes or  
11 additions on amendment forms provided by the Commissioner within  
12 fifteen (15) days after the end of the month in which it learns of  
13 each such change or addition~~;~~; provided, however, that subject to  
14 subsection (c) of Section 1655 of this title, each registered  
15 insurer shall so report all dividends and other distributions to  
16 shareholders within two (2) business days following the declaration  
17 thereof.

18 ~~(e) Termination of Registration.~~ E. The Commissioner shall  
19 terminate the registration of any insurer which demonstrates that it  
20 no longer is a member of an insurance holding company system.

21 ~~(f) Consolidated Filing.~~ F. The Commissioner may require two or  
22 more affiliated insurers subject to registration hereunder to file a  
23 consolidated registration statement or consolidated reports amending  
24 their consolidated registration statement, so long as such

1 consolidated filings correctly reflect the condition of and  
2 transactions between such persons.

3 ~~(g) Alternative Registration.~~ G. The Commissioner may allow an  
4 insurer which is authorized to do business in this state and which  
5 is a part of an insurance holding company system to register on  
6 behalf of any affiliated insurer which is required to register under  
7 subsection ~~(a)~~ A of this section and to file all information and  
8 material required to be filed under ~~Section~~ Sections 1651 ~~et seq.~~  
9 through 1662 of this title.

10 ~~(h) Exemptions.~~ H. The provisions of this section shall not  
11 apply to any insurer, information or transaction if and to the  
12 extent that the Commissioner by rule, regulation, or order shall  
13 exempt the same from the provisions of this section.

14 ~~(i) Disclaimer.~~ I. Any person may file with the Commissioner a  
15 disclaimer of affiliation with any authorized insurer or such a  
16 disclaimer may be filed by such insurer or any member of an  
17 insurance holding company system. The disclaimer shall fully  
18 disclose all material relationships and bases for affiliation  
19 between such person and such insurer as well as the basis for  
20 disclaiming such affiliation. After a disclaimer has been filed,  
21 the insurer shall be relieved of any duty to register or report  
22 under this section which may arise out of the insurer's relationship  
23 with such person unless and until the Commissioner disallows such a  
24 disclaimer. The Commissioner shall disallow such a disclaimer only

1 after furnishing all parties in interest with notice and opportunity  
2 to be heard and after making specific findings of fact to support  
3 such disallowance.

4 ~~(j) Summary of Registration Statement.~~ J. All registration  
5 statements shall contain a summary outlining all items in the  
6 current registration statement representing changes from the prior  
7 registration statement.

8 ~~(k) Reporting Dividends to Shareholders.~~ K. Every domestic  
9 insurer that is a member of a holding company system shall report to  
10 the Insurance Department all dividends to shareholders within five  
11 (5) business days following declaration and at least ten (10) days,  
12 commencing from date of receipt by the Department, prior to payment  
13 thereof.

14 ~~(l) Information of Insurers.~~ L. The ultimate controlling person  
15 of every insurer subject to registration shall also file an annual  
16 enterprise risk report. The report shall, to the best of the  
17 ultimate controlling person's knowledge and belief, identify the  
18 material risks within the insurance holding company system that  
19 could pose enterprise risk to the insurer. The report shall be  
20 filed with the lead state commissioner of the insurance holding  
21 company system as determined by the procedures within the Financial  
22 Analyst Handbook adopted by the National Association of Insurance  
23 Commissioners.

24



1        M. Any person within an insurance holding company system  
2 subject to registration shall be required to provide complete and  
3 accurate information to an insurer where such information is  
4 reasonably necessary to enable the insurer to comply with the  
5 provisions of this article.

6        ~~(m) Violations.~~ N. The failure to file a registration  
7 statement, any summary of the registration statement thereto, or any  
8 additional information required by this section within the time  
9 specified for such filing shall be a violation of this section.

10        SECTION 12.        AMENDATORY        36 O.S. 2011, Section 4030.9, is  
11 amended to read as follows:

12        Section 4030.9 For the purpose of determining the benefits  
13 calculated under Sections 4030.7 and 4030.8 of this title for  
14 annuity contracts issued on or after November 1, 2013, in the case  
15 of annuity contracts under which an election may be made to have  
16 annuity payments commence at optional maturity dates, the maturity  
17 date shall be deemed to be the latest date for which election shall  
18 be permitted by the contract, but shall not be deemed to be later  
19 than the anniversary of the contract next following the annuitant's  
20 seventieth birthday or the tenth anniversary of the contract,  
21 whichever is later. Except that if surrender charge scales are  
22 measured from the date of each premium payment, the maturity date  
23 shall be deemed to be the latest date for which election shall be  
24 permitted by the contract, but shall not be deemed to be later than

1 the anniversary of the contract next following the annuitant's  
2 seventieth birthday or the tenth anniversary of the payment,  
3 whichever is later.

4 SECTION 13. AMENDATORY 36 O.S. 2011, Section 6123, is  
5 amended to read as follows:

6 Section 6123. Sections 6121 through 6136.18 of this title shall  
7 be administered by the Insurance Commissioner. The Insurance  
8 Commissioner is authorized to prescribe reasonable rules and  
9 regulations concerning keeping and inspection of records, the filing  
10 of contracts and reports, and all other matters incidental to the  
11 orderly administration of this law; and the Insurance Commissioner  
12 shall first approve all forms for sale contracts for prepaid funeral  
13 benefits. All contracts for prepaid funeral benefits shall be in  
14 writing and no contract form shall be used without first being  
15 approved by the Insurance Commissioner. On any prepaid funeral when  
16 the person dies and the funeral is performed, and the money is drawn  
17 down, any organization receiving the monies so drawn down shall  
18 retain the itemized statement of charges in the files of the  
19 organization for at least ~~three (3)~~ six (6) years.

