

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE  
FOR

SENATE BILL 555

By: Montgomery of the Senate

and

Sneed of the House

COMMITTEE SUBSTITUTE

An Act relating to prepaid funeral services; amending 36 O.S. 2021, Sections 6121, 6124, 6124.1, 6124.2, 6125.2, 6128, and 6130, which relate to permits, payment for benefits, transfer of ownership, funding of contracts, annual reporting, and penalties; requiring contract for all prepaid funeral services; providing method for filing certain applications; allowing certain fees to be levied by the Insurance Commissioner; modifying permit expiration and renewal provisions; requiring certain report for certain expired permit holders upon reapplication; prohibiting contracts funded by trust; stating exemption; requiring timely response by permit holder to Insurance Commissioner upon certain inquiry; requiring update of information by electronic means by certain date; establishing certain fine; modifying change of name application for certain permit holder; prohibiting permit holder from operating under name other than name on application; providing for funding of certain contracts; modifying penalties assessed; updating statutory references; updating statutory language; making language gender neutral; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2021, Section 6121, is

amended to read as follows:

Section 6121. A. Any individual, firm, partnership, corporation, or association (hereinafter called "organization") which ~~shall accept money or anything of value~~ issues contracts for prearranged, or prepaid funeral services, or funeral service merchandise as defined in the Funeral Services Licensing Act or for ~~any contract providing~~ future funeral services or funeral merchandise at a fixed price or at a cost plus a percentage, or at retail price less a percentage discount, or providing for any special consideration of any kind to be granted or made available to the purchaser or holder of such contract, in this state, under any sales contract, bond, certificate or other form of written document providing for prepaid, discounted or otherwise specially priced funeral or burial benefits or services or funeral merchandise to be delivered at an undetermined future date dependent upon the death of a contracting party or other person designated by a contracting party (hereinafter called "prepaid funeral benefits") shall first obtain a permit from the Insurance Commissioner authorizing the transaction of this type of business before entering into any such contract. It shall be unlawful to ~~sell~~ issue contracts for prepaid funeral benefits unless the seller holds a valid, current permit at the time the contract is made.

1 B. The Insurance Commissioner may deny the issuance of a permit  
2 if the organization:

3 1. Makes a material misstatement or misrepresentation in an  
4 application for a permit;

5 2. Fraudulently or deceptively obtains or attempts to obtain a  
6 permit for another; or

7 3. If any of its officers, owners, partners, or directors are  
8 determined by the Commissioner to not be competent, trustworthy,  
9 financially responsible, and of good personal and business  
10 reputation and character.

11 C. The Insurance Commissioner may approve an application of an  
12 organization for a permit and deny the request of the organization  
13 to act as a trustor if the organization does not satisfy all  
14 qualifications. This shall not hinder an organization from entering  
15 into contracts funded by assignments of insurance.

16 D. All permits issued pursuant to the provisions of this  
17 section shall be displayed in a conspicuous place at all times on  
18 the premises of the organization. No organization may consent to,  
19 or allow the use or display of, the permit by a person other than  
20 the persons authorized to represent the organization in contracting  
21 prepaid funeral benefits.

22 E. The organization shall not be entitled to enforce a contract  
23 made in violation of the act, but the purchaser or the heirs of the  
24 purchaser, or legal representative, shall be entitled to recover

1 triple the amounts paid to the organization with interest thereon at  
2 the rate of six percent (6%) per annum under any contract made in  
3 violation hereof.

