

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1512

By: Mulready

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5
6 AS INTRODUCED

7 An Act relating to insurance; requiring confidential
8 treatment of certain examinations; disallowing
9 certain persons from testifying in certain actions;
10 authorizing the Insurance Commissioner to share
11 certain information; amending 36 O.S. 2011, Section
12 307, which relates to Insurance Commissioner duties;
13 providing for statutory and rule citations; amending
14 36 O.S. 2011, Section 607, which relates to
15 qualifications to transact insurance; providing
16 exemption from prohibition from issuing certain
17 insurance license or certificate to certain tribal
18 governments; amending 36 O.S. 2011, Section 1435.15,
19 which relates to insurance producers agents; deleting
20 requirement that appointment fee be a biennial fee;
21 amending 36 O.S. 2011, Section 1464, which relates to
22 insurance broker licensure; removing certain bond
23 requirements; amending 36 O.S. 2011, Sections 1522,
24 1523, 1524 and 1527, which relate to the Risk-based
Capital for Insurers Act; including a fraternal
benefit society in certain definitions; including
certain references to fraternal benefit society;
amending 36 O.S. 2011, Section 1651, which relates to
subsidiaries of insurers; adding certain definition;
amending 36 O.S. 2011, Section 1654, which relates to
registration of insurers; requiring the filing of a
certain annual report; amending 36 O.S. 2011, Section
4030.9, which relates to standard nonforfeiture law
for individual deferred annuities; modifying the
maturity date of certain contracts; amending 36 O.S.
2011, Sections 6123, 6125 and 6125.2, which relate to
prepaid funeral services; extending period certain
statements and lists must be kept on file; amending
36 O.S. 2011, Section 6217, as last amended by
Section 14, Chapter 44, O.S.L. 2012 (36 O.S. Supp.

1 2012, Section 6217), which relates to insurance
2 adjuster licensing; increasing hours for certain
3 required continuing education; amending 36 O.S. 2011,
4 Section 6515, which relates to the Small Employer
5 Health Insurance Reform Act; providing employers are
6 not prohibited from including certain wellness
7 programs in premium rate development; amending 36
8 O.S. 2011, Sections 7101 and 7102, which relate to
9 the Perpetual Care Fund Act; modifying statutory
10 citations; amending 36 O.S. 2011, Sections 7121,
11 7123, 7124, 7125, 7127, 7128 and 7129, which relate
12 to the Cemetery Merchandise Trust Act; modifying
13 statutory citations; modifying date certain
14 applications will be accepted; amending 40 O.S. 2011,
15 Section 500, which relates to nonsmoking as condition
16 of employment; providing employers not be prohibited
17 from offering incentives to employees to participate
18 in certain wellness programs; repealing 36 O.S. 2011,
19 Section 1657, which relates to confidential treatment
20 of certain examinations; repealing 36 O.S. 2011,
21 Section 6821, which relates to medical professional
22 liability rate setting; providing for codification;
23 and providing an effective date.
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

1 pursuant to paragraph 10 of subsection B of Section 1653 of Title 36
2 of the Oklahoma Statutes, Section 1654 of Title 36 of the Oklahoma
3 Statutes and Section 1655 of Title 36 of the Oklahoma Statutes shall
4 be confidential by law and privileged, shall not be subject to open
5 records or freedom of information requests, shall not be subject to
6 subpoena, and shall not be subject to discovery or admissible in
7 evidence in any private civil action. However, the Commissioner is
8 authorized to use the documents, materials or other information in
9 the furtherance of any regulatory or legal action brought as part of
10 the official duties of the Commissioner. The Commissioner shall not
11 otherwise make the documents, materials or other information public
12 without the prior written consent of the insurer to which it
13 pertains unless the Commissioner, after giving the insurer and its
14 affiliates who would be affected thereby notice and opportunity to
15 be heard, determines that the interest of the policyholders,
16 shareholders or the public will be served by the publication
17 thereof, in which event the Commissioner may publish all or any part
18 in such manner as may be deemed appropriate.

