

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION

☒ FLOOR AMENDMENT

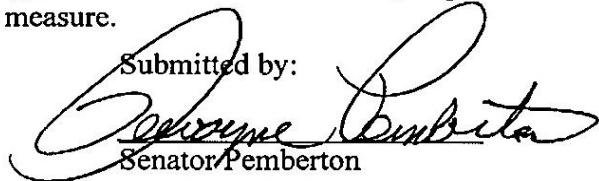
No. 2

☐ COMMITTEE AMENDMENT

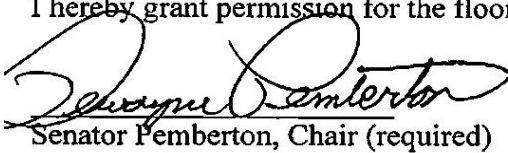
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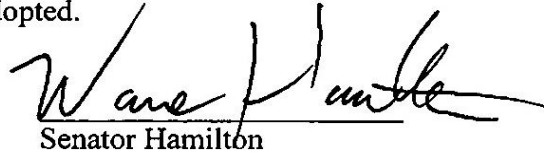
I move to amend Senate Bill No. 555 by substituting the attached floor substitute (Request No. 3515) for the title, enacting clause and entire body of the measure.

Submitted by:

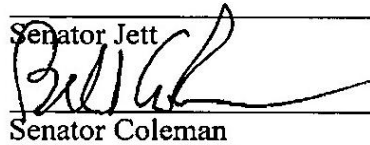

Senator Pemberton

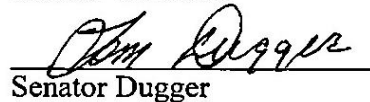
I hereby grant permission for the floor substitute to be adopted.


Senator Pemberton, Chair (required)

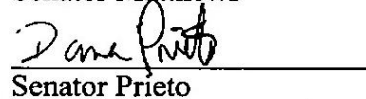

Senator Hamilton

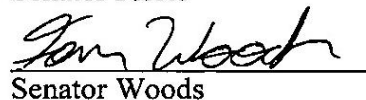
Senator Jett


Senator Coleman


Senator Dugger

Senator Matthews


Senator Prieto


Senator Woods

Senator Garvin

Senator Young

Senator Treat, President Pro Tempore

Senator McCortney, Majority Floor
Leader


Note: Retirement and Insurance committee majority requires six (6) members' signatures.

Pemberton-RD-FS-SB555

2/27/2024 11:09 AM

(Floor Amendments Only)

Date and Time Filed: 2-28-24

9:30 am 

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

FLOOR SUBSTITUTE
FOR

SENATE BILL NO. 555

By: Pemberton of the Senate

and

Sneed of the House

FLOOR SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2021, Sections 6121, 6124, 6124.1, 6124.2, 6125, 6125.2, 6128, and 6130, which relate to prepaid funeral benefits; modifying requirements for prepaid funeral service agreements; modifying application requirements for permitted organizations offering benefits; prescribing fees; modifying certain renewal applications and fees; requiring approved organizations to furnish certain information; requiring notifications and fee submittal for certain permit changes; conforming language; establishing provisions regarding Insurance Commissioner invocation of certain supervisory authority; providing for rule promulgation; defining term; clarifying language regarding funding of certain prepaid benefits; requiring electronic submission of certain report; prescribing certain penalties to be taken following certain hearing process; updating statutory references; updating statutory language; making language gender neutral; providing for codification; 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:

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

23 B. The Insurance Commissioner may deny the issuance of a permit
24 if the organization:

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

3 2. Fraudulently or deceptively obtains or attempts to obtain a
4 permit for another; or

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

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

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

20 E. The organization shall not be entitled to enforce a contract
21 made in violation of the act, but the purchaser or the heirs of the
22 purchaser, or legal representative, shall be entitled to recover
23 triple the amounts paid to the organization with interest thereon at
24

1 the rate of six percent (6%) per annum under any contract made in
2 violation hereof.