4 SECTION 2. AMENDATORY 36 O.S. 2021, Section 6124, is  
5 amended to read as follows:

6 Section 6124. A. Each organization desiring to ~~accept money or~~  
7 ~~anything of value for prepaid funeral benefits or an agreement~~ issue  
8 contracts to provide funeral benefits in the future at a fixed or  
9 predetermined cost, shall electronically file an application for a  
10 permit with the Insurance Commissioner in the manner and form  
11 prescribed by the Commissioner, and shall at the time of filing an  
12 application pay one initial filing fee of Fifty Dollars (\$50.00) and  
13 any other transaction or related fees deemed necessary by the  
14 Commissioner. The Insurance Commissioner shall issue a permit upon:

15 1. The receipt of the application and payment of the filing  
16 fee;

17 2. Determination that the organization is in good standing as a  
18 funeral establishment with the Oklahoma Funeral Board; and

19 3. Making a finding that the organization has complied with the  
20 provisions of this act and the rules promulgated under this act  
21 pursuant to Section 6121 et seq. of this title by the Insurance  
22 Commissioner. All applications shall be signed by the organization  
23 requesting the permit, and shall contain a statement that the  
24 organization will comply with all the requirements as established by

1 ~~this act~~ Section 6121 et seq. of this title. All permits shall  
2 expire annually on ~~December 31~~ of the year the permit is first  
3 ~~issued~~ April 30, unless renewed; permits may be renewed for a period  
4 not to exceed the succeeding ~~December 31~~ April 30 upon the payment  
5 of a renewal fee of Fifty Dollars (\$50.00). ~~Late application for~~  
6 ~~renewal of a permit shall require a fee of double the renewal fee.~~  
7 ~~No application for renewal of a permit shall be accepted after~~  
8 ~~January 31 of each year. The Insurance Commissioner may authorize~~  
9 ~~acceptance of a new permit application pursuant to this section~~  
10 ~~prior to the expiration of the one-year period upon good cause shown~~  
11 The renewal application shall be filed, and the fee shall be paid  
12 electronically in a form and manner prescribed by the Commissioner.  
13 A permit that expires for failure to submit a renewal application  
14 may be reinstated within ninety (90) days after the expiration date  
15 following the submission and payment of a renewal application,  
16 renewal fee, and any other fees deemed necessary by the  
17 Commissioner. The renewal fee for a permit that expires for failure  
18 to submit a renewal application shall be double the renewal fee for  
19 a timely renewal application. The Insurance Commissioner shall  
20 require a permit holder whose permit has been expired for more than  
21 ninety (90) days to reapply as if a new applicant and pay an  
22 application fee that is double the renewal fee for a timely renewal  
23 application and any other fees deemed necessary by the Commissioner.  
24 An application submitted after the permit has been expired for more

1 than ninety (90) days shall include a detailed report of services  
2 provided in this state during the period of expired permit.

3 B. The Insurance Commissioner may cancel a permit or refuse to  
4 issue a permit or refuse to issue a renewal of a permit for failure  
5 to comply with any provision of ~~this act~~ Section 6121 et seq. of  
6 this title, or any valid rule, which the Insurance Commissioner has  
7 promulgated, after reasonable notice to the organization and after  
8 hearing if the organization requests a hearing. When the Insurance  
9 Commissioner cancels a permit or refuses to issue a renewal of a  
10 permit for a violation as provided by this subsection, the Insurance  
11 Commissioner shall notify the Oklahoma Funeral Board of the action  
12 and the nature of any violations.

13 C. No organization shall be entitled to a new permit for a  
14 period of one (1) year after cancellation or refusal by the  
15 Insurance Commissioner to issue or renew the permit of the  
16 organization, but shall thereafter be entitled to a new permit upon  
17 satisfactory proof of compliance with this law after the expiration  
18 of the one-year period.

19 D. Any person or organization aggrieved by the actions of the  
20 Insurance Commissioner may appeal therefrom as provided by Article  
21 II of the Administrative Procedures Act.

22 E. On and after the effective date of this act, no organization  
23 shall issue a contract for prepaid benefits funded by a trust  
24 account. An organization may continue to operate and fund a trust

1 established prior to the effective date of this act for existing  
2 contract holders.

3 F. Every permit holder, upon receipt of any inquiry from the  
4 Commissioner, shall furnish the Commissioner with an adequate  
5 response to the inquiry within twenty (20) days from the date that  
6 the inquiry is received.

