

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1512

By: Mulready of the House

and

Brown of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to insurance; requiring confidential
12 treatment of certain examinations; disallowing
13 certain persons from testifying in certain actions;
14 authorizing the Insurance Commissioner to share
15 certain information; amending 36 O.S. 2011, Section
16 307, which relates to Insurance Commissioner duties;
17 providing for statutory and rule citations; amending
18 36 O.S. 2011, Section 607, which relates to
19 qualifications to transact insurance; providing
20 exemption from prohibition from issuing certain
21 insurance license or certificate to certain tribal
22 governments; amending 36 O.S. 2011, Section 1452,
23 which relates to the Third-Party Administrator Act;
24 exempting certain administrators from an annual
 report requirement; amending 36 O.S. 2011, Section
 1464, which relates to insurance broker licensure;
 removing certain bond requirements; amending 36 O.S.
 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

1 report; amending 36 O.S. 2011, Section 4030.9, which
2 relates to standard nonforfeiture law for individual
3 deferred annuities; modifying the maturity date of
4 certain contracts; amending 36 O.S. 2011, Sections
5 6123, 6125 and 6125.2, which relate to prepaid
6 funeral services; extending period certain statements
7 and lists must be kept on file; amending 36 O.S.
8 2011, Section 6217, as last amended by Section 14,
9 Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2012, Section
10 6217), which relates to insurance adjuster licensing;
11 increasing hours for certain required continuing
12 education; amending 36 O.S. 2011, Section 6515, which
13 relates to the Small Employer Health Insurance Reform
14 Act; providing employers are not prohibited from
15 including certain wellness programs in premium rate
16 development; amending 36 O.S. 2011, Sections 7101 and
17 7102, which relate to the Perpetual Care Fund Act;
18 modifying statutory citations; amending 36 O.S. 2011,
19 Sections 7121, 7123, 7124, 7125, 7127, 7128 and 7129,
20 which relate to the Cemetery Merchandise Trust Act;
21 modifying statutory citations; modifying date certain
22 applications will be accepted; amending 40 O.S. 2011,
23 Section 500, which relates to nonsmoking as condition
24 of employment; providing employers not be prohibited
from offering incentives to employees to participate
in certain wellness programs; repealing 36 O.S. 2011,
Section 1657, which relates to confidential treatment
of certain examinations; repealing 36 O.S. 2011,
Section 6821, which relates to medical professional
liability rate setting; providing for codification;
and providing an effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1657.1 of Title 36, unless there
22 is created a duplication in numbering, reads as follow Section
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1 A. Documents, materials or other information in the possession
2 or control of the Insurance Department that are obtained by or
3 disclosed to the Commissioner or any other person in the course of
4 an examination or investigation made pursuant to Section 1656 of
5 Title 36 of the Oklahoma Statutes and all information reported
6 pursuant to paragraph 10 of subsection B of Section 1653 of Title 36
7 of the Oklahoma Statutes, Section 1654 of Title 36 of the Oklahoma
8 Statutes and Section 1655 of Title 36 of the Oklahoma Statutes shall
9 be confidential by law and privileged, shall not be subject to open
10 records or freedom of information requests, shall not be subject to
11 subpoena, and shall not be subject to discovery or admissible in
12 evidence in any private civil action. However, the Commissioner is
13 authorized to use the documents, materials or other information in
14 the furtherance of any regulatory or legal action brought as part of
15 the official duties of the Commissioner. The Commissioner shall not
16 otherwise make the documents, materials or other information public
17 without the prior written consent of the insurer to which it
18 pertains unless the Commissioner, after giving the insurer and its
19 affiliates who would be affected thereby notice and opportunity to
20 be heard, determines that the interest of the policyholders,
21 shareholders or the public will be served by the publication
22 thereof, in which event the Commissioner may publish all or any part
23 in such manner as may be deemed appropriate.

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1 B. Neither the Commissioner nor any person who received
2 documents, materials or other information while acting under the
3 authority of the Commissioner or with whom such documents, materials
4 or other information are shared pursuant to this section shall be
5 permitted or required to testify in any private civil action
6 concerning any confidential documents, materials or other
7 information subject to subsection A of this section.

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

10 1. May share documents, materials or other information,
11 including the confidential and privileged documents, materials or
12 information subject to subsection A of this section, with other
13 state, federal and international regulatory agencies, with the NAIC
14 and its affiliates and subsidiaries, and with state, federal and
15 international law enforcement authorities, provided that the
16 recipient agrees in writing to maintain the confidentiality and
17 privileged status of the document, material or other information,
18 and has verified in writing the legal authority to maintain
19 confidentiality;

20 2. Notwithstanding paragraph 1 of this subsection, the
21 Commissioner may only share confidential and privileged documents,
22 material or other information reported pursuant to Section 1654 of
23 Title 36 of the Oklahoma Statutes with commissioners of states

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1 having statutes or regulations substantially similar to subsection A
2 of this section and who have agreed in writing not to disclose such
3 information;

