

1 STATE OF OKLAHOMA

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

3 SENATE BILL 911

By: Brown

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5
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,
8 Section 307, which relates to the duties of the
9 insurance commissioner; clarifying responsibilities
10 of commissioner; amending 36 O.S. 2011, Section 607,
11 which relates to qualifications to transact insurance
12 in Oklahoma; exempting Native American tribes from
13 certain prohibition; amending 36 O.S. 2011, Section
14 628, which relates to the imposition of certain taxes
15 or other obligations on foreign insurers; clarifying
16 language; amending 36 O.S. 2011, Section 1435.15,
17 which relates to appointment of insurance producer as
18 agent of insurer; modifying appointment fee; amending
19 36 O.S. 2011, Section 1464, which relates to
20 requirements for licensure as life or accident and
21 health insurance broker; clarifying who may be
22 licensed; deleting provision requiring applicants to
23 provide certain surety bond; updating statutory
24 reference; amending 36 O.S. 2011, Section 1524, which
relates to the definition of a Company Action Level
Event under the Risk-Based Capital For Insurers Act;
modifying definition to include fraternal benefit
societies; amending 36 O.S. 2011, Section 1651, which
relates to subsidiary of insurers definitions;
correcting outline format; clarifying language;
updating statutory reference; defining "Enterprise
risk"; amending 36 O.S. 2011, Section 1654, which
relates to registration of insurers; correcting
outline format; clarifying language; updating
statutory reference; requiring filing of an annual
enterprise risk report; declaring certain documents
and materials in the possession of the Commissioner
to be confidential; exempting certain information
from Open Records Act; providing permissible usage of
certain confidential information; requiring written
consent for public disclosure of certain information;

1 allowing for disclosure of certain information by the
2 Commissioner when deemed appropriate; providing the
3 Commissioner or others in possession of certain
4 confidential information shall not testify in any
5 civil action; allowing Commissioner to share
6 confidential information with certain entities upon
7 obtaining written agreement to maintain
8 confidentiality; allowing the Commissioner to share
9 confidential information with Commissioners of other
10 states with substantially similar statutes; allowing
11 the Commissioner to accept confidential information
12 from certain entities; requiring the Commissioner to
13 enter written agreement with NAIC concerning sharing
14 of confidential information; specifying contents of
15 required agreement; providing that sharing of
16 confidential information shall not constitute
17 delegation of duties; providing that sharing of
18 certain confidential information shall not constitute
19 a waiver of privilege; declaring certain information
20 confidential; exempting from Oklahoma Open Records
21 Act; prohibiting certain information from being
22 obtained by subpoena; declaring certain confidential
23 information inadmissible evidence in civil action;
24 amending 36 O.S. 2011, Section 4030.7, which relates
to optional maturity dates for annuity contracts;
providing optional method of determining maturity
date of certain annuities; amending 36 O.S. 2011,
Sections 6123, 6125 and 6125.2, which relate to
prepaid funeral contracts; increasing the amount of
time recipients of monies from a prepaid funeral are
required to retain certain files; extending the time
period a certain statement shall be maintained by
certain organization; increasing the number of years
certain price lists shall be maintained; amending 36
O.S. 2011, Section 6217, as last amended by Section
14, Chapter 44, O.S.L. 2012 (36 O.S. Supp. 2012,
6217), which relates to Insurance Adjusters Licensing
Act; increasing the minimum number of hours certain
continuing education program curriculum shall
contain; amending 36 O.S. 2011, Sections 7101 and
7102, which relate to the Perpetual Care Fund Act;
updating statutory references; amending 36 O.S. 2011,
Sections 7121, 7123, 7124, 7125, 7127, 7128 and 7129
which relate to the Cemetery Merchandise Trust Act;
updating statutory references; modifying date for
acceptance of certain renewal permit; repealing 36
O.S. 2011, Section 6821, which relates to medical

1 professional liability rate setting; and providing an
2 effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

16 SECTION 2. AMENDATORY 36 O.S. 2011, Section 607, is
17 amended to read as follows:

18 Section 607. A. To qualify for and hold authority to transact
19 insurance in Oklahoma an insurer must be otherwise in compliance
20 with the provisions of this Code and with its charter powers, and
21 must be an incorporated stock insurer, an incorporated mutual
22 insurer, a mutual benefit association, a nonprofit hospital service
23 and medical indemnity corporation, a farmers mutual fire insurance
24 association, a Lloyd's association or a reciprocal insurer, of the

1 same general type as may be formed as a domestic insurer under this
2 Code; except, that no foreign or alien insurer shall be authorized
3 to transact insurance in Oklahoma which does not maintain reserves
4 as required by Article 15 (Assets and Liabilities) applicable to the
5 kind or kinds of insurance transacted by such insurer.