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

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

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

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

22 3. May receive documents, materials or other information,
23 including otherwise confidential and privileged documents, materials
24 or other information from the NAIC and its affiliates and

1 subsidiaries and from regulatory and law enforcement officials of
2 other foreign or domestic jurisdictions, and shall maintain as
3 confidential or privileged any document, material or other
4 information received with notice or the understanding that it is
5 confidential or privileged under the laws of the jurisdiction that
6 is the source of the document, material or other information; and

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

- 10 a. specify procedures and protocols regarding the
11 confidentiality and security of information shared
12 with the NAIC and its affiliates and subsidiaries
13 pursuant to this act, including procedures and
14 protocols for sharing by the NAIC with other state,
15 federal or international regulators,
- 16 b. specify that ownership of information shared with the
17 NAIC and its affiliates and subsidiaries pursuant to
18 this section remains with the Commissioner and the
19 NAIC's use of the information is subject to the
20 direction of the Commissioner,
- 21 c. require prompt notice to be given to an insurer whose
22 confidential information in the possession of the NAIC
23 pursuant to this section is subject to a request or
24 subpoena to the NAIC for disclosure or production, and

1 d. require the NAIC and its affiliates and subsidiaries
2 to consent to intervention by an insurer in any
3 judicial or administrative action in which the NAIC
4 and its affiliates and subsidiaries may be required to
5 disclose confidential information about the insurer
6 shared with the NAIC and its affiliates and
7 subsidiaries pursuant to this section.

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

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

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

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

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

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

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

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

1 applicable to the kind or kinds of insurance transacted by such
2 insurer.

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

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

17 SECTION 4. AMENDATORY 36 O.S. 2011, Section 1435.15, is
18 amended to read as follows:

19 Section 1435.15 A. An insurance producer shall not act as an
20 agent of an insurer unless the insurance producer becomes an
21 appointed agent of that insurer. An insurance producer who is not
22 acting as an agent of an insurer is not required to become
23 appointed.

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1 B. To appoint a producer as its agent, the appointing insurer,
2 or an authorized representative of the insurer, shall file, in a
3 format approved by the Insurance Commissioner, a notice of
4 appointment within fifteen (15) days from the date the agency
5 contract is executed or the first insurance application is
6 submitted. For purposes of this section, an "authorized
7 representative of the insurer" means a person or entity licensed by
8 the Insurance Commissioner pursuant to the laws of this state who is
9 authorized in writing by the appointing insurer to file appointments
10 for the appointing insurer. An insurer or authorized representative
11 of an insurer may also elect to appoint a producer to all or some
12 insurers within the insurer's holding company system or group by the
13 filing of a single appointment request.

14 C. Upon receipt of the notice of appointment, the Insurance
15 Commissioner shall verify within a reasonable time not to exceed
16 thirty (30) days that the insurance producer is eligible for
17 appointment. If the insurance producer is determined to be
18 ineligible for appointment, the Insurance Commissioner shall notify
19 the insurer and the authorized representative of the insurer within
20 five (5) days of its determination.

21 D. An insurer or authorized representative of an insurer shall
22 pay ~~a biennial~~ an appointment fee, in the amount and method of
23 payment set forth in Section 1435.23 of this title, for each
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1 insurance producer appointed by the insurer for each insurer for
2 which the insurance producer is appointed.

3 E. It shall be unlawful for any insurer to discriminate among
4 or between the insurance producers it has appointed. Any person or
5 company convicted of violating the provisions of this section shall
6 be guilty of a misdemeanor and shall be punished by the imposition
7 of a fine of not more than Five Hundred Dollars (\$500.00) or
8 imprisonment in the county jail for not less than six (6) months nor
9 more than one (1) year, or be punished by both said fine and
10 imprisonment.