4 3. May receive documents, materials or other information,
5 including otherwise confidential and privileged documents, materials
6 or other information from the NAIC and its affiliates and
7 subsidiaries and from regulatory and law enforcement officials of
8 other foreign or domestic jurisdictions, and shall maintain as
9 confidential or privileged any document, material or other
10 information received with notice or the understanding that it is
11 confidential or privileged under the laws of the jurisdiction that
12 is the source of the document, material or other information; and

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

- 16 a. specify procedures and protocols regarding the
17 confidentiality and security of information shared
18 with the NAIC and its affiliates and subsidiaries
19 pursuant to this act, including procedures and
20 protocols for sharing by the NAIC with other state,
21 federal or international regulators,
- 22 b. specify that ownership of information shared with the
23 NAIC and its affiliates and subsidiaries pursuant to

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 this section remains with the Commissioner and the
2 NAIC's use of the information is subject to the
3 direction of the Commissioner,

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

8 d. require the NAIC and its affiliates and subsidiaries
9 to consent to intervention by an insurer in any
10 judicial or administrative action in which the NAIC
11 and its affiliates and subsidiaries may be required to
12 disclose confidential information about the insurer
13 shared with the NAIC and its affiliates and
14 subsidiaries pursuant to this section.

15 D. The sharing of information by the Commissioner pursuant to
16 this section shall not constitute a delegation of regulatory
17 authority or rulemaking, and the Commissioner is solely responsible
18 for the administration, execution and enforcement of the provisions
19 of this section.

20 E. No waiver of any applicable privilege or claim of
21 confidentiality in the documents, materials or other information
22 shall occur as a result of disclosure to the Commissioner under this
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1 section or as a result of sharing as authorized in subsection C of
2 this section.

3 F. Documents, materials or other information in the possession
4 or control of the NAIC pursuant to this section shall be
5 confidential by law and privileged, shall not be subject to open
6 records or freedom of information requests, shall not be subject to
7 subpoena, and shall not be subject to discovery or admissible in
8 evidence in any private civil action.

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

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

21 SECTION 3. AMENDATORY 36 O.S. 2011, Section 607, is
22 amended to read as follows:
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1 Section 607. A. To qualify for and hold authority to transact
2 insurance in Oklahoma an insurer must be otherwise in compliance
3 with the provisions of this Code and with its charter powers, and
4 must be an incorporated stock insurer, an incorporated mutual
5 insurer, a mutual benefit association, a nonprofit hospital service
6 and medical indemnity corporation, a farmers mutual fire insurance
7 association, a Lloyd's association or a reciprocal insurer, of the
8 same general type as may be formed as a domestic insurer under this
9 Code; except, that no foreign or alien insurer shall be authorized
10 to transact insurance in Oklahoma which does not maintain reserves
11 as required by Article 15 ~~(Assets and Liabilities)~~ of this Code
12 applicable to the kind or kinds of insurance transacted by such
13 insurer.

14 B. No certificate of authority or license to transact any kind
15 of insurance business in this state shall be issued, renewed or
16 continued in effect, to any domestic, foreign or alien insurance
17 company or other insurance entity which is owned or financially
18 controlled in whole or in part by another state of the United
19 States, or by a foreign government, or by any political subdivision
20 of either, or which is an agency of any such state, government or
21 subdivision.

22 C. Any insurance company or other insurance entity which is
23 owned or financially controlled in whole or in part by any federally
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1 recognized American Indian tribe or nation may apply for a
2 certificate of authority or license to transact insurance business
3 in this state and will not be subject to subsection B of this
4 section.

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

7 Section 1452. A. On or before June 1 of each year, all
8 licensed administrators shall file an annual report for the previous
9 calendar year. The report shall have been reviewed by a certified
10 public accountant who shall be independent of the administrator.
11 The report shall be subscribed and sworn to by the president and
12 attested to by the secretary or other proper officers substantiating
13 that the information contained in the report is true and factual
14 concerning each of the plans they administer which are governed
15 pursuant to the provisions of the Third-party Administrator Act.
16 The report shall include the name and address of each fund and a
17 statement of fund equity, paid claims by the covered unit, the
18 accumulated year-to-date paid claims, and the year-to-date reserve
19 status. Failure of any third-party administrator to execute and
20 file the annual reports as required by this section shall constitute
21 cause, after notice and opportunity for hearing, for censure,
22 suspension, or revocation of administrator licensure to transact
23 business in this state, or a civil penalty of not less than One

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1 Hundred Dollars (\$100.00) or more than One Thousand Dollars
2 (\$1,000.00) for each occurrence, or both censure, suspension, or
3 revocation and civil penalty.

4 B. If a licensed administrator has had no business or activity
5 in the past calendar year, has not administered any insurance plans
6 or business in the past calendar year and no funds are under the
7 licensed administrator's oversight and administration, then the
8 annual report described in subsection A of this section may be
9 waived upon application to the Commissioner by the administrator.
10 Upon applying for a waiver, the administrator shall state under oath
11 that the administrator has had no business, has not administered any
12 funds and the licensee's administration of claims has been dormant
13 for the past calendar year.

