

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 546

By: Montgomery

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6 AS INTRODUCED

7 An Act relating to the Cemetery Merchandise Trust
8 Act; amending 36 O.S. 2021, Sections 7125, 7127,
9 7128, 7131, and 7133, which relate to permit
10 application, surety bond, annual reporting, and
11 violations; requiring certain applications and fees
12 to be submitted and paid electronically; adding
13 certain report to documents required for issuance of
14 permit; requiring renewal fee prior to reinstatement
15 of certain permit; modifying renewal procedures for
16 expired permits; requiring certain report from
17 expired permit holders; conforming language;
18 requiring certain updates to permit holder
19 information by certain date; requiring certain permit
20 holder to respond to certain inquiries by certain
21 date; requiring surety to provide notice to Insurance
22 Commissioner by certain date; requiring annual report
23 to be filed electronically; removing minimum amount
24 for certain civil penalty assessed for certain
25 violation; conforming language; and providing an
26 effective date.

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

30 SECTION 1. AMENDATORY 36 O.S. 2021, Section 7125, is
31 amended to read as follows:

32 Section 7125. A. Each organization desiring to accept money or
33 anything of value for prepaid cemetery merchandise shall file an
34 application for a permit with the Insurance Commissioner, and shall
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1 at the time of filing the application pay one initial filing fee of
2 Two Hundred Dollars (\$200.00). All applications shall be filed and
3 the fee shall be paid electronically in a form and manner prescribed
4 by the Commissioner. The Commissioner shall issue a permit upon the
5 receipt of the application, the annual report in accordance with
6 Section 7128 of this title, and payment of the filing ~~fee~~ fees, and
7 upon making a finding that the applicant has complied with the the
8 Cemetery Merchandise Trust Act and the rules as may be established
9 pursuant to the Cemetery Merchandise Trust Act by the Commissioner.
10 All applications shall be signed by the organization requesting the
11 permit, and shall contain a statement that the applicant will comply
12 with all the requirements as established pursuant to the Cemetery
13 Merchandise Trust Act. All permits shall expire on March 15 of the
14 year following the year the permit is first issued, unless renewed.
15 Permits shall be renewed for a period not to exceed the succeeding
16 March 15 upon the payment of a renewal fee of Two Hundred Dollars
17 (\$200.00). ~~Late application for renewal of a permit shall require a~~
18 ~~fee of double the renewal fee. No application for renewal of a~~
19 ~~permit shall be accepted after April 15 of each year. Late~~
20 ~~applicants shall be required to reapply as if they were a new~~
21 ~~applicant, and pay an application fee equal to an amount that is~~
22 ~~double the renewal fee in addition to any fines that may have been~~
23 ~~imposed with respect to an expired permit~~ The renewal shall be
24 filed, and the fee shall be paid electronically in a form and manner

1 prescribed by the Commissioner. A permit that expires for failure
2 to submit a renewal application may be reinstated within ninety (90)
3 days after the expiration date by electronically submitting a fee in
4 an amount that is double the renewal fee in a form and manner
5 prescribed by the Commissioner and any other transaction or fees
6 deemed necessary by the Commissioner. The Insurance Commissioner
7 shall require a permit holder whose permit has been expired for more
8 than ninety (90) days to reapply as if a new applicant and pay an
9 application fee equal to an amount that is double the renewal fee,
10 in addition to any fines imposed. All applications received more
11 than ninety (90) days following the expiration of a permit shall
12 include a detailed report of services provided in this state during
13 the period of the permit expiration.

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

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

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

6 E. Each permit holder shall electronically submit, in a form
7 and manner prescribed by the Commissioner, any change of legal
8 business name, doing business as or assumed name, address, or
9 contact email address, and any necessary fees within thirty (30)
10 days after the change occurred. Any submission of a change under
11 this subsection that is received more than thirty (30) days after
12 the change occurred shall be accompanied by a fee of Fifty Dollars
13 (\$50.00).

14 F. Upon receipt of any inquiry from the Insurance Commissioner,
15 a permit holder shall furnish the Commissioner with an adequate
16 response to the inquiry within twenty (20) days from the date of
17 receipt of the inquiry.

18 SECTION 2. AMENDATORY 36 O.S. 2021, Section 7127, is
19 amended to read as follows:

20 Section 7127. A. As an alternative to the trust requirements
21 of Section 7126 of this title, an organization may purchase a surety
22 bond in an amount not less than the minimum funding requirement.