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

13 Section 1464. A. 1. To be licensed as a resident life or
14 accident and health insurance broker, an individual or legal entity
15 shall have been a licensed resident agent or agency in this state
16 continuously for at least two (2) years immediately prior to
17 application and such agent's license shall remain in effect in order
18 to maintain the broker's license. A nonresident life or accident
19 and health insurance broker applicant may receive a license in this
20 state if they are licensed and in good standing in their home state,
21 and if the home state of the applicant awards nonresident licenses
22 to residents of this state on the same basis.

23 2. Any applicant for a broker's license shall have no Oklahoma
24 Insurance Code violations or record with the Insurance Commissioner

1 or an insurance regulatory body of another state and shall not have
2 been convicted, or pleaded guilty or nolo contendere to any felony
3 or to a misdemeanor involving moral turpitude or dishonesty.

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

10 B. 1. Every applicant for a life or accident and health
11 insurance broker's license shall file with the Commissioner and,
12 upon approval of the application, maintain in force while licensed
13 and for at least two (2) years following termination of the license,
14 evidence satisfactory to the Commissioner of an errors and omissions
15 policy covering the individual applicant in an amount of not less
16 than One Hundred Thousand Dollars (\$100,000.00) annual aggregate for
17 all claims made during the policy period, or covering the applicant
18 under a blanket liability policy insuring other life or accident and
19 health insurance agents or brokers in an amount of not less than
20 Five Hundred Thousand Dollars (\$500,000.00) annual aggregate for all
21 claims made during the policy period.

22 2. Such policy shall be issued by an insurance company
23 authorized to do business in this state, shall be continuous in
24 form, and shall provide coverage acceptable to the Commissioner for

1 errors and omissions of the life or accident and health insurance
2 broker. The policy carrier shall notify the Commissioner of any
3 lapse or termination of errors and omissions coverage.

4 3. Failure to maintain a policy in force shall result in
5 automatic termination of licensure, and the license shall be
6 returned by its lawful custodian to the Commissioner for further
7 cancellation.

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

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

19 ~~3. The bond shall remain in force and effect until the surety~~
20 ~~is released from liability by the Commissioner or until the bond is~~
21 ~~canceled by the surety. The surety may cancel the bond and be~~
22 ~~released from further liability thereunder upon thirty (30) days of~~
23 ~~written notice, in advance, to the Commissioner. Said cancellation~~
24 ~~shall not affect any liability incurred or accrued thereunder before~~

1 ~~the termination of the thirty-day period. Upon receipt of any~~
2 ~~notice of cancellation, the Commissioner shall immediately notify~~
3 ~~the licensee.~~

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

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

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

17 Section 1522. As used in this act:

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

21 2. "Corrective order" means an order issued by the Commissioner
22 specifying corrective actions which the Commissioner has determined
23 are required;

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1 3. "Domestic insurer" means any insurance company domiciled in
2 this state;

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

6 5. "Life or health insurer" means any insurance company with a
7 certificate of authority to write life or health insurance, or a
8 licensed property and casualty insurer writing only accident and
9 health insurance;

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

14 7. "NAIC" means the National Association of Insurance
15 Commissioners;

16 8. "Property and casualty insurer" means any insurance company
17 with a certificate of authority to write property or casualty
18 insurance, and shall not include monoline mortgage guaranty
19 insurers, financial guaranty insurers, or title insurers;

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

21 10. "RBC Instructions" means the RBC Report including risk-
22 based capital instructions adopted by the NAIC, as adopted by the
23 Commissioner by rule, and any amendments thereto adopted by the
24 Commissioner by rule;

1 11. "RBC Level" means an insurer's Company Action Level RBC,
2 Regulatory Action Level RBC, Authorized Control Level RBC, or
3 Mandatory Control Level RBC, where:

4 a. "Company Action Level RBC" means, with respect to any
5 insurer, the product of 2.0 and its Authorized Control
6 Level RBC,

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

9 c. "Authorized Control Level RBC" means the number
10 determined under the risk-based capital formula in
11 accordance with RBC Instructions, and

12 d. "Mandatory Control Level RBC" means the product of
13 0.70 and the Authorized Control Level RBC;

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

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

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

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

23 a. an insurer's statutory capital and surplus as
24 determined in accordance with the statutory accounting

1 applicable to the annual financial statements required
2 to be filed with the Commissioner, and

3 b. such other items, if any, as the RBC Instructions, as
4 adopted by rule by the Commissioner, may provide.