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

16 Section 1464. A. 1. To be licensed as a resident life or
17 accident and health insurance broker, an individual or legal entity
18 shall have been a licensed resident agent or agency in this state
19 continuously for at least two (2) years immediately prior to
20 application and such agent's license shall remain in effect in order
21 to maintain the broker's license. A nonresident life or accident
22 and health insurance broker applicant may receive a license in this
23 state if they are licensed and in good standing in their home state,
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~~Strike thru~~ language denotes deletion from present Statutes.

1 and if the home state of the applicant awards nonresident licenses
2 to residents of this state on the same basis.

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

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

14 B. 1. Every applicant for a life or accident and health
15 insurance broker's license shall file with the Commissioner and,
16 upon approval of the application, maintain in force while licensed
17 and for at least two (2) years following termination of the license,
18 evidence satisfactory to the Commissioner of an errors and omissions
19 policy covering the individual applicant in an amount of not less
20 than One Hundred Thousand Dollars (\$100,000.00) annual aggregate for
21 all claims made during the policy period, or covering the applicant
22 under a blanket liability policy insuring other life or accident and
23 health insurance agents or brokers in an amount of not less than

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1 Five Hundred Thousand Dollars (\$500,000.00) annual aggregate for all
2 claims made during the policy period.

3 2. Such policy shall be issued by an insurance company
4 authorized to do business in this state, shall be continuous in
5 form, and shall provide coverage acceptable to the Commissioner for
6 errors and omissions of the life or accident and health insurance
7 broker. The policy carrier shall notify the Commissioner of any
8 lapse or termination of errors and omissions coverage.

9 3. Failure to maintain a policy in force shall result in
10 automatic termination of licensure, and the license shall be
11 returned by its lawful custodian to the Commissioner for further
12 cancellation.

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

16 ~~2. The bond shall be continuous in form and in the amount of~~
17 ~~Five Thousand Dollars (\$5,000.00) total aggregate liability, or more~~
18 ~~if the Commissioner deems it necessary. The bond shall be~~
19 ~~conditioned upon full accounting and due payments to the person or~~
20 ~~company entitled thereto as an incident of life or accident and~~
21 ~~health insurance transactions and funds brought into the life or~~
22 ~~accident and health insurance broker's possession under his or her~~
23 ~~license.~~

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

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

13 ~~D.~~ Life or accident and health insurance brokers shall be
14 subject to the same violations, fines, and penalties as stated in
15 Section ~~1428~~ 1435.13 of this title. Violations of the provisions of
16 the Oklahoma Life, Accident and Health Insurance Broker Act may
17 result, after notice and hearing, in censure, suspension, or
18 revocation of license or a civil penalty of not less than One
19 Hundred Dollars (\$100.00), nor more than One Thousand Dollars
20 (\$1,000.00), or a combination thereof for each occurrence.

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

23 Section 1522. As used in this act:

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

4 2. "Corrective order" means an order issued by the Commissioner
5 specifying corrective actions which the Commissioner has determined
6 are required;

7 3. "Domestic insurer" means any insurance company domiciled in
8 this state;

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

12 5. "Life or health insurer" means any insurance company with a
13 certificate of authority to write life or health insurance, or a
14 licensed property and casualty insurer writing only accident and
15 health insurance;

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

20 7. "NAIC" means the National Association of Insurance
21 Commissioners;

22 8. "Property and casualty insurer" means any insurance company
23 with a certificate of authority to write property or casualty
24

1 insurance, and shall not include monoline mortgage guaranty
2 insurers, financial guaranty insurers, or title insurers;

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

4 10. "RBC Instructions" means the RBC Report including risk-
5 based capital instructions adopted by the NAIC, as adopted by the
6 Commissioner by rule, and any amendments thereto adopted by the
7 Commissioner by rule;

8 11. "RBC Level" means an insurer's Company Action Level RBC,
9 Regulatory Action Level RBC, Authorized Control Level RBC, or
10 Mandatory Control Level RBC, where:

11 a. "Company Action Level RBC" means, with respect to any
12 insurer, the product of 2.0 and its Authorized Control
13 Level RBC,

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

16 c. "Authorized Control Level RBC" means the number
17 determined under the risk-based capital formula in
18 accordance with RBC Instructions, and

19 d. "Mandatory Control Level RBC" means the product of
20 0.70 and the Authorized Control Level RBC;