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

14 SECTION 3. AMENDATORY 36 O.S. 2011, Section 628, is
15 amended to read as follows:

16 Section 628. When by or pursuant to the laws of any other state
17 or foreign country any premium or income or other taxes, or any
18 ~~fees~~, fines, penalties, licenses, deposit requirements or other
19 material obligations, prohibitions or restrictions are imposed upon
20 Oklahoma insurers doing business, or that might seek to do business
21 in such other state or country, which in the aggregate are in excess
22 of such taxes, ~~fees~~, fines, penalties, licenses, deposit
23 requirements or other obligations, prohibitions or restrictions
24 directly imposed upon similar insurers of such other state or

1 foreign country under the statutes of this state, so long as such
2 laws continue in force or are so applied, the same obligations,
3 prohibitions and restrictions of whatever kind shall be imposed upon
4 similar insurers of such other state or foreign country doing
5 business in Oklahoma. All insurance companies of other nations
6 shall be held to the same obligations and prohibitions that are
7 imposed by the state where they have elected to make their deposit
8 and establish their principal agency in the United States. Any tax,
9 license or other obligation imposed by any city, county or other
10 political subdivision of a state or foreign country on Oklahoma
11 insurers or their agents shall be deemed to be imposed by such state
12 or foreign country within the meaning of this section. The
13 provisions of this section shall not apply to ad valorem taxes on
14 real or personal property or to personal income taxes.

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

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

22 B. To appoint a producer as its agent, the appointing insurer,
23 or an authorized representative of the insurer, shall file, in a
24 format approved by the Insurance Commissioner, a notice of

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

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

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

23 E. It shall be unlawful for any insurer to discriminate among
24 or between the insurance producers it has appointed. Any person or

1 company convicted of violating the provisions of this section shall
2 be guilty of a misdemeanor and shall be punished by the imposition
3 of a fine of not more than Five Hundred Dollars (\$500.00) or
4 imprisonment in the county jail for not less than six (6) months nor
5 more than one (1) year, or be punished by both ~~said~~ fine and
6 imprisonment.

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

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

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

24

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

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

19 2. Such policy shall be issued by an insurance company
20 authorized to do business in this state, shall be continuous in
21 form, and shall provide coverage acceptable to the Commissioner for
22 errors and omissions of the life or accident and health insurance
23 broker. The policy carrier shall notify the Commissioner of any
24 lapse or termination of errors and omissions coverage.

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

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

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

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

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

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

12 SECTION 6. 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, or fraternal benefit
22 society as defined in Section 2701.1 of this title,

23 the insurer or fraternal benefit society has Total
24 Adjusted Capital which is greater than or equal to its

1 Company Action Level RBC but less than the product of
2 its Authorized Control Level RBC and ~~2.5~~ 3 and has a
3 negative trend, or

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

24

1 Section 1651. As used in ~~this act~~ 1601 et seq. of this title,
2 the following terms shall have the respective meanings hereinafter
3 set forth, unless the 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~~ deputies of the Commissioner, or the
10 Insurance 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 subsection 1 of Section 4(i) 1654 of this title. The Commissioner
24 may determine, after furnishing all persons in interest notice and

1 opportunity to be heard and making specific findings of fact to
2 support such determination, that control exists in fact,
3 notwithstanding the absence of a presumption to that effect-;

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

14 ~~(d) Insurance Holding Company System.~~ 5. An "insurance holding
15 company system" consists of two or more affiliated persons, one or
16 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-;

23 ~~(f) Person.~~ 7. A "person" is an individual, a corporation, a
24 partnership, an association, a joint stock company, a trust, an

1 unincorporated organization, any similar entity or any combination
2 of the foregoing acting in concert, but shall not include any
3 securities broker performing no more than the usual and customary
4 broker's function-;