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

7 Section 1523. A. Every domestic insurer shall, on or prior to
8 each March 1, which shall be known as the filing date, prepare and
9 submit to the Insurance Commissioner a report of its RBC Levels as
10 of the end of the calendar year just ended, in a form and containing
11 such information as is required by the RBC Instructions, as adopted
12 by the Commissioner by rule. In addition, every domestic insurer
13 shall file its RBC Report with the NAIC if required by the
14 Commissioner.

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

- 20 a. the risk with respect to the insurer's assets,
21 b. the risk of adverse insurance experience with respect
22 to the insurer's liabilities and obligations,
23 c. the interest rate risk with respect to the insurer's
24 business, 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 C. 1. A property and casualty insurer's RBC shall be
6 determined in accordance with the formula set forth in the RBC
7 Instructions, as adopted by the Commissioner by rule. The formula
8 shall take into account, and may adjust for the covariance between,
9 the following factors:

10 a. asset risk,

11 b. credit risk,

12 c. underwriting risk, and

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

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

17 D. If a domestic insurer files an RBC Report which in the
18 judgment of the Commissioner is inaccurate, then the Commissioner,
19 after notice and opportunity for comment, shall adjust the RBC
20 Report to correct the inaccuracy and shall notify the insurer of the
21 adjustment. The notice shall contain a statement of the reason for
22 the adjustment. An RBC Report so adjusted shall be referred to as
23 an "Adjusted RBC Report".
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1 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1524, is
2 amended to read as follows:

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

5 1. The filing of an RBC Report by an insurer which indicates
6 that:

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

10 b. if a life or health insurer, the insurer or fraternal
11 benefit society has Total Adjusted Capital which is
12 greater than or equal to its Company Action Level RBC
13 but less than the product of its Authorized Control
14 Level RBC and ~~2.5~~ 3.0 and has a negative trend, or

15 c. if a property and casualty insurer, the insurer has
16 total adjusted capital which is greater than or equal
17 to its Company Action Level RBC but less than the
18 product of its Authorized Control Level RBC and 3.0
19 and triggers the trend test determined in accordance
20 with the trend test calculation included in the
21 Property and Casualty RBC instructions;

22 2. The notification by the Insurance Commissioner to the
23 insurer of an Adjusted RBC Report that indicates an event described
24 in paragraph 1 of this subsection, provided the insurer does not

1 challenge the Adjusted RBC Report under Section 1528 of this title;
2 or

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

8 B. In the event of a Company Action Level Event, the insurer
9 shall, unless otherwise directed by the Commissioner, prepare and
10 submit to the Commissioner an RBC Plan which shall include the
11 following five elements:

12 1. Conditions which contribute to the Company Action Level
13 Event;

14 2. Proposals of corrective actions which the insurer intends to
15 take and which would be expected to result in the elimination of the
16 Company Action Level Event;

17 3. Projections of the insurer's financial results in the
18 current year and at least the four (4) succeeding years, both in the
19 absence of proposed corrective actions and giving effect to the
20 proposed corrective actions, including projections of statutory
21 operating income, net income, or capital and surplus. Unless the
22 Commissioner otherwise directs, the projections for both new and
23 renewal business shall include separate projections for each major
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1 line of business and separately identify each significant income,
2 expense and benefit component;

3 4. The key assumptions impacting the insurer's projections and
4 the sensitivity of the projections to the assumptions; and

5 5. The quality of, and problems associated with, the insurer's
6 business, including, but not limited to, its assets, anticipated
7 business growth and associated surplus strain, extraordinary
8 exposure to risk, mix of business, and use of reinsurance, if any,
9 in each case.