7 G. Each permit holder shall electronically notify the  
8 Commissioner of and pay any fees deemed necessary by the  
9 Commissioner for any change in address or contact information within  
10 thirty (30) days of the change. Submission and payment shall be  
11 completed in the form and manner prescribed by the Commissioner.  
12 Any submission of a change of legal business name, "doing business  
13 as" or assumed name, address, or contract email address received  
14 more than thirty (30) days after the change occurred shall be  
15 accompanied by a fee of Fifty Dollars (\$50.00).

16 SECTION 3. AMENDATORY 36 O.S. 2021, Section 6124.1, is  
17 amended to read as follows:

18 Section 6124.1. A. No prepaid funeral benefit permit shall be  
19 transferable from one organization to another except as provided in  
20 this section. The selling organization shall notify the Insurance  
21 Commissioner at least forty-five (45) days prior to transfer of  
22 ownership. Notification shall be in a form provided by the  
23 Insurance Commissioner and shall contain at a minimum the following  
24 information:

1        1. The name of the acquiring organization;

2        2. The date the acquiring organization will take control of the  
3 funeral establishment;

4        3. A listing of all unrealized prepaid funeral benefit  
5 contracts funded by insurance assignments;

6        4. A listing of all unrealized prepaid funeral benefit  
7 contracts funded by trusts;

8        5. A detailed description of existing trusts to include, but  
9 not be limited to, the name of the contract holder and the trust  
10 value per contract; and

11       6. Any other information the Insurance Commissioner may  
12 request.

13       B. The Insurance Commissioner may waive the notice requirement  
14 provided for in subsection A of this section upon good cause shown.

15       C. The acquiring organization shall make application for a  
16 permit at least thirty (30) days prior to the transfer of ownership.  
17 Approval is contingent upon the organization receiving an  
18 establishment license as provided for in Sections 395.1 through  
19 396.33 of Title 59 of the Oklahoma Statutes. The application shall  
20 include an assumption agreement executed by the acquiring  
21 organization in a form provided by the Insurance Commissioner.

22       D. The acquiring organization shall be issued a prepaid funeral  
23 benefit permit prior to the relinquishment of control of the trust  
24 by the selling organization. The acquiring organization shall not



1 access funds held in the trust until authorization has been given by  
2 the Insurance Commissioner.

3 E. Upon good cause shown, the Insurance Commissioner may deny  
4 transfer of the trust from the selling organization to the acquiring  
5 organization.

6 F. The Insurance Commissioner may assume the role of acting  
7 trust conservator as a means of safeguarding the rights and  
8 interests of the individual contract holder. The organization may  
9 make application to the Insurance Commissioner to draw down funds  
10 upon fulfillment of the prepaid funeral service contract.

11 G. Whenever a prepaid funeral benefit permit holder refuses to  
12 submit the books, records, papers and instruments of the prepaid  
13 funeral benefit contracts to the examination and inspection of the  
14 assistants or examiners of the Insurance Commissioner, or refuses or  
15 neglects to establish or maintain a prepaid funeral benefit permit  
16 in accordance with the requirements of ~~the Prepaid Funeral Benefits~~  
17 ~~Act~~ Section 6121 et seq. of this title within ninety (90) days after  
18 a written demand to establish or maintain a prepaid funeral benefit  
19 permit is made by the Commissioner, or in any manner obstructs or  
20 interferes with the examination of its prepaid funeral benefit  
21 contracts or refuses to be examined on oath concerning any of the  
22 affairs of its prepaid funeral benefit contracts, the Commissioner  
23 may make application for receivership in the manner of a domestic  
24 insurer pursuant to Sections 1901 through 1920 of this title, in

1 addition to the applicable penalties and enforcement provisions of  
2 this act.