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

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

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

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

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

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

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

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

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

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

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

- 20 a. asset risk,
- 21 b. credit risk,
- 22 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
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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:
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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:
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1 1. Within forty-five (45) days of the Company Action Level
2 Event; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 1. With respect to a life insurer or fraternal benefit society,
19 the Commissioner may take the actions necessary to place the insurer
20 under regulatory control under Article 18 or 19 of the Insurance
21 Code. In that event, the Mandatory Control Level Event is deemed
22 sufficient grounds for the Commissioner to take action under Article
23 18 or 19 of the Insurance Code, and the Commissioner shall have the
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1 rights, powers, and duties with respect to the insurer which are set
2 forth in Article 18 or 19 of the Insurance Code. If the
3 Commissioner takes actions pursuant to an Adjusted RBC Report, the
4 insurer shall be entitled to notice and opportunity for a hearing as
5 required by the provisions of Article 18 or 19 of the Insurance
6 Code; and

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

21 SECTION 10. AMENDATORY 36 O.S. 2011, Section 1651, is
22 amended to read as follows:
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1 Section 1651. As used in this act, the following terms shall
2 have the respective meanings hereinafter set forth, unless the
3 context shall otherwise require:

4 ~~(a) Affiliate.~~ 1. An "affiliate" of, or person "affiliated"
5 with, the specific person, is a person that directly or indirectly
6 through one or more intermediaries, controls, or is controlled by,
7 or is under common control with, the person specified;i

8 ~~(b) Commissioner.~~ 2. The term "Commissioner" shall mean the
9 Insurance Commissioner, ~~his~~ the deputies, or the Insurance
10 Department, as appropriate;i

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

5 ~~(d) Insurance Holding Company System.~~ 4. "Enterprise risk"
6 shall mean any activity, circumstance, event or series of events
7 involving one or more affiliates of an insurer that, if not remedied
8 promptly, is likely to have a material adverse effect upon the
9 financial condition or liquidity of the insurer or its insurance
10 holding company system as a whole, including, but not limited to,
11 anything that would cause the insurer's risk-based capital to fall
12 into company action level as set forth in Section 1524 of this title
13 or would cause the insurer to be in hazardous financial condition as
14 specified by the Insurance Commissioner by rule;

15 5. An "insurance holding company system" consists of two or
16 more affiliated persons, one or more of which is an insurer-;

17 ~~(e) Insurer. The term "insurer"~~ 6. "Insurer" shall have the
18 same meaning as set forth in ~~36 Oklahoma Statutes,~~ Section 103 of
19 this title, except that it shall not include agencies, authorities
20 or instrumentalities of the United States, its possessions and
21 territories, the Commonwealth of Puerto Rico, the District of
22 Columbia, or a state or political subdivision of a state-;

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

7 ~~(g) Securityholder.~~ 8. A "securityholder" of a specified person
8 is one who owns any security of such person, including common stock,
9 preferred stock, debt obligations, and any other security
10 convertible into or evidencing the right to acquire any of the
11 foregoing.;

12 ~~(h) Subsidiary.~~ 9. A "subsidiary" of a specified person is an
13 affiliate controlled by such person directly, or indirectly, through
14 one or more intermediaries.;

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

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

20 Section 1654. ~~(a) Registration.~~ A. Every insurer which is
21 authorized to do business in this state and which is a member of an
22 insurance holding company system and every individual who controls
23 an insurer shall annually register with the Insurance Commissioner,
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1 except a foreign insurer subject to disclosure requirements and
2 standards adopted by statute or regulation in the jurisdiction of
3 its domicile which are substantially similar to those contained in
4 this section. Any insurer which is subject to registration under
5 this section shall register thirty (30) days after it becomes
6 subject to registration, unless the Commissioner for good cause
7 shown extends the time for registration, and then within such
8 extended time. The Commissioner may require any authorized insurer
9 which is a member of a holding company system which is not subject
10 to registration under this section to furnish a copy to the
11 Commissioner of the registration statement or other information
12 filed by such insurance company with the insurance regulatory
13 authority of domiciliary jurisdiction.

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

18 ~~(i) the~~

19 1. The capital structure, general financial condition,
20 ownership and management of the insurer and any person controlling
21 the insurer;

22 ~~(ii) the~~

23

24

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

3 ~~(iii)~~ the

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

7 ~~(1)~~ a. loans, other investments or purchases, sales or
8 exchanges of securities of the affiliates by the
9 insurer or of the insurer by its affiliates~~†~~L

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

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

12 ~~(4)~~ d. guarantees or undertakings for the benefit of an
13 affiliate which result in an actual contingent
14 exposure of the insurer's assets to liability, other
15 than insurance contracts entered into in the ordinary
16 course of the insurer's business~~†~~L

17 ~~(5)~~ e. all management and service contracts and all cost-
18 sharing arrangements~~†~~L

19 ~~(6)~~ f. reinsurance agreements covering all or substantially
20 all of one or more lines of insurance of the ceding
21 company~~†~~L

22 ~~(7)~~ g. dividends and other distributions to shareholders~~†~~L
23 and

24

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

2 ~~(iv)~~ other

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

7 ~~(v)~~ any

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

11 ~~(c) Materiality.~~ C. No information need be disclosed on the
12 registration statement filed pursuant to subsection ~~(b)~~ B of this
13 section if such information is not material for the purposes of this
14 section. Unless the Commissioner by rule, regulation or order
15 provides otherwise, sales purchases, exchanges, loans or extensions
16 of credit, or investments, involving one-half of one percent (1/2 of
17 1%) or less of an insurer's admitted assets as of ~~the 31st day of~~
18 December 31 next preceding shall not be deemed material for purposes
19 of this section.