10 C. The RBC Plan shall be submitted:

11 1. Within forty-five (45) days of the Company Action Level
12 Event; or

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

17 D. Within sixty (60) days after the submission by an insurer of
18 an RBC Plan to the Commissioner, the Commissioner shall notify the
19 insurer whether the RBC Plan shall be implemented or is, in the
20 judgment of the Commissioner, unsatisfactory. If the Commissioner
21 determines the RBC Plan is unsatisfactory, the notification to the
22 insurer shall set forth the reasons for the determination, and may
23 set forth proposed revisions which will render the RBC Plan
24 satisfactory, in the judgment of the Commissioner. Upon

1 notification from the Commissioner, the insurer shall prepare a
2 Revised RBC Plan, which may incorporate by reference any revisions
3 proposed by the Commissioner, and shall submit the Revised RBC Plan
4 to the Commissioner:

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

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

12 E. In the event of a notification by the Commissioner to an
13 insurer that the insurer's RBC Plan or Revised RBC Plan is
14 unsatisfactory, the Commissioner may at the Commissioner's
15 discretion, subject to the insurer's right to a hearing under
16 Section 1528 of this title, specify in the notification that the
17 notification constitutes a Regulatory Action Level Event.

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

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

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

5 a. fifteen (15) days after the receipt of the request to
6 file a copy of its RBC Plan or Revised RBC Plan with
7 the state, or

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

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

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

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

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

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

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

4 1. With respect to a life insurer or fraternal benefit society,
5 the Commissioner may take the actions necessary to place the insurer
6 under regulatory control under Article 18 or 19 of the Insurance
7 Code. In that event, the Mandatory Control Level Event is deemed
8 sufficient grounds for the Commissioner to take action under Article
9 18 or 19 of the Insurance Code, and the Commissioner shall have the
10 rights, powers, and duties with respect to the insurer which are set
11 forth in Article 18 or 19 of the Insurance Code. If the
12 Commissioner takes actions pursuant to an Adjusted RBC Report, the
13 insurer shall be entitled to notice and opportunity for a hearing as
14 required by the provisions of Article 18 or 19 of the Insurance
15 Code; and

16 2. With respect to a property and casualty insurer, the
17 Commissioner may take the actions necessary to place the insurer
18 under regulatory control under Article 18 or 19 of the Insurance
19 Code, or, in case of an insurer which is writing no business and
20 which is running-off its existing business, may allow the insurer to
21 continue its run-off under the supervision of the Commissioner. In
22 either event, the Mandatory Control Level Event is deemed sufficient
23 grounds for the Commissioner to take action under Article 18 or 19
24 of the Insurance Code and the Commissioner shall have the rights,

1 powers, and duties with respect to the insurer which are set forth
2 in Article 18 or 19 of the Insurance Code. If the Commissioner
3 takes actions pursuant to an Adjusted RBC Report, the insurer shall
4 be entitled to notice and opportunity for a hearing as required by
5 the provisions of Article 18 or 19 of the Insurance Code.

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

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

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

15 ~~(b) Commissioner.~~ 2. The term "Commissioner" shall mean the
16 Insurance Commissioner, ~~his~~ the deputies, or the Insurance
17 Department, as appropriate;i

18 ~~(c) Control.~~ 3. The term "control" (including the terms
19 "controlling", "controlled by" and "under common control with")
20 means the possession, direct or indirect, of the power to direct or
21 cause the direction of the management and policies of a person,
22 whether through the ownership of voting securities, by contract or
23 otherwise, unless the power is the result of an official position
24 with or corporate office held by the person. Control shall be