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

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

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

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

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

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

1 provided in this state during the period that the permit was
2 expired.

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. Every permit holder, upon receipt of any inquiry from the
23 Commissioner, shall furnish the Commissioner with an adequate
24

1 response to the inquiry within twenty (20) days from the date that
2 the inquiry is received.

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

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

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

- 21 1. The name of the acquiring organization;
- 22 2. The date the acquiring organization will take control of the
- 23 funeral establishment;

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

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

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

8 6. Any other information the Insurance Commissioner may
9 request.

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

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

19 D. The acquiring organization shall be issued a prepaid funeral
20 benefit permit prior to the relinquishment of control of the trust
21 by the selling organization. The acquiring organization shall not
22 access funds held in the trust until authorization has been given by
23 the Insurance Commissioner.

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

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

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

23 ~~H.~~ The Insurance Commissioner may prescribe rules concerning
24 matters incidental to this section.

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

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

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

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

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

~~D.~~ C. ~~Upon approval of a change of name~~ Unless the change of name is denied, the Insurance Commissioner shall issue a prepaid

1 funeral benefit permit with the new name. The prepaid funeral
2 benefit permit holder shall display in a conspicuous place at all
3 times on the premises of the organization all permits issued
4 pursuant to the provisions of this section. No organization may
5 consent to or allow the use or display of the permit by a person
6 other than the persons authorized to represent the organization in
7 contracting prepaid funeral benefits.

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

10 E. Permit holders shall not conduct business under any name or
11 at a different business address other than that specified in the
12 permit.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 6124.3 of Title 36, unless there
15 is created a duplication in numbering, reads as follows:

16 A. In addition to, or in lieu of, any other remedies available
17 under the provisions of Section 6121 et seq. of Title 36 of the
18 Oklahoma Statutes, or any other provisions of Title 36 of the
19 Oklahoma Statutes, the Insurance Commissioner may:

20 1. Assume the role of supervisor or conservator in the same
21 manner as a domestic insurer pursuant to Article 18 of Title 36 of
22 the Oklahoma Statutes; and

23 2. Apply for receivership in the same manner as a domestic
24 insurer pursuant to Article 19 of Title 36 of the Oklahoma Statutes.

1 B. Nothing in this section shall preclude the Insurance
2 Commissioner from invoking a supervision or conservatorship to
3 safeguard the rights and interests of the individual contract
4 holders or purchasers, their beneficiaries, successors, or
5 authorized representatives, or whenever necessary to protect the
6 public welfare.

7 C. The Insurance Commissioner may apply for receivership
8 whenever an organization:

9 1. Refuses or neglects to obtain or renew a prepaid funeral
10 benefit permit within ninety (90) days of the Insurance
11 Commissioner's written notice and demand for the organization to
12 obtain or renew a permit;

13 2. Refuses to submit the books, records, papers, and
14 instruments of the prepaid funeral benefit accounts, contracts, or
15 trusts to the examination and inspection of the Insurance
16 Commissioner or his or her assistants or examiners;

17 3. Obstructs or interferes in any manner with the Insurance
18 Commissioner's or his or her assistants' or examiners' examination
19 of its prepaid funeral benefit accounts, contracts, or trusts; or

20 4. Refuses to be examined on oath concerning any of the affairs
21 of its prepaid funeral benefit accounts, contracts, or trusts.

22 D. During any supervision, conservatorship, or receivership,
23 the Insurance Commissioner or his or her appointee may continue to
24 administer the affairs of a prepaid funeral benefit trust even after

1 the organization discontinues operations or no longer provides
2 funeral services and may, after notice and opportunity to be heard
3 in accordance with the Administrative Procedures Act, seek an order
4 dissolving any account, deposit, fund, holding, trust, or any other
5 savings or investments in which the proceeds from the sale of
6 prepaid funeral benefits were deposited or are being held by or on
7 behalf of an organization by ordering the account, deposit, fund, or
8 trust to be dissolved and the proceeds distributed to the original
9 contract holders or purchasers, their beneficiaries, or their
10 authorized representatives.