20 SECTION 14. AMENDATORY 36 O.S. 2011, Section 6125, is  
21 amended to read as follows:

22 Section 6125. A. 1. The organization may retain from the  
23 first funds collected, the first ten percent (10%) of the purchase  
24 price of all contracts issued pursuant to paragraph 1 of subsection

1 B of this section. Thereafter, one hundred percent (100%) of all  
2 funds collected pursuant to the provisions of contracts for prepaid  
3 funeral benefits, except for outer enclosures as defined by the  
4 Funeral Services Licensing Act, shall be placed in interest-bearing  
5 investments authorized by Article 16 of the Insurance Code, except  
6 to the extent the Insurance Commissioner may determine that a  
7 particular asset may be inappropriate for investment for prepaid  
8 funeral benefits.

9 2. For outer enclosures at the option of the organization the  
10 first thirty-five percent (35%) of the retail price of the outer  
11 enclosures collected may be retained by the organization. The  
12 remaining sixty-five percent (65%) of the retail price collected for  
13 the outer enclosures shall be invested as otherwise provided by this  
14 subsection pursuant to the provisions of contracts for prepaid  
15 funeral benefits.

16 3. The funds required to be deposited pursuant to paragraphs 1  
17 and 2 of this subsection shall be deposited within ten (10) days  
18 after the collection of the funds and shall be held in a trust fund  
19 in this state for the use, benefit, and protection of purchasers of  
20 contracts for prepaid funeral benefits. Nothing contained within  
21 this section shall be construed to prohibit an organization  
22 authorized to accept prepaid funds from transferring the funds held  
23 in trust from one trust depository to another if notice of the  
24 transfer is given to the Insurance Commissioner within ten (10) days

1 before the transfer and the organization transferring the funds  
2 remains the designated trustor. This subsection shall not affect  
3 funds invested prior to November 1, 1988.

4 B. An organization authorized to accept prepaid funds shall be  
5 authorized to provide purchasers with a choice of either of the  
6 following types of contracts:

7 1. A contract for Specific and Described Funeral Merchandise  
8 and Service at a Guaranteed Price. The provisions of this type of  
9 contract shall provide that interest paid by the organization upon  
10 monies deposited in trust shall be added to the principal and that  
11 principal and interest shall become available for disbursement to  
12 the organization upon the death of the beneficiary and if withdrawal  
13 of monies occurs prior to death, the net value, plus the amount  
14 withheld pursuant to paragraph 1 of subsection A of this section,  
15 shall be paid to the purchaser. Net value of the contract for  
16 purposes of this section shall be determined by adding the amount of  
17 all principal paid in pursuant to the provisions of the contract  
18 plus all interest payable pursuant to subsection D of this section  
19 less taxes and administrative fees;

20 2. A contract establishing a fund for prepaid funeral benefits.  
21 The provisions of this type of contract shall require an initial  
22 minimum deposit of Twenty-five Dollars (\$25.00) and shall grant the  
23 purchaser the right to add to the fund at the discretion of the  
24 purchaser. The provisions of this contract shall provide that the

1 funds accumulated shall apply to the cost of the funeral services  
2 and merchandise selected and that any funds remaining unused shall  
3 be refunded to the purchaser or to the personal representative or  
4 designated beneficiary of the purchaser and if withdrawal of monies  
5 occurs prior to death, the organization may retain from the  
6 interest, all interest incurred in excess of the minimum amount  
7 payable pursuant to subsection D of this section less taxes and  
8 administrative fees. This type of contract shall also bear upon it  
9 the language: "Exact Funeral Merchandise and Services to be Selected  
10 at Time of Death";

11 3. Notwithstanding the provisions of this section, at no time  
12 shall the purchaser of a contract for Specific and Described Funeral  
13 Merchandise and Service at a Guaranteed Price receive upon any  
14 withdrawal or transfer a sum less than the original principal  
15 collected; or

16 4. Notwithstanding the provisions of this section, at no time  
17 shall the purchaser of a contract for Exact Funeral Merchandise and  
18 Services to be Selected at Time of Death receive upon any full  
19 withdrawal or transfer prior to death a sum less than the original  
20 principal collected available at death, with the exception of those  
21 accounts which bear principal reduced by previously made cash  
22 withdrawals.

23 C. If an organization other than the organization with which  
24 the purchaser contracted provides funeral merchandise and services

1 upon the death of the beneficiary of the contract, the organization  
2 with whom the purchaser contracted shall forward, upon receipt of  
3 request in writing from the purchaser or the personal representative  
4 of the purchaser, the net value of the contract plus the amount  
5 withheld pursuant to paragraph 1 of subsection A of this section to  
6 the organization which provided the merchandise and services or to  
7 the purchaser or the personal representative of the purchaser.