1 presumed to exist if any person, directly or indirectly, owns,
2 controls, holds with the power to vote, or holds proxies
3 representing ten percent (10%) or more of the voting securities of
4 any other person. This presumption may be rebutted by a showing
5 that control does not exist in fact in the manner provided in
6 ~~Section 4(i)~~ subsection I of Section 1654 of this title. The
7 Commissioner may determine, after furnishing all persons in interest
8 notice and opportunity to be heard and making specific findings of
9 fact to support such determination, that control exists in fact,
10 notwithstanding the absence of a presumption to that effect;

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

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

23 ~~(e) Insurer. The term "insurer"~~ 6. "Insurer" shall have the
24 same meaning as set forth in ~~36 Oklahoma Statutes,~~ Section 103 of

1 this title, except that it shall not include agencies, authorities
2 or instrumentalities of the United States, its possessions and
3 territories, the Commonwealth of Puerto Rico, the District of
4 Columbia, or a state or political subdivision of a state.;

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

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

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

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

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

24

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

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

22 ~~(i) the~~

23

24

1 1. The capital structure, general financial condition,
2 ownership and management of the insurer and any person controlling
3 the insurer;

4 ~~(ii) the~~

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

7 ~~(iii) the~~

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

11 ~~(1)~~ a. loans, other investments or purchases, sales or
12 exchanges of securities of the affiliates by the
13 insurer or of the insurer by its affiliates~~†~~†

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

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

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

21 ~~(5)~~ e. all management and service contracts and all cost-
22 sharing arrangements~~†~~†

1 ~~(6)~~ f. reinsurance agreements covering all or substantially
2 all of one or more lines of insurance of the ceding
3 company~~†, l~~

4 ~~(7)~~ g. dividends and other distributions to shareholders~~†, l~~
5 and

6 ~~(8)~~ h. consolidated tax allocation agreements~~†, i~~;

7 ~~(iv)~~ ~~other~~

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

12 ~~(v)~~ ~~any~~

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

16 ~~(c) Materiality.~~ C. No information need be disclosed on the
17 registration statement filed pursuant to subsection ~~(b)~~ B of this
18 section if such information is not material for the purposes of this
19 section. Unless the Commissioner by rule, regulation or order
20 provides otherwise, sales purchases, exchanges, loans or extensions
21 of credit, or investments, involving one-half of one percent (1/2 of
22 1%) or less of an insurer's admitted assets as of ~~the 31st day of~~
23 December 31 next preceding shall not be deemed material for purposes
24 of this section.

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

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

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

20 ~~(g) Alternative Registration.~~ G. The Commissioner may allow an
21 insurer which is authorized to do business in this state and which
22 is a part of an insurance holding company system to register on
23 behalf of any affiliated insurer which is required to register under
24 subsection ~~(a)~~ A of this section and to file all information and

1 material required to be filed under ~~Section~~ Sections 1651 ~~et seq.~~
2 through 1662 of this title.

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

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

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

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:

23 Section 6123. Sections 6121 through 6136.18 of this title shall
24 be administered by the Insurance Commissioner. The Insurance

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

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

15 Section 6125. A. 1. The organization may retain from the
16 first funds collected, the first ten percent (10%) of the purchase
17 price of all contracts issued pursuant to paragraph 1 of subsection
18 B of this section. Thereafter, one hundred percent (100%) of all
19 funds collected pursuant to the provisions of contracts for prepaid
20 funeral benefits, except for outer enclosures as defined by the
21 Funeral Services Licensing Act, shall be placed in interest-bearing
22 investments authorized by Article 16 of the Insurance Code, except
23 to the extent the Insurance Commissioner may determine that a
24

1 particular asset may be inappropriate for investment for prepaid
2 funeral benefits.