3 H. The Insurance Commissioner may prescribe rules concerning  
4 matters incidental to this section.

5 SECTION 4. AMENDATORY 36 O.S. 2021, Section 6124.2, is  
6 amended to read as follows:

7 Section 6124.2. A. No prepaid funeral benefit permit holder  
8 shall change the name under which the permit holder operates except  
9 as provided in this section. ~~The prepaid funeral benefit permit~~  
10 ~~holder shall obtain approval from the Insurance Commissioner at~~  
11 ~~least thirty (30) days prior to changing the name of the permit~~  
12 ~~holder.~~ The application for change of name of a prepaid funeral  
13 benefit permit holder shall be filed electronically in a the manner  
14 and form provided by the Insurance Commissioner, along with any  
15 applicable fees, within thirty (30) days of the legal change and  
16 shall contain, at a minimum, the following information:

- 17 1. The name of the permit holder;
- 18 2. The proposed new name of the permit holder; ~~and~~
- 19 3. The date the name change will become effective;
- 20 4. The business address of the permit holder; and
- 21 5. The permit holder's primary email address.

22 B. ~~The Insurance Commissioner may waive the approval~~  
23 ~~requirement provided for in subsection A of this section upon good~~  
24 ~~cause shown.~~

1       ~~C.~~ The Insurance Commissioner may deny the change of name of  
2 the prepaid funeral benefit permit holder upon good cause shown.

3       ~~D. C. Upon approval of a change of name~~ Unless the change of  
4 name is denied, the Insurance Commissioner shall issue a prepaid  
5 funeral benefit permit with the new name. The prepaid funeral  
6 benefit permit holder shall display in a conspicuous place at all  
7 times on the premises of the organization all permits issued  
8 pursuant to the provisions of this section. No organization may  
9 consent to or allow the use or display of the permit by a person  
10 other than the persons authorized to represent the organization in  
11 contracting prepaid funeral benefits.

12       ~~E. D.~~ The Insurance Commissioner may ~~prescribe~~ promulgate rules  
13 concerning matters incidental to this section.

14       E. Permit holders shall not conduct business under any name or  
15 at a different business address other than that specified in the  
16 permit.

17       SECTION 5.       AMENDATORY       36 O.S. 2021, Section 6125.2, is  
18 amended to read as follows:

19       Section 6125.2. A. ~~Contracts~~ All contracts for prepaid funeral  
20 benefits provided for pursuant to Section 6125 of this title ~~may~~  
21 issued on and after the effective date of this act shall be funded  
22 by ~~assignments of life insurance proceeds to the contracting~~  
23 ~~organization~~ either:

24       1. A standard life or accident insurance policy; or

1        2. An individual or group fixed annuity.

2        B. A guaranteed contract for prepaid funeral benefits provided  
3 for pursuant to paragraph 1 of subsection B of Section 6125 of this  
4 title ~~which is to be funded by assignment of life insurance proceeds~~  
5 issued on and after the effective date of this act shall provide  
6 that:

7        1. The contract be funded by ~~a life~~ an insurance policy or  
8 annuity issued in the face amount of the current purchase price of  
9 the contract for prepaid funeral benefits;

10       2. All accrued benefits under the insurance policy or annuity  
11 shall become available for disbursement to the organization upon the  
12 death of the beneficiary of the prepaid funeral contract;

13       3. The beneficiary shall be the same individual under the  
14 contract as the insured under the ~~life~~ insurance policy or annuity;  
15 and

16       4. The disbursement of ~~life~~ the insurance policy or annuity  
17 proceeds to the organization shall constitute payment in full to the  
18 organization for which the services and merchandise are contracted  
19 ~~for~~.