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

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

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

16 SECTION 8. AMENDATORY 36 O.S. 2011, Section 1654, is
17 amended to read as follows:

18 Section 1654. ~~(a) Registration.~~ A. Every insurer which is
19 authorized to do business in this state and which is a member of an
20 insurance holding company system and every individual who controls
21 an insurer shall annually register with the Insurance Commissioner,
22 except a foreign insurer subject to disclosure requirements and
23 standards adopted by statute or regulation in the jurisdiction of
24 its domicile which are substantially similar to those contained in

1 this section. Any insurer which is subject to registration under
2 this section shall register thirty (30) days after it becomes
3 subject to registration, unless the Commissioner for good cause
4 shown extends the time for registration, and then within such
5 extended time. The Commissioner may require any authorized insurer
6 which is a member of a holding company system which is not subject
7 to registration under this section to furnish a copy to the
8 Commissioner of the registration statement or other information
9 filed by such insurance company with the insurance regulatory
10 authority of domiciliary jurisdiction.

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

15 ~~(i) the~~

16 1. The capital structure, general financial condition,
17 ownership and management of the insurer and any person controlling
18 the insurer;

19 ~~(ii) the~~

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

22 ~~(iii) the~~

23

24

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

4 ~~(1)~~

5 a. loans, other investments or purchases, sales or
6 exchanges of securities of the affiliates by the
7 insurer or of the insurer by its affiliates;

8 ~~(2)~~

9 b. purchases, sales or exchanges of assets;

10 ~~(3)~~

11 c. transactions not in the ordinary course of business;

12 ~~(4)~~

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

18 ~~(5)~~

19 e. all management and service contracts and all cost-
20 sharing arrangements;

21 ~~(6)~~

22 f. reinsurance agreements covering all or substantially
23 all of one or more lines of insurance of the ceding
24 company;

1 ~~(7)~~

2 g. dividends and other distributions to shareholders; and

3 ~~(8)~~

4 h. consolidated tax allocation agreements.

5 ~~(iv) other~~

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

9 ~~(v) any~~

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

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

22 ~~(d) Amendments to Registration Statements.~~ D. Each registered
23 insurer shall keep current the information required to be disclosed
24 in its registration statement by reporting all material changes or

1 additions on amendment forms provided by the Commissioner within
2 fifteen (15) days after the end of the month in which it learns of
3 each such change or addition, provided, however, that subject to
4 subsection (c) of Section 1655 of this title, each registered
5 insurer shall ~~se~~ report all dividends and other distributions to
6 shareholders within two (2) business days following the declaration
7 thereof.

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

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

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

24

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.

23 ~~(k) Reporting Dividends to Shareholders.~~ K. Every domestic
24 insurer that is a member of a holding company system shall report to

1 the Insurance Department all dividends to shareholders within five
2 (5) business days following declaration and at least ten (10) days,
3 commencing from date of receipt by the Department, prior to payment
4 thereof.

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

14 ~~(l) Information of Insurers.~~ M. Any person within an insurance
15 holding company system subject to registration shall be required to
16 provide complete and accurate information to an insurer where such
17 information is reasonably necessary to enable the insurer to comply
18 with the provisions of this article.

19 ~~(m) Violations.~~ N. The failure to file a registration
20 statement, any summary of the registration statement thereto, an
21 annual enterprise risk report, or any additional information
22 required by this section within the time specified for such filing
23 shall be a violation of this section.

24

1 SECTION 9. AMENDATORY 36 O.S. 2011, Section 1657, is
2 amended to read as follows:

3 Section 1657. ~~All information, documents and copies thereof~~
4 ~~obtained by or disclosed to the Commissioner or any other person in~~
5 ~~the course of an examination or investigation made pursuant to this~~
6 ~~act and all information reported pursuant to this title shall be~~
7 ~~given confidential treatment and shall not be made public by the~~
8 ~~Commissioner or any other person, except to insurance departments of~~
9 ~~other states, or the Oklahoma Securities Commission, without the~~
10 ~~prior written consent of the insurer to which it pertains unless the~~
11 ~~Commissioner, after giving the insurer and its affiliates who would~~
12 ~~be affected thereby, notice and opportunity to be heard, determines~~
13 ~~that the interests of policyholders, shareholders or the public will~~
14 ~~be served by the publication thereof, in which event he may publish~~
15 ~~all or any part thereof in such manner as he may deem appropriate.~~
16 ~~Provided that said information, documents and copies shall be~~
17 ~~subject to subpoena.~~