8 D. Funds deposited in trust pursuant to the provisions of  
9 either type of contract authorized by the provisions of this section  
10 shall earn for the account of the purchaser a rate of interest which  
11 is not less than the minimum rate of interest offered by the  
12 qualified investments specified in subsection A of this section to  
13 the savings customers of the qualified investments having interest-  
14 bearing accounts. The organization, in a nondiscriminatory manner,  
15 may pay or accrue interest for the accounts of purchasers at any  
16 rate greater than the minimum rate that the organization desires,  
17 provided, however, that the organization may retain from the  
18 interest, all interest incurred in excess of the minimum amount  
19 payable pursuant to this subsection.

20 E. A purchaser of either of the types of contracts authorized  
21 by the provisions of this section may withdraw the net value of the  
22 contract by signing a statement requesting the withdrawal. The  
23 organization shall retain in its files a copy of the statement  
24 requesting the withdrawal. Withdrawal of funds deposited pursuant

1 to the provisions of a contract authorized by the provisions of  
2 paragraph 1 of subsection B of this section shall void the  
3 obligation of the contracting organization to provide funeral  
4 merchandise and services at a guaranteed price. Withdrawal forms  
5 shall be retained on file for at least ~~three (3)~~ six (6) years by  
6 the organization.

7 F. Following the death of a beneficiary for whom a contract has  
8 been purchased, the organization shall prepare a statement,  
9 acknowledged by the purchaser if the purchaser is not the  
10 beneficiary, or by the personal representative of the purchaser if  
11 the purchaser is the beneficiary, setting forth the use of the funds  
12 deposited and the party to whom any unused funds were disbursed. A  
13 copy of this statement shall remain in the files of the organization  
14 for at least ~~three (3)~~ six (6) years and a copy shall be delivered  
15 to the trust depository and the purchaser.

16 G. After thirty (30) days, a contract of either type authorized  
17 by the provisions of this section may become irrevocable and not  
18 subject to withdrawal prior to the death of the beneficiary if the  
19 purchaser signs an election making the contract irrevocable. This  
20 election shall not become effective until thirty (30) days after  
21 signing the original contract.

22 H. In no event shall more funds be withdrawn or paid pursuant  
23 to the provisions of one contract than were deposited with the  
24 organization and which were accumulated as interest. All funds

1 deposited pursuant to the provisions of a contract authorized by the  
2 provisions of this section and deposited pursuant to the terms of  
3 this section and the interest earned on the funds shall be exempt  
4 from attachment, garnishment, execution, and the claims of  
5 creditors, receivers, or trustees in bankruptcy, until the time the  
6 funds have been withdrawn from the trust account and paid to the  
7 organization or refunded to the purchaser.

8 I. Each organization subject to the provisions of this section  
9 shall furnish a bond in the form of a cash bond, letter of credit,  
10 or fidelity bond, to be approved by the Insurance Commissioner, in  
11 the amount of Three Hundred Thousand Dollars (\$300,000.00) or  
12 fifteen percent (15%) of all funds collected for prepaid funeral  
13 benefits, whichever is less.

14 J. Organizations contracting with purchasers for prepaid  
15 funeral benefits pursuant to paragraphs 1 and 2 of subsection B of  
16 this section shall be entitled to deduct from the principal and  
17 interest allocable to the contracts an administrative fee which  
18 shall not exceed the product of .001146 times the total contract  
19 fund including accrued interest per month or any major portion  
20 thereof.

21 K. No organization holding a permit issued pursuant to the  
22 provisions of Sections 6121 and 6124 of this title shall accept any  
23 funds except pursuant to the provisions of a contract for prepaid  
24 funeral or burial benefits authorized by the provisions of Sections



1 6121 through 6136.18 of this title, and no organization shall accept  
2 funds from a purchaser in excess of the contracted price of prepaid  
3 funeral or burial benefits purchased.

4 L. Any organization which knowingly commits any of the acts set  
5 forth in the first sentence of Section 6121 of this title without  
6 first having obtained a permit to engage in the stated activity from  
7 the Insurance Commissioner, or any organization which commits the  
8 acts while knowingly operating with an invalid or expired permit,  
9 upon conviction, shall be guilty of a misdemeanor. Each separate  
10 act performed without a valid permit shall be deemed a separate  
11 offense. The punishment upon conviction for the offense shall be a  
12 fine not to exceed One Thousand Dollars (\$1,000.00) or imprisonment  
13 in the county jail for not less than sixty (60) days nor more than  
14 one (1) year, or both such fine and imprisonment.

15 SECTION 15. AMENDATORY 36 O.S. 2011, Section 6125.2, is  
16 amended to read as follows:

17 Section 6125.2 A. Contracts for prepaid funeral benefits  
18 provided for pursuant to Section 6125 of this title may be funded by  
19 assignments of life insurance proceeds to the contracting  
20 organization.

21 B. A guaranteed contract for prepaid funeral benefits provided  
22 for pursuant to paragraph 1 of subsection B of Section 6125 of this  
23 title which is to be funded by assignment of life insurance proceeds  
24 shall provide that:

1           1. The contract be funded by a life insurance policy issued in  
2 the face amount of the current purchase price of the contract for  
3 prepaid funeral benefits;

4           2. All accrued benefits under the policy shall become available  
5 for disbursement to the organization upon the death of the  
6 beneficiary of the prepaid funeral contract;

7           3. The beneficiary shall be the same individual under the  
8 contract as the insured under the life insurance policy; and

9           4. The disbursement of life insurance proceeds to the  
10 organization shall constitute payment in full to the organization  
11 for the services and merchandise contracted for.