11 E. The Insurance Commissioner may promulgate rules to
12 effectuate the provisions of this section.

13 SECTION 6. AMENDATORY 36 O.S. 2021, Section 6125, is
14 amended to read as follows:

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

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

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

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

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

1 ~~1.~~—A

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

18 ~~2.~~—A

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

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

14 ~~3.~~ 2. Notwithstanding the provisions of this section, at no
15 time shall the purchaser of a contract for Specific and Described
16 Funeral Merchandise and Service at a Guaranteed Price receive upon
17 any withdrawal or transfer a sum less than the original principal
18 collected~~+~~or.

19 ~~4.~~ 3. Notwithstanding the provisions of this section, at no
20 time shall the purchaser of a contract for Exact Funeral Merchandise
21 and Services to be Selected at Time of Death receive upon any full
22 withdrawal or transfer prior to death a sum less than the original
23 principal collected available at death, with the exception of those
24

1 accounts which bear principal reduced by previously made cash
2 withdrawals.

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

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

1 E. A purchaser of either of the types of contracts authorized
2 by the provisions of this section may withdraw the net value of the
3 contract by signing a statement requesting the withdrawal. The
4 organization shall retain in its files a copy of the statement
5 requesting the withdrawal. Withdrawal of funds deposited pursuant
6 to the provisions of a contract authorized by the provisions of
7 paragraph 1 of subsection B of this section shall void the
8 obligation of the contracting organization to provide funeral
9 merchandise and services at a guaranteed price. Withdrawal forms
10 shall be retained on file for at least six (6) years by the
11 organization.

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

21 G. After thirty (30) days, a contract of either type authorized
22 by the provisions of this section may become irrevocable and not
23 subject to withdrawal prior to the death of the beneficiary if the
24 purchaser signs an election making the contract irrevocable. This

1 election shall not become effective until thirty (30) days after
2 signing the original contract.

3 H. In no event shall more funds be withdrawn or paid pursuant
4 to the provisions of one contract than were deposited with the
5 organization and which were accumulated as interest. All funds
6 deposited pursuant to the provisions of a contract authorized by the
7 provisions of this section and deposited pursuant to the terms of
8 this section and the interest earned on the funds shall be exempt
9 from attachment, garnishment, execution, and the claims of
10 creditors, receivers, or trustees in bankruptcy, until the time the
11 funds have been withdrawn from the trust account and paid to the
12 organization or refunded to the purchaser.

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

19 J. Organizations contracting with purchasers for prepaid
20 funeral benefits pursuant to paragraphs 1 and 2 of subsection B of
21 this section shall be entitled to deduct from the principal and
22 interest allocable to the contracts an administrative fee which
23 shall not exceed the product of .001146 times the total contract
24

1 fund including accrued interest per month or any major portion
2 thereof.

3 K. No organization holding a permit issued pursuant to the
4 provisions of Sections 6121 and 6124 of this title shall accept any
5 funds except pursuant to the provisions of a contract for prepaid
6 funeral or burial benefits authorized by the provisions of Sections
7 6121 through 6136.18 of this title, and no organization shall accept
8 funds from a purchaser in excess of the contracted price of prepaid
9 funeral or burial benefits purchased.

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

21 M. For the purposes of this section, "authorized
22 representative" means the person or persons designated by the
23 purchaser of the contract for prepaid funeral benefits as having
24

1 rights of ownership and control to the prepaid funds upon death of
2 the purchaser, including:

3 1. The guardian, executor, or the personal representative of
4 the estate of the purchaser; or

5 2. The claiming successor or successors establishing lawful
6 right to the prepaid funds in accordance with Section 393 of Title
7 58 of the Oklahoma Statutes.

8 SECTION 7. AMENDATORY 36 O.S. 2021, Section 6125.2, is
9 amended to read as follows:

10 Section 6125.2. A. Contracts for prepaid funeral benefits
11 provided for pursuant to Section 6125 of this title may be funded by
12 ~~assignments of life insurance proceeds to the contracting~~
13 ~~organization~~ a standard life or accident insurance policy, or an
14 individual or group fixed annuity.