23 B. The surety bond shall be made payable to the State of
24 Oklahoma for the benefit of the Insurance Commissioner and all

1 purchasers of prepaid cemetery merchandise. The bond shall be
2 approved by the Commissioner.

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

5 D. A surety bond maintained under the provisions of this
6 section or Section 7124 of this title may be cancelled or terminated
7 by the surety only by providing notice to the Commissioner, no later
8 than ~~ninety (90)~~ thirty (30) days before the effective date of the
9 cancellation or termination. Notwithstanding the cancellation,
10 termination, or expiration of a bond maintained under this section
11 or Section 7124 of this title, the surety shall remain liable for
12 obligations arising during the term of the bond and prior to the
13 termination, cancellation or expiration.

14 SECTION 3. AMENDATORY 36 O.S. 2021, Section 7128, is
15 amended to read as follows:

16 Section 7128. Each organization shall electronically file an
17 annual report with the Insurance Commissioner on or before March 15
18 of each year in ~~a~~ the manner and form ~~as~~ the Commissioner may
19 require, showing the name of the financial institution holding the
20 cemetery merchandise trust fund and the amount of the trust fund
21 under each contract on the preceding December 31, and also showing
22 the method of determination of the wholesale costs made pursuant to
23 Section 7126 of this title. The total required deposits to the
24 cemetery merchandise trust fund during the year shall also be

1 reported. Each cemetery is responsible for maintaining satisfactory
2 books and records, which will adequately justify all information
3 contained in the annual report required by this section. Any
4 organization which has discontinued the sale of prepaid cemetery
5 merchandise, but which still has funds deposited in a cemetery
6 merchandise trust fund or surety, shall not be required to obtain a
7 renewal of its permit, but it shall continue to make annual reports
8 to the Commissioner until all the funds have been disbursed pursuant
9 to the Cemetery Merchandise Trust Act. A filing fee of Two Hundred
10 Dollars (\$200.00), and any transaction fees prescribed by the
11 Commissioner, shall accompany each report. If any officer of any
12 organization fails or refuses to file an annual report, or fails or
13 refuses to cause it to be filed within thirty (30) days after the
14 organization has been notified by the Commissioner that the report
15 is due and has not been received, the officer shall be guilty of a
16 misdemeanor and shall be punished as prescribed in Section 7134 of
17 this title.

18 SECTION 4. AMENDATORY 36 O.S. 2021, Section 7131, is
19 amended to read as follows:

20 Section 7131. A. The Insurance Commissioner, may, after notice
21 and an opportunity for hearing, initiate an action to recover
22 payments required to be redeposited to the cemetery merchandise
23 trust pursuant to the Cemetery Merchandise Trust Act or to recover
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1 other monies received or disbursed in violation of the Cemetery
2 Merchandise Trust Act.

3 B. The Commissioner may, after an opportunity for hearing,
4 censure a permittee or may suspend or revoke a permit for violation
5 of any provision of the Cemetery Merchandise Trust Act or any rules
6 promulgated by the Commissioner. In addition to, or in lieu of, any
7 censure, suspension or revocation, a permittee may be subject to a
8 civil penalty ~~of not less than One Hundred Dollars (\$100.00) nor~~
9 more than One Thousand Dollars (\$1,000.00) per occurrence or
10 violation.

11 SECTION 5. AMENDATORY 36 O.S. 2021, Section 7133, is
12 amended to read as follows:

13 Section 7133. Whenever any officer of any organization refuses
14 to submit the books, records, papers and instruments of an
15 organization to the examination and inspection of the assistants or
16 examiners of the Insurance Commissioner, or refuses or neglects to
17 establish or maintain a cemetery merchandise trust fund in
18 accordance with the requirements of the Cemetery Merchandise Trust
19 Act within ninety (90) days after a written demand to establish or
20 maintain a cemetery merchandise trust fund is made by the
21 Commissioner, or in any manner obstructs or interferes with the
22 examination of its cemetery merchandise trust fund, or refuses to be
23 examined on oath concerning any of the affairs of its cemetery
24 merchandise trust fund, the Commissioner may make application for

1 receivership in the manner of a domestic insurer pursuant to
2 Sections 1901 through 1920 of Title 36 of the Oklahoma Statutes, in
3 addition to the penalties and other enforcement provisions of the
4 Cemetery Merchandise Trust Act.

5 SECTION 6. This act shall become effective November 1, 2023.

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