12           C. A nonspecified contract for prepaid funeral benefits  
13 provided for pursuant to paragraph 2 of subsection B of Section 6125  
14 of this title which is to be funded by assignment of life insurance  
15 proceeds shall provide that:

16           1. The total proceeds paid to the organization under the policy  
17 shall not exceed the actual retail cost of the funeral services and  
18 merchandise at the time of delivery;

19           2. Any funds remaining unused shall be refunded to the  
20 purchaser or to the personal representative of the purchaser or  
21 designated beneficiary; and

22           3. After November 1, 2009, all price lists reflecting the  
23 actual retail cost of funeral services and merchandise used at the  
24

1 time of the delivery of services shall be retained for a period of  
2 at least ~~three (3)~~ six (6) years.

3 D. A violation of this section shall constitute a misdemeanor  
4 and shall be punished by a fine of not less than One Hundred Dollars  
5 (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by  
6 imprisonment in the county jail for not less than one (1) month nor  
7 more than six (6) months, or by both such fine and imprisonment.

8 SECTION 16. AMENDATORY 36 O.S. 2011, Section 6217, as  
9 last amended by Section 14, Chapter 44, O.S.L. 2012 (36 O.S. Supp.  
10 2012, Section 6217), is amended to read as follows:

11 Section 6217. A. All licenses issued pursuant to the  
12 provisions of the Insurance Adjusters Licensing Act shall continue  
13 in force not longer than twenty-four (24) months. The renewal dates  
14 for the licenses may be staggered throughout the year by notifying  
15 licensees in writing of the expiration and renewal date being  
16 assigned to the licensees by the Insurance Commissioner and by  
17 making appropriate adjustments in the biennial licensing fee.

18 B. Any licensee applying for renewal of a license as an  
19 adjuster shall have completed not less than twenty-four (24) clock  
20 hours of continuing insurance education, of which three (3) hours  
21 shall be in ethics, within the previous twenty-four (24) months  
22 prior to renewal of the license. The Insurance Commissioner shall  
23 approve courses and providers of continuing education for insurance  
24 adjusters as required by this section.

1 The Insurance Department may use one or more of the following to  
2 review and provide a nonbinding recommendation to the Insurance  
3 Commissioner on approval or disapproval of courses and providers of  
4 continuing education:

5 1. Employees of the Insurance Commissioner;

6 2. A continuing education advisory committee. The continuing  
7 education advisory committee is separate and distinct from the  
8 Advisory Board established by Section 6221 of this title;

9 3. An independent service whose normal business activities  
10 include the review and approval of continuing education courses and  
11 providers. The Commissioner may negotiate agreements with such  
12 independent service to review documents and other materials  
13 submitted for approval of courses and providers and present the  
14 Commissioner with its nonbinding recommendation. The Commissioner  
15 may require such independent service to collect the fee charged by  
16 the independent service for reviewing materials provided for review  
17 directly from the course providers.

18 C. An adjuster who, during the time period prior to renewal,  
19 participates in an approved professional designation program shall  
20 be deemed to have met the biennial requirement for continuing  
21 education. Each course in the curriculum for the program shall  
22 total a minimum of ~~twenty (20)~~ twenty-four (24) hours. Each  
23 approved professional designation program included in this section  
24 shall be reviewed for quality and compliance every three (3) years

1 in accordance with standardized criteria promulgated by rule.  
2 Continuation of approved status is contingent upon the findings of  
3 the review. The list of professional designation programs approved  
4 under this subsection shall be made available to producers and  
5 providers annually.

6 D. The Insurance Department may promulgate rules providing that  
7 courses or programs offered by professional associations shall  
8 qualify for presumptive continuing education credit approval. The  
9 rules shall include standardized criteria for reviewing the  
10 professional associations' mission, membership, and other relevant  
11 information, and shall provide a procedure for the Department to  
12 disallow a presumptively approved course. Professional association  
13 courses approved in accordance with this subsection shall be  
14 reviewed every three (3) years to determine whether they continue to  
15 qualify for continuing education credit.

16 E. The active service of a licensed adjuster as a member of a  
17 continuing education advisory committee, as described in paragraph 2  
18 of subsection B of this section, shall be deemed to qualify for  
19 continuing education credit on an hour-for-hour basis.

20 F. 1. Each provider of continuing education shall, after  
21 approval by the Commissioner, submit an annual fee. A fee may be  
22 assessed for each course submission at the time it is first  
23 submitted for review and upon submission for renewal at expiration.  
24 Annual fees and course submission fees shall be set forth as a rule

1 by the Commissioner. The fees are payable to the Insurance  
2 Commissioner and shall be deposited in the State Insurance  
3 Commissioner Revolving Fund, created in Section 307.3 of this title,  
4 for the purposes of fulfilling and accomplishing the conditions and  
5 purposes of the Oklahoma Producer Licensing Act and the Insurance  
6 Adjusters Licensing Act. Public-funded educational institutions,  
7 federal agencies, nonprofit organizations, not-for-profit  
8 organizations and Oklahoma state agencies shall be exempt from this  
9 subsection.

10 2. The Commissioner may assess a civil penalty, after notice  
11 and opportunity for hearing, against a continuing education provider  
12 who fails to comply with the requirements of the Insurance Adjusters  
13 Licensing Act, of not less than One Hundred Dollars (\$100.00) nor  
14 more than Five Hundred Dollars (\$500.00), for each occurrence. The  
15 civil penalty may be enforced in the same manner in which civil  
16 judgments may be enforced.