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

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

10 ~~(f) Consolidated Filing.~~ F. The Commissioner may require two or
11 more affiliated insurers subject to registration hereunder to file a
12 consolidated registration statement or consolidated reports amending
13 their consolidated registration statement, so long as such
14 consolidated filings correctly reflect the condition of and
15 transactions between such persons.

16 ~~(g) Alternative Registration.~~ G. The Commissioner may allow an
17 insurer which is authorized to do business in this state and which
18 is a part of an insurance holding company system to register on
19 behalf of any affiliated insurer which is required to register under
20 subsection ~~(a)~~ A of this section and to file all information and
21 material required to be filed under ~~Section~~ Sections 1651 ~~et seq.~~
22 through 1662 of this title.

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

5 ~~(i) Disclaimer.~~ I. Any person may file with the Commissioner a
6 disclaimer of affiliation with any authorized insurer or such a
7 disclaimer may be filed by such insurer or any member of an
8 insurance holding company system. The disclaimer shall fully
9 disclose all material relationships and bases for affiliation
10 between such person and such insurer as well as the basis for
11 disclaiming such affiliation. After a disclaimer has been filed,
12 the insurer shall be relieved of any duty to register or report
13 under this section which may arise out of the insurer's relationship
14 with such person unless and until the Commissioner disallows such a
15 disclaimer. The Commissioner shall disallow such a disclaimer only
16 after furnishing all parties in interest with notice and opportunity
17 to be heard and after making specific findings of fact to support
18 such disallowance.

19 ~~(j) Summary of Registration Statement.~~ J. All registration
20 statements shall contain a summary outlining all items in the
21 current registration statement representing changes from the prior
22 registration statement.

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

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

17 M. Any person within an insurance holding company system
18 subject to registration shall be required to provide complete and
19 accurate information to an insurer where such information is
20 reasonably necessary to enable the insurer to comply with the
21 provisions of this article.

22 ~~(m) Violations.~~ N. The failure to file a registration
23 statement, any summary of the registration statement thereto, or any
24

1 additional information required by this section within the time
2 specified for such filing shall be a violation of this section.

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

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

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

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

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

17 Section 6125. A. 1. The organization may retain from the
18 first funds collected, the first ten percent (10%) of the purchase
19 price of all contracts issued pursuant to paragraph 1 of subsection
20 B of this section. Thereafter, one hundred percent (100%) of all
21 funds collected pursuant to the provisions of contracts for prepaid
22 funeral benefits, except for outer enclosures as defined by the
23 Funeral Services Licensing Act, shall be placed in interest-bearing
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1 investments authorized by Article 16 of the Insurance Code, except
2 to the extent the Insurance Commissioner may determine that a
3 particular asset may be inappropriate for investment for prepaid
4 funeral benefits.

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

12 3. The funds required to be deposited pursuant to paragraphs 1
13 and 2 of this subsection shall be deposited within ten (10) days
14 after the collection of the funds and shall be held in a trust fund
15 in this state for the use, benefit, and protection of purchasers of
16 contracts for prepaid funeral benefits. Nothing contained within
17 this section shall be construed to prohibit an organization
18 authorized to accept prepaid funds from transferring the funds held
19 in trust from one trust depository to another if notice of the
20 transfer is given to the Insurance Commissioner within ten (10) days
21 before the transfer and the organization transferring the funds
22 remains the designated trustor. This subsection shall not affect
23 funds invested prior to November 1, 1988.

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1 B. An organization authorized to accept prepaid funds shall be
2 authorized to provide purchasers with a choice of either of the
3 following types of contracts:

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

17 2. A contract establishing a fund for prepaid funeral benefits.
18 The provisions of this type of contract shall require an initial
19 minimum deposit of Twenty-five Dollars (\$25.00) and shall grant the
20 purchaser the right to add to the fund at the discretion of the
21 purchaser. The provisions of this contract shall provide that the
22 funds accumulated shall apply to the cost of the funeral services
23 and merchandise selected and that any funds remaining unused shall
24

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

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

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

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

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

19 E. A purchaser of either of the types of contracts authorized
20 by the provisions of this section may withdraw the net value of the
21 contract by signing a statement requesting the withdrawal. The
22 organization shall retain in its files a copy of the statement
23 requesting the withdrawal. Withdrawal of funds deposited pursuant
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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
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1 organization and which were accumulated as interest. All funds
2 deposited pursuant to the provisions of a contract authorized by the
3 provisions of this section and deposited pursuant to the terms of
4 this section and the interest earned on the funds shall be exempt
5 from attachment, garnishment, execution, and the claims of
6 creditors, receivers, or trustees in bankruptcy, until the time the
7 funds have been withdrawn from the trust account and paid to the
8 organization or refunded to the purchaser.