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

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

22 B. An organization authorized to accept prepaid funds shall be
23 authorized to provide purchasers with a choice of either of the
24 following types of contracts:

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

14 2. A contract establishing a fund for prepaid funeral benefits.
15 The provisions of this type of contract shall require an initial
16 minimum deposit of Twenty-five Dollars (\$25.00) and shall grant the
17 purchaser the right to add to the fund at the discretion of the
18 purchaser. The provisions of this contract shall provide that the
19 funds accumulated shall apply to the cost of the funeral services
20 and merchandise selected and that any funds remaining unused shall
21 be refunded to the purchaser or to the personal representative or
22 designated beneficiary of the purchaser and if withdrawal of monies
23 occurs prior to death, the organization may retain from the
24 interest, all interest incurred in excess of the minimum amount

1 payable pursuant to subsection D of this section less taxes and
2 administrative fees. This type of contract shall also bear upon it
3 the language: "Exact Funeral Merchandise and Services to be Selected
4 at Time of Death";

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

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

17 C. If an organization other than the organization with which
18 the purchaser contracted provides funeral merchandise and services
19 upon the death of the beneficiary of the contract, the organization
20 with whom the purchaser contracted shall forward, upon receipt of
21 request in writing from the purchaser or the personal representative
22 of the purchaser, the net value of the contract plus the amount
23 withheld pursuant to paragraph 1 of subsection A of this section to
24

1 the organization which provided the merchandise and services or to
2 the purchaser or the personal representative of the purchaser.

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

15 E. A purchaser of either of the types of contracts authorized
16 by the provisions of this section may withdraw the net value of the
17 contract by signing a statement requesting the withdrawal. The
18 organization shall retain in its files a copy of the statement
19 requesting the withdrawal. Withdrawal of funds deposited pursuant
20 to the provisions of a contract authorized by the provisions of
21 paragraph 1 of subsection B of this section shall void the
22 obligation of the contracting organization to provide funeral
23 merchandise and services at a guaranteed price. Withdrawal forms
24

1 shall be retained on file for at least ~~three (3)~~ six (6) years by
2 the organization.

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

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

18 H. In no event shall more funds be withdrawn or paid pursuant
19 to the provisions of one contract than were deposited with the
20 organization and which were accumulated as interest. All funds
21 deposited pursuant to the provisions of a contract authorized by the
22 provisions of this section and deposited pursuant to the terms of
23 this section and the interest earned on the funds shall be exempt
24 from attachment, garnishment, execution, and the claims of

1 creditors, receivers, or trustees in bankruptcy, until the time the
2 funds have been withdrawn from the trust account and paid to the
3 organization or refunded to the purchaser.

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

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

17 K. No organization holding a permit issued pursuant to the
18 provisions of Sections 6121 and 6124 of this title shall accept any
19 funds except pursuant to the provisions of a contract for prepaid
20 funeral or burial benefits authorized by the provisions of Sections
21 6121 through 6136.18 of this title, and no organization shall accept
22 funds from a purchaser in excess of the contracted price of prepaid
23 funeral or burial benefits purchased.

24

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

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

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

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

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

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

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

6 4. The disbursement of life insurance proceeds to the
7 organization shall constitute payment in full to the organization
8 for the services and merchandise contracted for.

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

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

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

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

23 D. A violation of this section shall constitute a misdemeanor
24 and shall be punished by a fine of not less than One Hundred Dollars

1 (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by
2 imprisonment in the county jail for not less than one (1) month nor
3 more than six (6) months, or by both such fine and imprisonment.

4 SECTION 16. AMENDATORY 36 O.S. 2011, Section 6217, as
5 last amended by Section 14, Chapter 44, O.S.L. 2012 (36 O.S. Supp.
6 2012, Section 6217), is amended to read as follows:

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

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

21 The Insurance Department may use one or more of the following to
22 review and provide a nonbinding recommendation to the Insurance
23 Commissioner on approval or disapproval of courses and providers of
24 continuing education:

1 1. Employees of the Insurance Commissioner;

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

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

14 C. An adjuster who, during the time period prior to renewal,
15 participates in an approved professional designation program shall
16 be deemed to have met the biennial requirement for continuing
17 education. Each course in the curriculum for the program shall
18 total a minimum of ~~twenty (20)~~ twenty-four (24) hours. Each
19 approved professional designation program included in this section
20 shall be reviewed for quality and compliance every three (3) years
21 in accordance with standardized criteria promulgated by rule.
22 Continuation of approved status is contingent upon the findings of
23 the review. The list of professional designation programs approved
24

1 under this subsection shall be made available to producers and
2 providers annually.