17 G. Subject to the right of the Commissioner to suspend, revoke,  
18 or refuse to renew a license of an adjuster, any such license may be  
19 renewed by filing on the form prescribed by the Commissioner on or  
20 before the expiration date a written request by or on behalf of the  
21 licensee for such renewal and proof of completion of the continuing  
22 education requirement set forth in subsection B of this section,  
23 accompanied by payment of the renewal fee.

24

1 H. If the request, proof of compliance with the continuing  
2 education requirement and fee for renewal of a license as an  
3 adjuster are filed with the Commissioner prior to the expiration of  
4 the existing license, the licensee may continue to act pursuant to  
5 said license, unless revoked or suspended prior to the expiration  
6 date, until the issuance of a renewal license or until the  
7 expiration of ten (10) days after the Commissioner has refused to  
8 renew the license and has mailed notice of said refusal to the  
9 licensee. Any request for renewal filed after the date of  
10 expiration may be considered by the Commissioner as an application  
11 for a new license.

12 SECTION 17. AMENDATORY 36 O.S. 2011, Section 6515, is  
13 amended to read as follows:

14 Section 6515. A. Premium rates for health benefit plans  
15 subject to the Small Employer Health Insurance Reform Act shall be  
16 subject to the following provisions:

17 1. The rate manual developed for use by a small employer  
18 carrier shall be filed and approved by the Insurance Commissioner  
19 prior to use. Any changes to the rate manual shall be filed and  
20 approved by the Insurance Commissioner prior to use. Every filing  
21 shall be made not less than thirty (30) days prior to the date the  
22 small employer carrier intends to implement the rates. The rate  
23 manual so filed shall be deemed approved upon expiration of the  
24 thirty-day waiting period unless, prior to the end of the period, it

1 has been affirmatively approved or disapproved by order of the  
2 Commissioner. Approval of a rate manual by the Commissioner shall  
3 constitute a waiver of any unexpired portion of the thirty-day  
4 waiting period. The Commissioner may extend the period to approve  
5 or disapprove a rate manual by not more than an additional thirty  
6 (30) days by giving notice of such extension before expiration of  
7 the initial thirty-day period. At the expiration of an extended  
8 period, the rate filing shall be deemed approved unless otherwise  
9 approved or disapproved by the Commissioner. The Commissioner may  
10 at any time, after notice and for cause shown, withdraw approval of  
11 a filed rate;

12 2. A small employer health benefit plan shall not be delivered  
13 or issued for delivery unless the policy form or certificate form  
14 can be expected to return to policyholders and certificate holders  
15 in the form of aggregate benefits provided under the policy form or  
16 certificate form at least sixty percent (60%) of the aggregate  
17 amount of premiums earned. The rate of return shall be estimated  
18 for the entire period for which rates are computed to provide  
19 coverage. The rate of return shall be calculated on the basis of  
20 incurred claims experience or incurred health care expenses where  
21 coverage is provided by a health maintenance organization on a  
22 service rather than reimbursement basis and earned premiums for the  
23 period in accordance with accepted actuarial principles and  
24 practices;



1       3. The index rate for a rating period for any class of business  
2 shall not exceed the index rate for any other class of business by  
3 more than twenty percent (20%);

4       4. For a class of business, the premium rates charged during a  
5 rating period to small employers with similar case characteristics  
6 for the same or similar coverage, or the rates that could be charged  
7 to such employers under the rating system for that class of  
8 business, shall not vary from the index rate by more than twenty-  
9 five percent (25%) of the index rate;

10       5. The percentage increase in the premium rate charged to a  
11 small employer for a new rating period may not exceed the sum of the  
12 following:

- 13           a. the percentage change in the new business premium rate  
14           measured from the first day of the prior rating period  
15           to the first day of the new rating period. In the  
16           case of a health benefit plan into which the small  
17           employer carrier is no longer enrolling new small  
18           employers, the small employer carrier shall use the  
19           percentage change in the base premium rate, provided  
20           that the change does not exceed, on a percentage  
21           basis, the change in the new business premium rate for  
22           the most similar health benefit plan into which the  
23           small employer carrier is actively enrolling new small  
24           employers,

1           b. any adjustment, not to exceed fifteen percent (15%)  
2           annually and adjusted pro rata for rating periods of  
3           less than one year, due to the claim experience,  
4           health status or duration of coverage of the employees  
5           or dependents of the small employer as determined from  
6           the rate manual for the class of business of the small  
7           employer carrier, and

8           c. any adjustment due to change in coverage or change in  
9           the case characteristics of the small employer, as  
10          determined from the rate manual for the class of  
11          business of the small employer carrier;

12          6. Adjustments in rates for claim experience, health status and  
13          duration of coverage shall not be charged to individual employees or  
14          dependents. Any adjustment shall be applied uniformly to the rates  
15          charged for all employees and dependents of the small employer;

16          7. A small employer carrier may utilize industry as a case  
17          characteristic in establishing premium rates; provided, the highest  
18          rate factor associated with any industry classification shall not  
19          exceed the lowest rate factor associated with any industry  
20          classification by more than fifteen percent (15%);

21          8. In the case of health benefit plans issued prior to the  
22          effective date of the Small Employer Health Insurance Reform Act, a  
23          premium rate for a rating period may exceed the ranges set forth in  
24          paragraphs 3 and 4 of this subsection for a period of three (3)