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

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

22 K. No organization holding a permit issued pursuant to the
23 provisions of Sections 6121 and 6124 of this title shall accept any
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1 funds except pursuant to the provisions of a contract for prepaid
2 funeral or burial benefits authorized by the provisions of Sections
3 6121 through 6136.18 of this title, and no organization shall accept
4 funds from a purchaser in excess of the contracted price of prepaid
5 funeral or burial benefits purchased.

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

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

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

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

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

8 2. All accrued benefits under the policy shall become available
9 for disbursement to the organization upon the death of the
10 beneficiary of the prepaid funeral contract;

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

13 4. The disbursement of life insurance proceeds to the
14 organization shall constitute payment in full to the organization
15 for the services and merchandise contracted for.

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

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

23
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

4 3. After November 1, 2009, all price lists reflecting the
5 actual retail cost of funeral services and merchandise used at the
6 time of the delivery of services shall be retained for a period of
7 at least ~~three (3)~~ six (6) years.

8 D. A violation of this section shall constitute a misdemeanor
9 and shall be punished by a fine of not less than One Hundred Dollars
10 (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by
11 imprisonment in the county jail for not less than one (1) month nor
12 more than six (6) months, or by both such fine and imprisonment.

13 SECTION 16. AMENDATORY 36 O.S. 2011, Section 6217, as
14 last amended by Section 14, Chapter 44, O.S.L. 2012 (36 O.S. Supp.
15 2012, Section 6217), is amended to read as follows:

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

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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

8 The Insurance Department may use one or more of the following to
9 review and provide a nonbinding recommendation to the Insurance
10 Commissioner on approval or disapproval of courses and providers of
11 continuing education:

12 1. Employees of the Insurance Commissioner;

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

16 3. An independent service whose normal business activities
17 include the review and approval of continuing education courses and
18 providers. The Commissioner may negotiate agreements with such
19 independent service to review documents and other materials
20 submitted for approval of courses and providers and present the
21 Commissioner with its nonbinding recommendation. The Commissioner
22 may require such independent service to collect the fee charged by
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1 the independent service for reviewing materials provided for review
2 directly from the course providers.

3 C. An adjuster who, during the time period prior to renewal,
4 participates in an approved professional designation program shall
5 be deemed to have met the biennial requirement for continuing
6 education. Each course in the curriculum for the program shall
7 total a minimum of ~~twenty (20)~~ twenty-four (24) hours. Each
8 approved professional designation program included in this section
9 shall be reviewed for quality and compliance every three (3) years
10 in accordance with standardized criteria promulgated by rule.
11 Continuation of approved status is contingent upon the findings of
12 the review. The list of professional designation programs approved
13 under this subsection shall be made available to producers and
14 providers annually.

15 D. The Insurance Department may promulgate rules providing that
16 courses or programs offered by professional associations shall
17 qualify for presumptive continuing education credit approval. The
18 rules shall include standardized criteria for reviewing the
19 professional associations' mission, membership, and other relevant
20 information, and shall provide a procedure for the Department to
21 disallow a presumptively approved course. Professional association
22 courses approved in accordance with this subsection shall be
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1 reviewed every three (3) years to determine whether they continue to
2 qualify for continuing education credit.

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

7 F. 1. Each provider of continuing education shall, after
8 approval by the Commissioner, submit an annual fee. A fee may be
9 assessed for each course submission at the time it is first
10 submitted for review and upon submission for renewal at expiration.
11 Annual fees and course submission fees shall be set forth as a rule
12 by the Commissioner. The fees are payable to the Insurance
13 Commissioner and shall be deposited in the State Insurance
14 Commissioner Revolving Fund, created in Section 307.3 of this title,
15 for the purposes of fulfilling and accomplishing the conditions and
16 purposes of the Oklahoma Producer Licensing Act and the Insurance
17 Adjusters Licensing Act. Public-funded educational institutions,
18 federal agencies, nonprofit organizations, not-for-profit
19 organizations and Oklahoma state agencies shall be exempt from this
20 subsection.

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

5 G. Subject to the right of the Commissioner to suspend, revoke,
6 or refuse to renew a license of an adjuster, any such license may be
7 renewed by filing on the form prescribed by the Commissioner on or
8 before the expiration date a written request by or on behalf of the
9 licensee for such renewal and proof of completion of the continuing
10 education requirement set forth in subsection B of this section,
11 accompanied by payment of the renewal fee.

12 H. If the request, proof of compliance with the continuing
13 education requirement and fee for renewal of a license as an
14 adjuster are filed with the Commissioner prior to the expiration of
15 the existing license, the licensee may continue to act pursuant to
16 said license, unless revoked or suspended prior to the expiration
17 date, until the issuance of a renewal license or until the
18 expiration of ten (10) days after the Commissioner has refused to
19 renew the license and has mailed notice of said refusal to the
20 licensee. Any request for renewal filed after the date of
21 expiration may be considered by the Commissioner as an application
22 for a new license.