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

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

17 F. 1. Each provider of continuing education shall, after
18 approval by the Commissioner, submit an annual fee. A fee may be
19 assessed for each course submission at the time it is first
20 submitted for review and upon submission for renewal at expiration.
21 Annual fees and course submission fees shall be set forth as a rule
22 by the Commissioner. The fees are payable to the Insurance
23 Commissioner and shall be deposited in the State Insurance
24 Commissioner Revolving Fund, created in Section 307.3 of this title,

1 for the purposes of fulfilling and accomplishing the conditions and
2 purposes of the Oklahoma Producer Licensing Act and the Insurance
3 Adjusters Licensing Act. Public-funded educational institutions,
4 federal agencies, nonprofit organizations, not-for-profit
5 organizations and Oklahoma state agencies shall be exempt from this
6 subsection.

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

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

21 H. If the request, proof of compliance with the continuing
22 education requirement and fee for renewal of a license as an
23 adjuster are filed with the Commissioner prior to the expiration of
24 the existing license, the licensee may continue to act pursuant to

1 said license, unless revoked or suspended prior to the expiration
2 date, until the issuance of a renewal license or until the
3 expiration of ten (10) days after the Commissioner has refused to
4 renew the license and has mailed notice of said refusal to the
5 licensee. Any request for renewal filed after the date of
6 expiration may be considered by the Commissioner as an application
7 for a new license.

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

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

13 1. The rate manual developed for use by a small employer
14 carrier shall be filed and approved by the Insurance Commissioner
15 prior to use. Any changes to the rate manual shall be filed and
16 approved by the Insurance Commissioner prior to use. Every filing
17 shall be made not less than thirty (30) days prior to the date the
18 small employer carrier intends to implement the rates. The rate
19 manual so filed shall be deemed approved upon expiration of the
20 thirty-day waiting period unless, prior to the end of the period, it
21 has been affirmatively approved or disapproved by order of the
22 Commissioner. Approval of a rate manual by the Commissioner shall
23 constitute a waiver of any unexpired portion of the thirty-day
24 waiting period. The Commissioner may extend the period to approve

1 or disapprove a rate manual by not more than an additional thirty
2 (30) days by giving notice of such extension before expiration of
3 the initial thirty-day period. At the expiration of an extended
4 period, the rate filing shall be deemed approved unless otherwise
5 approved or disapproved by the Commissioner. The Commissioner may
6 at any time, after notice and for cause shown, withdraw approval of
7 a filed rate;

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

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

24

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

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

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

22 b. any adjustment, not to exceed fifteen percent (15%)
23 annually and adjusted pro rata for rating periods of
24 less than one year, due to the claim experience,

1 health status or duration of coverage of the employees
2 or dependents of the small employer as determined from
3 the rate manual for the class of business of the small
4 employer carrier, and

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

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

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

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

1 premium rate charged to a small employer for a new rating period
2 shall not exceed the sum of the following:

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

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

19 9. Small employer carriers shall:

20 a. apply rating factors, including case characteristics,
21 consistently with respect to all small employers in a
22 class of business. Rating factors shall produce
23 premiums for identical groups within the same class of
24 business which differ only by amounts attributable to

1 plan design and do not reflect differences due to
2 claims experience, health status and duration of
3 coverage, and

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

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

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

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

23 B. A small employer carrier shall not transfer a small employer
24 involuntarily into or out of a class of business. A small employer

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:
23
24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

1 SECTION 28. REPEALER 36 O.S. 2011, Section 1657, is
2 hereby repealed.

3 SECTION 29. REPEALER 36 O.S. 2011, Section 6821, is
4 hereby repealed.

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

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