1 years following the effective date of the Small Employer Health  
2 Insurance Reform Act. In such case, the percentage increase in the  
3 premium rate charged to a small employer for a new rating period  
4 shall not exceed the sum of the following:

5 a. the percentage change in the new business premium rate  
6 measured from the first day of the prior rating period  
7 to the first day of the new rating period. In the  
8 case of a health benefit plan into which the small  
9 employer carrier is no longer enrolling new small  
10 employers, the small employer carrier shall use the  
11 percentage change in the base premium rate, provided  
12 that the change does not exceed, on a percentage  
13 basis, the change in the new business premium rate for  
14 the most similar health benefit plan into which the  
15 small employer carrier is actively enrolling new small  
16 employers, and

17 b. any adjustment due to change in coverage or change in  
18 the case characteristics of the small employer, as  
19 determined from the rate manual of the carrier for the  
20 class of business;

21 9. Small employer carriers shall:

22 a. apply rating factors, including case characteristics,  
23 consistently with respect to all small employers in a  
24 class of business. Rating factors shall produce

1 premiums for identical groups within the same class of  
2 business which differ only by amounts attributable to  
3 plan design and do not reflect differences due to  
4 claims experience, health status and duration of  
5 coverage, and

- 6 b. treat all health benefit plans issued or renewed in  
7 the same calendar month as having the same rating  
8 period;

9 10. For the purposes of this subsection, a health benefit plan  
10 that utilizes a restricted provider network shall not be considered  
11 similar coverage to a health benefit plan that does not utilize such  
12 a network, provided that utilization of the restricted provider  
13 network results in substantial differences in claims costs;

14 11. The Insurance Commissioner may establish rules to implement  
15 the provisions of this section and to assure that rating practices  
16 used by small employer carriers are consistent with the purposes of  
17 the Small Employer Health Insurance Reform Act, including:

- 18 a. assuring that differences in rates charged for health  
19 benefit plans by small employer carriers are  
20 reasonable and reflect objective differences in plan  
21 design, not including differences due to claims  
22 experience, health status or duration of coverage, and
- 23 b. prescribing the manner in which case characteristics  
24 may be used by small employer carriers.

1 B. A small employer carrier shall not transfer a small employer  
2 involuntarily into or out of a class of business. A small employer  
3 carrier shall not offer to transfer a small employer into or out of  
4 a class of business unless the offer is made to transfer all small  
5 employers in the class of business without regard to case  
6 characteristics, claim experience, health status or duration of  
7 coverage.

8 C. The Commissioner may suspend for a specified period the  
9 application of paragraph 3 of subsection A of this section as to the  
10 premium rates applicable to one or more small employers included  
11 within a class of business of a small employer carrier for one or  
12 more rating periods upon a filing by the small employer carrier and  
13 a finding by the Commissioner either that the suspension is  
14 reasonably necessary in light of the financial condition of the  
15 small employer carrier or that the suspension would enhance the  
16 efficiency and fairness of the marketplace for small employer health  
17 insurance.

18 D. Nothing in the Small Employer Health Insurance Reform Act  
19 shall prohibit a small employer carrier from including in premium  
20 rate development an employer's bona fide wellness program for its  
21 employees including, but not limited to, a tobacco cessation  
22 program.

23 SECTION 18. AMENDATORY 36 O.S. 2011, Section 7101, is  
24 amended to read as follows:

1 Section 7101. Sections ~~161~~ 7101 through ~~170~~ 7112 of this title,  
2 ~~as recodified by this act,~~ shall be known and may be cited as the  
3 "Perpetual Care Fund Act".

4 SECTION 19. AMENDATORY 36 O.S. 2011, Section 7102, is  
5 amended to read as follows:

6 Section 7102. As used in the Perpetual Care Fund Act:

7 1. "Cemetery" or "cemeteries" means any land or structure in  
8 this state dedicated to or used, or intended to be used, for the  
9 interment of human remains;

10 2. "Burial space" means any grave space, lot, mausoleum crypt  
11 or niche, whether above or below ground, which is used or intended  
12 to be used for the interment of human remains;

13 3. "Purchase price" means the gross dollar amount the customer  
14 shall pay the cemetery under a contractual agreement between the two  
15 to exchange ownership of, or rights to, certain burial spaces.

16 Purchase price shall not include finance charges, sales tax, charges  
17 for credit life insurance, opening and closing costs and setting  
18 fees, but shall include any amount which the customer is required to  
19 pay as a deposit to the Perpetual Care Fund, described in Section  
20 ~~163~~ 7103 of this title. On sales of burial spaces wherein discounts  
21 or free spaces are granted to the customer by the cemetery, the  
22 purchase price shall be the fair market value or the normal selling  
23 price of that particular type of burial space as sold by the  
24 cemetery;

1 4. "Financial institution" means a federally insured bank or  
2 savings and loan authorized to exercise trust powers or a trust  
3 company that is authorized to do business in this state;

4 5. "Income", except as provided in subsection D of Section ~~163~~  
5 7103 of this title, means the return derived from the principal  
6 amount;

7 6. "Insurance Commissioner" or "Commissioner" means the  
8 Insurance Commissioner of the State of Oklahoma; and

9 7. "Designated agent" means one or more individuals designated  
10 by the cemetery owner and whom the owner has acknowledged as having  
11 fiduciary responsibilities under the Perpetual Care Fund Act.