20       C. A nonspecified contract for prepaid funeral benefits  
21 provided for pursuant to paragraph 2 of subsection B of Section 6125  
22 of this title ~~which is to be funded by assignment of life insurance~~  
23 ~~proceeds~~ issued on or after the effective date of this act shall  
24 provide that:

1        1. The total proceeds paid to the organization under the  
2 insurance policy or annuity shall not exceed the actual retail cost  
3 of the funeral services and merchandise at the time of delivery;

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

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

11        D. A violation of this section shall constitute a misdemeanor  
12 and shall be punished by a fine ~~of~~ not less than One Hundred Dollars  
13 (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by  
14 imprisonment in the county jail for not less than one (1) month nor  
15 more than six (6) months, or by both such fine and imprisonment.

16        SECTION 6.        AMENDATORY        36 O.S. 2021, Section 6128, is  
17 amended to read as follows:

18        Section 6128. Each organization shall electronically file an  
19 annual report with the Insurance Commissioner on or before March 15  
20 of each year in such form and manner as the Insurance Commissioner  
21 may require, showing the names and addresses of all persons with  
22 whom contracts for prepaid funeral benefits have been made prior to  
23 December 31 of the preceding year which had not been fully  
24 discharged on December 31 and, also showing the date of the

1 contract, the name of the bank or depository holding the trust fund  
2 and the amount of the trust fund under each contract on the  
3 preceding December 31. Any organization which has discontinued the  
4 sale of prepaid funeral benefits, but which still has outstanding  
5 contracts, shall not be required to obtain a renewal of its permit,  
6 but it shall continue to make annual reports to the Insurance  
7 Commissioner until all such contracts have been fully discharged. A  
8 filing fee of Fifty Dollars (\$50.00) shall accompany each report.  
9 The Commissioner may assess any additional fees as deemed necessary  
10 pursuant to this act. If any officer of any organization fails or  
11 refuses to file an annual report, or to cause it to be filed within  
12 thirty (30) days after he or she has been notified by the Insurance  
13 Commissioner that the report is due and has not been received, he or  
14 she shall be guilty of a misdemeanor and shall be punished as  
15 prescribed in Section 6130 of this title.

16 SECTION 7. AMENDATORY 36 O.S. 2021, Section 6130, is  
17 amended to read as follows:

18 Section 6130. A. Any officer, director, agent, or employee of  
19 any organization subject to the terms of Sections 6121 through  
20 6136.18 of this title who makes or attempts to make any contract in  
21 violation of the provisions of Sections 6121 through 6136.18 of this  
22 title, or who refuses to allow an inspection of the records of the  
23 organization, or who violates any other provision of Sections 6121  
24 through 6136.18 of this title, upon conviction, shall be guilty of a

1 felony and shall be punished by imprisonment in the custody of the  
2 Department of Corrections for a term ~~of~~ not more than ten (10)  
3 years, and a fine not exceeding Ten Thousand Dollars (\$10,000.00),  
4 and ordered to pay restitution to the victim. Each violation of any  
5 provision of Sections 6121 through 6136.18 of this title shall be  
6 deemed a separate offense and prosecuted individually.

7 B. The violation of any provision of Sections 6121 through  
8 6136.18 of this title shall constitute a cause for the Oklahoma  
9 Funeral Board to revoke, or to refuse to issue or renew, any license  
10 issued pursuant to the provisions of Sections 396 through 396.33 of  
11 Title 59 of the Oklahoma Statutes. The violation of any provision  
12 of Sections 6121 through 6136.18 of this title shall constitute a  
13 cause for the Insurance Commissioner to ~~issue a notice and order to~~  
14 ~~show cause why the licensee shall not be censured, have the license~~  
15 ~~of the licensee suspended or revoked, be subject to, after~~  
16 opportunity for hearing, censure, suspend, revoke, or refuse to  
17 renew a permit, issue a fine ~~of not less than One Hundred Dollars~~  
18 ~~(\$100.00) and~~ not more than One Thousand Dollars (\$1,000.00), or ~~be~~  
19 ~~subject to both such fine and punishment~~ any combination thereof.

20 SECTION 8. This act shall become effective November 1, 2023.

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