18 ~~The provisions of this section shall not prohibit an~~
19 ~~investigating committee, duly authorized by the Senate or House of~~
20 ~~Representatives, from proceeding to carry out the instructions given~~
21 ~~the committee, and all information requested by said committee shall~~
22 ~~be duly furnished. Information received by such committee or~~
23 ~~legislative body shall receive such information in a confidential~~
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1 ~~nature, until such time as it has determined that the public~~
2 ~~interest would be served by the release and/or publication thereof.~~

3 A. Documents, materials or other information in the possession
4 or control of the Insurance Department that are obtained by or
5 disclosed to the Commissioner or any other person in the course of
6 an examination or investigation conducted pursuant to Section 1656
7 of this title and all information reported pursuant to paragraph 10
8 of subsection B of Section 1653 of this title, and Sections 1654 and
9 1655 of this title shall be confidential by law and privileged, and
10 shall not be subject to the Oklahoma Open Records Act. Such
11 materials or information disclosed shall not be subject to subpoena,
12 and shall not be subject to discovery or admissible in evidence in
13 any private civil action. However, the Commissioner is authorized
14 to use such documents, materials or other information in the
15 furtherance of any regulatory or legal action brought as part of the
16 Commissioner's official duties. Except as provided by this
17 subsection the Commissioner shall not disclose the documents,
18 materials or other information to the public without the prior
19 written consent of the insurer to which it pertains unless the
20 Commissioner, after giving the insurer and its affected affiliates
21 notice and opportunity to be heard, determines that the interest of
22 the policyholders, shareholders or the public will be served by the
23 publication thereof, in which event the Commissioner may publish all
24 or any part in such manner as may be deemed appropriate.

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 shared pursuant to this section shall be
5 permitted or compelled to testify in any private civil action
6 concerning any confidential documents, materials, or information
7 subject to Subsection A.

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, with other state, federal and
13 international regulatory agencies, with the National Association of
14 Insurance Commissioners (NAIC) and its affiliates and subsidiaries,
15 and with state, federal, and international law enforcement
16 authorities, provided that the recipient agrees in writing to
17 maintain the confidentiality and privileged status of the document,
18 material or other information, and has verified in writing the legal
19 authority to maintain confidentiality;

20 2. May, Notwithstanding paragraph 1 of this subsection, share
21 confidential and privileged documents, material, or information
22 reported pursuant to subsection (1) of Section 1654 of this title,
23 with commissioners of states having statues or regulations
24

1 substantially similar to Subsection A and who have agreed in writing
2 not to disclose such information;

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

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

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

21 b. specify that ownership of information shared with the
22 NAIC and its affiliates and subsidiaries pursuant to
23 this section remains with the Commissioner and the
24

1 NAIC's use of the information is subject to the
2 direction of the Commissioner;

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

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

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

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

1 F. Documents, materials or other information in the possession
2 or control of the NAIC pursuant to this section shall be
3 confidential by law and privileged, shall not be subject to the
4 Oklahoma Open Records Act, shall not be subject to subpoena, and
5 shall not be subject to discovery or admissible in evidence in any
6 private civil action.

7 SECTION 10. AMENDATORY 36 O.S. 2011, Section 4030.7, is
8 amended to read as follows:

9 Section 4030.7. ~~For contracts that provide cash surrender~~
10 ~~benefits, the cash surrender benefits available prior to maturity~~
11 ~~shall not be less than the present value as of the date of surrender~~
12 ~~of that portion of the maturity value of the paid-up annuity benefit~~
13 ~~that would be provided under the contract at maturity arising from~~
14 ~~considerations paid prior to the time of cash surrender reduced by~~
15 ~~the amount appropriate to reflect any prior withdrawals from or~~
16 ~~partial surrenders of the contract, such present value being~~
17 ~~calculated on the basis of an interest rate not more than one~~
18 ~~percent (1%) higher than the interest rate specified in the contract~~
19 ~~for accumulating the net considerations to determine maturity value,~~
20 ~~decreased by the amount of any indebtedness to the company on the~~
21 ~~contract, including interest due and accrued, and increased by any~~
22 ~~existing additional amounts credited by the company to the contract.~~
23 ~~In no event shall any cash surrender benefit be less than the~~
24 ~~minimum nonforfeiture amount at that time. The death benefit under~~