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

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

6 1. The rate manual developed for use by a small employer
7 carrier shall be filed and approved by the Insurance Commissioner
8 prior to use. Any changes to the rate manual shall be filed and
9 approved by the Insurance Commissioner prior to use. Every filing
10 shall be made not less than thirty (30) days prior to the date the
11 small employer carrier intends to implement the rates. The rate
12 manual so filed shall be deemed approved upon expiration of the
13 thirty-day waiting period unless, prior to the end of the period, it
14 has been affirmatively approved or disapproved by order of the
15 Commissioner. Approval of a rate manual by the Commissioner shall
16 constitute a waiver of any unexpired portion of the thirty-day
17 waiting period. The Commissioner may extend the period to approve
18 or disapprove a rate manual by not more than an additional thirty
19 (30) days by giving notice of such extension before expiration of
20 the initial thirty-day period. At the expiration of an extended
21 period, the rate filing shall be deemed approved unless otherwise
22 approved or disapproved by the Commissioner. The Commissioner may

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1 at any time, after notice and for cause shown, withdraw approval of
2 a filed rate;

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

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

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

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

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

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

3 c. any adjustment due to change in coverage or change in
4 the case characteristics of the small employer, as
5 determined from the rate manual for the class of
6 business of the small employer carrier;

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

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

16 8. In the case of health benefit plans issued prior to the
17 effective date of the Small Employer Health Insurance Reform Act, a
18 premium rate for a rating period may exceed the ranges set forth in
19 paragraphs 3 and 4 of this subsection for a period of three (3)
20 years following the effective date of the Small Employer Health
21 Insurance Reform Act. In such case, the percentage increase in the
22 premium rate charged to a small employer for a new rating period
23 shall not exceed the sum of the following:

- 1 a. the percentage change in the new business premium rate
2 measured from the first day of the prior rating period
3 to the first day of the new rating period. In the
4 case of a health benefit plan into which the small
5 employer carrier is no longer enrolling new small
6 employers, the small employer carrier shall use the
7 percentage change in the base premium rate, provided
8 that the change does not exceed, on a percentage
9 basis, the change in the new business premium rate for
10 the most similar health benefit plan into which the
11 small employer carrier is actively enrolling new small
12 employers, and
- 13 b. any adjustment due to change in coverage or change in
14 the case characteristics of the small employer, as
15 determined from the rate manual of the carrier for the
16 class of business;

17 9. Small employer carriers shall:

- 18 a. apply rating factors, including case characteristics,
19 consistently with respect to all small employers in a
20 class of business. Rating factors shall produce
21 premiums for identical groups within the same class of
22 business which differ only by amounts attributable to
23 plan design and do not reflect differences due to
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1 claims experience, health status and duration of
2 coverage, and

- 3 b. treat all health benefit plans issued or renewed in
4 the same calendar month as having the same rating
5 period;

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

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

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

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

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

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

21 SECTION 18. AMENDATORY 36 O.S. 2011, Section 7101, is
22 amended to read as follows:
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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
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1 price of that particular type of burial space as sold by the
2 cemetery;

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

6 5. "Income", except as provided in subsection D of Section ~~163~~
7 7103 of this title, means the return derived from the principal
8 amount;

9 6. "Insurance Commissioner" or "Commissioner" means the
10 Insurance Commissioner of the State of Oklahoma; and

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

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

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

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

21 Section 7123. A. Any organization which shall accept money or
22 anything of value for cemetery merchandise pursuant to a prepaid
23 cemetery merchandise contract shall first obtain a permit from the
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1 Insurance Commissioner authorizing the transaction of this type of
2 business before entering into the contract. It shall be unlawful to
3 sell any prepaid cemetery merchandise unless the organization holds
4 a valid, current permit at the time the contract is made. The
5 organization shall not be entitled to enforce a contract made in
6 violation of the Cemetery Merchandise Trust Act, but the purchaser,
7 or the heirs or legal representative of the purchaser, shall be
8 entitled to recover triple the amounts paid to the organization with
9 interest thereon at the rate of six percent (6%) per annum under any
10 contract made in violation of this act.

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

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

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

16 B. An organization aggrieved by an action or order of the
17 Commissioner may appeal the action or order to the Oklahoma
18 Insurance Department in accordance with Article II of the
19 Administrative Procedures Act.

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

4 D. Unless sold pursuant to a permit issued under Section 6121
5 of ~~Title 36 of the Oklahoma Statutes~~ this title, no organization in
6 Oklahoma may sell, in advance of actual need, the services of
7 opening or closing a burial space, as defined in Section ~~162~~ 7102 of
8 this title, unless the organization deposits in trust no less than
9 sixty-five percent (65%) of the principal amount of the services
10 sold, or maintains a surety bond for the full principal amount of
11 the services sold. Any contracts for services sold before July 1,
12 2010, remain enforceable by the purchaser against the seller.