12 SECTION 20. AMENDATORY 36 O.S. 2011, Section 7121, is  
13 amended to read as follows:

14 Section 7121. Sections ~~304~~ 7121 through ~~316~~ 7135 of this title,  
15 ~~as recodified by this act,~~ shall be known and may be cited as the  
16 "Cemetery Merchandise Trust Act".

17 SECTION 21. AMENDATORY 36 O.S. 2011, Section 7123, is  
18 amended to read as follows:

19 Section 7123. A. Any organization which shall accept money or  
20 anything of value for cemetery merchandise pursuant to a prepaid  
21 cemetery merchandise contract shall first obtain a permit from the  
22 Insurance Commissioner authorizing the transaction of this type of  
23 business before entering into the contract. It shall be unlawful to  
24 sell any prepaid cemetery merchandise unless the organization holds

1 a valid, current permit at the time the contract is made. The  
2 organization shall not be entitled to enforce a contract made in  
3 violation of the Cemetery Merchandise Trust Act, but the purchaser,  
4 or the heirs or legal representative of the purchaser, shall be  
5 entitled to recover triple the amounts paid to the organization with  
6 interest thereon at the rate of six percent (6%) per annum under any  
7 contract made in violation of this act.

8 B. An organization with any prepaid cemetery merchandise  
9 contracts subject to the provisions of the Cemetery Merchandise  
10 Trust Act shall apply for, and obtain, approval of the Commissioner  
11 before transferring or conveying in any manner the cemetery, its  
12 obligations or both the cemetery and its obligations under the  
13 prepaid cemetery merchandise contracts. The application shall be  
14 accompanied by a fee equal to that required under Section ~~305~~ 7125  
15 of this title and shall include such information as the Commissioner  
16 may prescribe. The Commissioner shall not approve any such transfer  
17 or conveyance until the applicant has provided sufficient evidence  
18 that a cemetery merchandise trust fund equal to the minimum funding  
19 requirement is maintained pursuant to Section ~~306~~ 7126 of this title  
20 or the applicant has obtained a surety bond pursuant to the  
21 provisions of Section ~~307~~ 7127 of this title.

22 SECTION 22. AMENDATORY 36 O.S. 2011, Section 7124, is  
23 amended to read as follows:

24



1 Section 7124. A. The Cemetery Merchandise Trust Act, Sections  
2 ~~301~~ 7121 through ~~316~~ 7135 of this title, shall be administered by  
3 the Insurance Commissioner. The Commissioner is authorized to  
4 promulgate reasonable rules concerning the keeping and inspection of  
5 records, the filing of contracts and reports, investments of and  
6 handling of the trust funds, and all other matters concerning the  
7 orderly administration and implementation of the Cemetery  
8 Merchandise Trust Act. All prepaid cemetery merchandise contracts  
9 shall be in writing, and no contract form created after the  
10 effective date of this act shall be used without first being  
11 submitted to, and approved by, the Commissioner.

12 B. An organization aggrieved by an action or order of the  
13 Commissioner may appeal the action or order to the Oklahoma  
14 Insurance Department in accordance with Article II of the  
15 Administrative Procedures Act.

16 C. The provisions of the Cemetery Merchandise Trust Act shall  
17 not be applicable to any organization that has obtained a permit  
18 pursuant to Section 6121 of ~~Title 36 of the Oklahoma Statutes~~ this  
19 title if the organization is in compliance with the provisions of  
20 Sections 6121 through 6136.18 of ~~Title 36 of the Oklahoma Statutes~~  
21 this title with respect to items that are considered cemetery  
22 merchandise pursuant to the Cemetery Merchandise Trust Act.

23 D. Unless sold pursuant to a permit issued under Section 6121  
24 of ~~Title 36 of the Oklahoma Statutes~~ this title, no organization in

1 Oklahoma may sell, in advance of actual need, the services of  
2 opening or closing a burial space, as defined in Section ~~162~~ 7102 of  
3 this title, unless the organization deposits in trust no less than  
4 sixty-five percent (65%) of the principal amount of the services  
5 sold, or maintains a surety bond for the full principal amount of  
6 the services sold. Any contracts for services sold before July 1,  
7 2010, remain enforceable by the purchaser against the seller.

8 SECTION 23. AMENDATORY 36 O.S. 2011, Section 7125, is  
9 amended to read as follows:

10 Section 7125. A. Each organization desiring to accept money or  
11 anything of value for prepaid cemetery merchandise shall file an  
12 application for a permit with the Insurance Commissioner, and shall  
13 at the time of filing the application pay one initial filing fee of  
14 Two Hundred Dollars (\$200.00). The Commissioner shall issue a  
15 permit upon the receipt of the application and payment of the filing  
16 fee, and upon making a finding that the applicant has complied with  
17 the rules as may be established pursuant to the Cemetery Merchandise  
18 Trust Act by the Commissioner. All applications shall be signed by  
19 the organization requesting the permit, and shall contain a  
20 statement that the applicant will comply with all the requirements  
21 as established pursuant to the Cemetery Merchandise Trust Act. All  
22 permits shall expire on ~~the 15th day of~~ March 15 of the year  
23 following the year the permit is first issued, unless renewed.  
24 Permits shall be renewed for a period not to exceed the succeeding

1 March 15 upon the payment of a renewal fee of Two Hundred Dollars  
2 (\$200.00). Late application for renewal of a permit shall require a  
3 fee of double the renewal fee. No application for renewal of a  
4 permit shall be accepted after ~~March~~ April 15 of each year. Late  
5 applicants shall be required to reapply as if they were a new  
6 applicant, and pay an application fee equal to an amount that is  
7 double the renewal fee in addition to any fines that may have been  
8 imposed with respect to an expired permit.