1 ~~such contracts shall be at least equal to the cash surrender~~
2 ~~benefit.~~

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

19 SECTION 11. AMENDATORY 36 O.S. 2011, Section 6123, is
20 amended to read as follows:

21 Section 6123. Sections 6121 through 6136.18 of this title shall
22 be administered by the Insurance Commissioner. The Insurance
23 Commissioner is authorized to prescribe reasonable rules and
24 regulations concerning keeping and inspection of records, the filing

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

11 SECTION 12. AMENDATORY 36 O.S. 2011, Section 6125, is
12 amended to read as follows:

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

24

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

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

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

23 1. A contract for Specific and Described Funeral Merchandise
24 and Service at a Guaranteed Price. The provisions of this type of

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

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

1 the language: "Exact Funeral Merchandise and Services to be Selected
2 at Time of Death";

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

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

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

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

13 E. A purchaser of either of the types of contracts authorized
14 by the provisions of this section may withdraw the net value of the
15 contract by signing a statement requesting the withdrawal. The
16 organization shall retain in its files a copy of the statement
17 requesting the withdrawal. Withdrawal of funds deposited pursuant
18 to the provisions of a contract authorized by the provisions of
19 paragraph 1 of subsection B of this section shall void the
20 obligation of the contracting organization to provide funeral
21 merchandise and services at a guaranteed price. Withdrawal forms
22 shall be retained on file for at least three (3) years by the
23 organization.

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

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

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

1 funds have been withdrawn from the trust account and paid to the
2 organization or refunded to the purchaser.

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

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

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

23 L. Any organization which knowingly commits any of the acts set
24 forth in the first sentence of Section 6121 of this title without

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

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

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

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

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

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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 14. 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
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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 15. AMENDATORY 36 O.S. 2011, Section 7101, is
9 amended to read as follows:

10 Section 7101. ~~Sections 161 through 170~~ Section 7101 et seq. of
11 this title, ~~as recodified by this act,~~ shall be known and may be
12 cited as the "Perpetual Care Fund Act".

13 SECTION 16. AMENDATORY 36 O.S. 2011, Section 7102, is
14 amended to read as follows:

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

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

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

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

1 Purchase price shall not include finance charges, sales tax, charges
2 for credit life insurance, opening and closing costs and setting
3 fees, but shall include any amount which the customer is required to
4 pay as a deposit to the Perpetual Care Fund, described in Section
5 ~~163~~ 7103 of this title. On sales of burial spaces wherein discounts
6 or free spaces are granted to the customer by the cemetery, the
7 purchase price shall be the fair market value or the normal selling
8 price of that particular type of burial space as sold by the
9 cemetery;

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

13 5. "Income", except as provided in subsection D of Section ~~163~~
14 7103 of this title, means the return derived from the principal
15 amount;

16 6. "Insurance Commissioner" or "Commissioner" means the
17 Insurance Commissioner of the State of Oklahoma; and

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

21 SECTION 17. AMENDATORY 36 O.S. 2011, Section 7121, is
22 amended to read as follows:

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1 Section 7121. ~~Sections 301 through 316~~ Section 7121 et seq. of
2 this title, ~~as recodified by this act,~~ shall be known and may be
3 cited as the "Cemetery Merchandise Trust Act".

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

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

19 B. An organization with any prepaid cemetery merchandise
20 contracts subject to the provisions of the Cemetery Merchandise
21 Trust Act shall apply for, and obtain, approval of the Commissioner
22 before transferring or conveying in any manner the cemetery, its
23 obligations or both the cemetery and its obligations under the
24 prepaid cemetery merchandise contracts. The application shall be

1 accompanied by a fee equal to that required under Section ~~305~~ 7125
2 of this title and shall include such information as the Commissioner
3 may prescribe. The Commissioner shall not approve any such transfer
4 or conveyance until the applicant has provided sufficient evidence
5 that a cemetery merchandise trust fund equal to the minimum funding
6 requirement is maintained pursuant to Section ~~306~~ 7126 of this title
7 or the applicant has obtained a surety bond pursuant to the
8 provisions of Section ~~307~~ 7127 of this title.