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

15 Section 7125. A. Each organization desiring to accept money or
16 anything of value for prepaid cemetery merchandise shall file an
17 application for a permit with the Insurance Commissioner, and shall
18 at the time of filing the application pay one initial filing fee of
19 Two Hundred Dollars (\$200.00). The Commissioner shall issue a
20 permit upon the receipt of the application and payment of the filing
21 fee, and upon making a finding that the applicant has complied with
22 the rules as may be established pursuant to the Cemetery Merchandise
23 Trust Act by the Commissioner. All applications shall be signed by
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1 the organization requesting the permit, and shall contain a
2 statement that the applicant will comply with all the requirements
3 as established pursuant to the Cemetery Merchandise Trust Act. All
4 permits shall expire on ~~the 15th day of~~ March 15 of the year
5 following the year the permit is first issued, unless renewed.
6 Permits shall be renewed for a period not to exceed the succeeding
7 March 15 upon the payment of a renewal fee of Two Hundred Dollars
8 (\$200.00). Late application for renewal of a permit shall require a
9 fee of double the renewal fee. No application for renewal of a
10 permit shall be accepted after ~~March~~ April 15 of each year. Late
11 applicants shall be required to reapply as if they were a new
12 applicant, and pay an application fee equal to an amount that is
13 double the renewal fee in addition to any fines that may have been
14 imposed with respect to an expired permit.

15 B. The Commissioner may cancel a permit or refuse to issue a
16 permit or refuse to issue a renewal of a permit for failure to
17 comply with any provisions of the Cemetery Merchandise Trust Act or
18 any rules promulgated thereto by the Commissioner, after reasonable
19 notice to the permittee and opportunity for hearing before the
20 Commissioner in accordance with Article II of the Administrative
21 Procedures Act.

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

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

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

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

12 B. The surety bond shall be made payable to the State of
13 Oklahoma for the benefit of the Insurance Commissioner and all
14 purchasers of prepaid cemetery merchandise. The bond shall be
15 approved by the Commissioner.

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

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

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

6 Section 7128. Each organization shall file an annual report
7 with the Insurance Commissioner on or before March 15 of each year
8 in a form as the Commissioner may require, showing the name of the
9 financial institution holding the cemetery merchandise trust fund
10 and the amount of the trust fund under each contract on the
11 preceding December 31, and also showing the method of determination
12 of the wholesale costs made pursuant to Section ~~306~~ 7126 of this
13 title. The total required deposits to the cemetery merchandise
14 trust fund during the year shall also be reported. Each cemetery is
15 responsible for maintaining satisfactory books and records, which
16 will adequately justify all information contained in the annual
17 report required by this section. Any organization which has
18 discontinued the sale of prepaid cemetery merchandise, but which
19 still has funds deposited in a cemetery merchandise trust fund or
20 surety, shall not be required to obtain a renewal of its permit, but
21 it shall continue to make annual reports to the Commissioner until
22 all the funds have been disbursed pursuant to the Cemetery
23 Merchandise Trust Act. A filing fee of Two Hundred Dollars

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1 (\$200.00) shall accompany each report. If any officer of any
2 organization fails or refuses to file an annual report, or fails or
3 refuses to cause it to be filed within thirty (30) days after the
4 organization has been notified by the Commissioner that the report
5 is due and has not been received, the officer shall be guilty of a
6 misdemeanor and shall be punished as prescribed in Section ~~315~~ 7134
7 of this title.

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

10 Section 7129. The Insurance Commissioner may examine each
11 organization so as to approve the determination by the organization
12 of the wholesale costs made pursuant to Section ~~306~~ 7126 of this
13 title. The examination shall be conducted pursuant to Sections
14 309.1 through 309.7 of ~~Title 36 of the Oklahoma Statutes~~ this title
15 and the cost of the examination shall be paid by the cemetery owner.
16 The cost of the examination shall be billed directly to the cemetery
17 owner by the examiner.

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

20 Section 500. A. It shall be unlawful for an employer to:
21 1. Discharge any individual, or otherwise disadvantage any
22 individual, with respect to compensation, terms, conditions or
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1 privileges of employment because the individual is a nonsmoker or
2 smokes or uses tobacco products during nonworking hours; or

3 2. Require as a condition of employment that any employee or
4 applicant for employment abstain from smoking or using tobacco
5 products during nonworking hours.

6 B. Nothing in this section shall prohibit an employer from
7 offering incentives to an employee to participate in wellness
8 programs, including but not limited to smoking cessation programs,
9 in conjunction with the employer providing the employee health
10 insurance coverage.

11 SECTION 28. REPEALER 36 O.S. 2011, Section 1657, is
12 hereby repealed.

13 SECTION 29. REPEALER 36 O.S. 2011, Section 6821, is
14 hereby repealed.

15 SECTION 30. This act shall become effective November 1, 2013.

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17 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/18/2013 - DO
18 PASS, As Amended and Coauthored.

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