9 B. The Commissioner may cancel a permit or refuse to issue a  
10 permit or refuse to issue a renewal of a permit for failure to  
11 comply with any provisions of the Cemetery Merchandise Trust Act or  
12 any rules promulgated thereto by the Commissioner, after reasonable  
13 notice to the permittee and opportunity for hearing before the  
14 Commissioner in accordance with Article II of the Administrative  
15 Procedures Act.

16 C. No organization shall be entitled to a new permit after  
17 cancellation, or refusal by the Commissioner to renew a permit, but  
18 shall thereafter be issued a new permit upon satisfactory proof of  
19 compliance with the Cemetery Merchandise Trust Act.

20 D. Any person or organization aggrieved by the actions of the  
21 Commissioner may appeal therefrom to the Oklahoma Insurance  
22 Department as provided by the Administrative Procedures Act.

23 SECTION 24. AMENDATORY 36 O.S. 2011, Section 7127, is  
24 amended to read as follows:

1 Section 7127. A. As an alternative to the trust requirements  
2 of Section ~~306~~ 7126 of this title, an organization may purchase a  
3 surety bond in an amount not less than the minimum funding  
4 requirement.

5 B. The surety bond shall be made payable to the State of  
6 Oklahoma for the benefit of the Insurance Commissioner and all  
7 purchasers of prepaid cemetery merchandise. The bond shall be  
8 approved by the Commissioner.

9 C. The Commissioner may establish by rule the requirements and  
10 guidelines for the surety bonds required pursuant to this section.

11 D. A surety bond maintained under the provisions of this  
12 section or Section ~~304~~ 7124 of this title may be cancelled or  
13 terminated by the surety only by providing notice to the  
14 Commissioner, no later than ninety (90) days before the effective  
15 date of the cancellation or termination. Notwithstanding the  
16 cancellation, termination, or expiration of a bond maintained under  
17 this section or Section ~~304~~ 7124 of this title, the surety shall  
18 remain liable for obligations arising during the term of the bond  
19 and prior to the termination, cancellation or expiration.

20 SECTION 25. AMENDATORY 36 O.S. 2011, Section 7128, is  
21 amended to read as follows:

22 Section 7128. Each organization shall file an annual report  
23 with the Insurance Commissioner on or before March 15 of each year  
24 in a form as the Commissioner may require, showing the name of the

1 financial institution holding the cemetery merchandise trust fund  
2 and the amount of the trust fund under each contract on the  
3 preceding December 31, and also showing the method of determination  
4 of the wholesale costs made pursuant to Section ~~306~~ 7126 of this  
5 title. The total required deposits to the cemetery merchandise  
6 trust fund during the year shall also be reported. Each cemetery is  
7 responsible for maintaining satisfactory books and records, which  
8 will adequately justify all information contained in the annual  
9 report required by this section. Any organization which has  
10 discontinued the sale of prepaid cemetery merchandise, but which  
11 still has funds deposited in a cemetery merchandise trust fund or  
12 surety, shall not be required to obtain a renewal of its permit, but  
13 it shall continue to make annual reports to the Commissioner until  
14 all the funds have been disbursed pursuant to the Cemetery  
15 Merchandise Trust Act. A filing fee of Two Hundred Dollars  
16 (\$200.00) shall accompany each report. If any officer of any  
17 organization fails or refuses to file an annual report, or fails or  
18 refuses to cause it to be filed within thirty (30) days after the  
19 organization has been notified by the Commissioner that the report  
20 is due and has not been received, the officer shall be guilty of a  
21 misdemeanor and shall be punished as prescribed in Section ~~315~~ 7134  
22 of this title.

23 SECTION 26. AMENDATORY 36 O.S. 2011, Section 7129, is  
24 amended to read as follows:

1 Section 7129. The Insurance Commissioner may examine each  
2 organization so as to approve the determination by the organization  
3 of the wholesale costs made pursuant to Section ~~306~~ 7126 of this  
4 title. The examination shall be conducted pursuant to Sections  
5 309.1 through 309.7 of ~~Title 36 of the Oklahoma Statutes~~ this title  
6 and the cost of the examination shall be paid by the cemetery owner.  
7 The cost of the examination shall be billed directly to the cemetery  
8 owner by the examiner.

9 SECTION 27. AMENDATORY 40 O.S. 2011, Section 500, is  
10 amended to read as follows:

11 Section 500. A. It shall be unlawful for an employer to:

12 1. Discharge any individual, or otherwise disadvantage any  
13 individual, with respect to compensation, terms, conditions or  
14 privileges of employment because the individual is a nonsmoker or  
15 smokes or uses tobacco products during nonworking hours; or

16 2. Require as a condition of employment that any employee or  
17 applicant for employment abstain from smoking or using tobacco  
18 products during nonworking hours.

19 B. Nothing in this section shall prohibit an employer from  
20 offering incentives to an employee to participate in wellness  
21 programs, including but not limited to smoking cessation programs,  
22 in conjunction with the employer providing the employee health  
23 insurance coverage.

24