9 SECTION 19. AMENDATORY 36 O.S. 2011, Section 7124, is
10 amended to read as follows:

11 Section 7124. A. The Cemetery Merchandise Trust Act, ~~Sections~~
12 ~~301 through 316 of this title,~~ shall be administered by the
13 Insurance Commissioner. The Commissioner is authorized to
14 promulgate reasonable rules concerning the keeping and inspection of
15 records, the filing of contracts and reports, investments of and
16 handling of the trust funds, and all other matters concerning the
17 orderly administration and implementation of the Cemetery
18 Merchandise Trust Act. All prepaid cemetery merchandise contracts
19 shall be in writing, and no contract form created after ~~the~~
20 ~~effective date of this act~~ July 1, 2010, shall be used without first
21 being submitted to, and approved by, the Commissioner.

22 B. An organization aggrieved by an action or order of the
23 Commissioner may appeal the action or order to the Oklahoma
24

1 Insurance Department in accordance with Article II of the
2 Administrative Procedures Act.

3 C. The provisions of the Cemetery Merchandise Trust Act shall
4 not be applicable to any organization that has obtained a permit
5 pursuant to Section 6121 of ~~Title 36 of the Oklahoma Statutes~~ this
6 title if the organization is in compliance with the provisions of
7 Sections 6121 through 6136.18 of ~~Title 36 of the Oklahoma Statutes~~
8 this title with respect to items that are considered cemetery
9 merchandise pursuant to the Cemetery Merchandise Trust Act.

10 D. Unless sold pursuant to a permit issued under Section 6121
11 of ~~Title 36 of the Oklahoma Statutes~~ this title, no organization in
12 Oklahoma may sell, in advance of actual need, the services of
13 opening or closing a burial space, as defined in Section ~~162~~ 7102 of
14 this title, unless the organization deposits in trust no less than
15 sixty-five percent (65%) of the principal amount of the services
16 sold, or maintains a surety bond for the full principal amount of
17 the services sold. Any contracts for services sold before July 1,
18 2010, remain enforceable by the purchaser against the seller.

19 SECTION 20. AMENDATORY 36 O.S. 2011, Section 7125, is
20 amended to read as follows:

21 Section 7125. A. Each organization desiring to accept money or
22 anything of value for prepaid cemetery merchandise shall file an
23 application for a permit with the Insurance Commissioner, and shall
24 at the time of filing the application pay one initial filing fee of

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

20 B. The Commissioner may cancel a permit or refuse to issue a
21 permit or refuse to issue a renewal of a permit for failure to
22 comply with any provisions of the Cemetery Merchandise Trust Act or
23 any rules promulgated thereto by the Commissioner, after reasonable
24 notice to the permittee and opportunity for hearing before the

1 Commissioner in accordance with Article II of the Administrative
2 Procedures Act.

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

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

10 SECTION 21. AMENDATORY 36 O.S. 2011, Section 7127, is
11 amended to read as follows:

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

16 B. The surety bond shall be made payable to the State of
17 Oklahoma for the benefit of the Insurance Commissioner and all
18 purchasers of prepaid cemetery merchandise. The bond shall be
19 approved by the Commissioner.

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

22 D. A surety bond maintained under the provisions of this
23 section or Section ~~304~~ 7124 of this title may be cancelled or
24 terminated by the surety only by providing notice to the

1 Commissioner, no later than ninety (90) days before the effective
2 date of the cancellation or termination. Notwithstanding the
3 cancellation, termination, or expiration of a bond maintained under
4 this section or Section ~~304~~ 7124 of this title, the surety shall
5 remain liable for obligations arising during the term of the bond
6 and prior to the termination, cancellation or expiration.

7 SECTION 22. AMENDATORY 36 O.S. 2011, Section 7128, is
8 amended to read as follows:

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

1 all the funds have been disbursed pursuant to the Cemetery
2 Merchandise Trust Act. A filing fee of Two Hundred Dollars
3 (\$200.00) shall accompany each report. If any officer of any
4 organization fails or refuses to file an annual report, or fails or
5 refuses to cause it to be filed within thirty (30) days after the
6 organization has been notified by the Commissioner that the report
7 is due and has not been received, the officer shall be guilty of a
8 misdemeanor and shall be punished as prescribed in Section ~~315~~ 7134
9 of this title.

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

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

20 SECTION 24. REPEALER 36 O.S. 2011, Section 6821, is
21 hereby repealed.

22 SECTION 25. This act shall become effective November 1, 2013.

23

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