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

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

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

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

4 4. The disbursement of ~~life~~ insurance policy or annuity
5 proceeds to the organization shall constitute payment in full to the
6 organization for which the services and merchandise are contracted
7 ~~for~~.

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

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

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

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

22 D. A violation of this section shall constitute a misdemeanor
23 and shall be punished by a fine ~~of~~ not less than One Hundred Dollars
24 (\$100.00) nor more than Five Hundred Dollars (\$500.00) or by

1 imprisonment in the county jail for not less than one (1) month nor
2 more than six (6) months, or by both such fine and imprisonment.

3 SECTION 8. AMENDATORY 36 O.S. 2021, Section 6128, is
4 amended to read as follows:

5 Section 6128. Each organization shall electronically file an
6 annual report with the Insurance Commissioner on or before March 15
7 of each year in such form and manner as the Insurance Commissioner
8 may require, showing the names and addresses of all persons with
9 whom contracts for prepaid funeral benefits have been made prior to
10 December 31 of the preceding year which had not been fully
11 discharged on December 31 and, also showing the date of the
12 contract, the name of the bank or depository holding the trust fund
13 and the amount of the trust fund under each contract on the
14 preceding December 31. Any organization which has discontinued the
15 sale of prepaid funeral benefits, but which still has outstanding
16 contracts, shall not be required to obtain a renewal of its permit,
17 but it shall continue to make annual reports to the Insurance
18 Commissioner until all such contracts have been fully discharged. A
19 filing fee of Fifty Dollars (\$50.00) shall accompany each report.
20 The Commissioner may assess any additional fees as deemed necessary
21 pursuant to this section. If any officer of any organization fails
22 or refuses to file an annual report, or to cause it to be filed
23 within thirty (30) days after he or she has been notified by the
24 Insurance Commissioner that the report is due and has not been

1 received, he or she shall be guilty of a misdemeanor and shall be
2 punished as prescribed in Section 6130 of this title.

3 SECTION 9. AMENDATORY 36 O.S. 2021, Section 6130, is
4 amended to read as follows:

5 Section 6130. A. Any officer, director, agent, or employee of
6 any organization subject to the terms of Sections 6121 through
7 6136.18 of this title who makes or attempts to make any contract in
8 violation of the provisions of Sections 6121 through 6136.18 of this
9 title, or who refuses to allow an inspection of the records of the
10 organization, or who violates any other provision of Sections 6121
11 through 6136.18 of this title, upon conviction, shall be guilty of a
12 felony and shall be punished by imprisonment in the custody of the
13 Department of Corrections for a term ~~of~~ not more than ten (10)
14 years, and a fine not exceeding Ten Thousand Dollars (\$10,000.00),
15 and ordered to pay restitution to the victim. Each violation of any
16 provision of Sections 6121 through 6136.18 of this title shall be
17 deemed a separate offense and prosecuted individually.

18 B. The violation of any provision of Sections 6121 through
19 6136.18 of this title shall constitute a cause for the Oklahoma
20 Funeral Board to revoke, or to refuse to issue or renew, any license
21 issued pursuant to the provisions of Sections 396 through 396.33 of
22 Title 59 of the Oklahoma Statutes. The violation of any provision
23 of Sections 6121 through 6136.18 of this title shall constitute a
24 cause for the Insurance Commissioner to ~~issue a notice and order to~~

1 ~~show cause why the licensee shall not be censured, have the license~~
2 ~~of the licensee suspended or revoked, be subject to censure,~~
3 ~~suspend, revoke, or refuse to renew a permit, issue a fine of not~~
4 ~~less than One Hundred Dollars (\$100.00) and not more than One~~
5 ~~Thousand Dollars (\$1,000.00), or be subject to both such fine and~~
6 ~~punishment~~ any combination thereof, after notice and opportunity for
7 hearing.

8 SECTION 10. This act shall become effective November 1, 2024.

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