

1 **SENATE FLOOR VERSION**

2 February 14, 2023

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 546

6 By: Montgomery of the Senate

7 and

8 Sneed of the House

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

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

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

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

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

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

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

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

9 E. Each permit holder shall electronically submit, in a form  
10 and manner prescribed by the Commissioner, any change of legal  
11 business name, "doing business as" or assumed name, address, or  
12 contact email address, and any necessary fees within thirty (30)  
13 days after the change occurred. Any submission of a change under  
14 this subsection that is received more than thirty (30) days after  
15 the change occurred shall be accompanied by a fee of Fifty Dollars  
16 (\$50.00).

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

21 SECTION 2. AMENDATORY 36 O.S. 2021, Section 7127, is  
22 amended to read as follows:  
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1 Section 7127. A. As an alternative to the trust requirements  
2 of Section 7126 of this title, an organization may purchase a surety  
3 bond in an amount not less than the minimum funding requirement.

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

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

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

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

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

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

22 SECTION 4. AMENDATORY 36 O.S. 2021, Section 7131, is  
23 amended to read as follows:  
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1 Section 7131. A. The Insurance Commissioner, may, after notice  
2 and an opportunity for hearing, initiate an action to recover  
3 payments required to be redeposited to the cemetery merchandise  
4 trust pursuant to the Cemetery Merchandise Trust Act or to recover  
5 other monies received or disbursed in violation of the Cemetery  
6 Merchandise Trust Act.

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

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

17 Section 7133. Whenever any officer of any organization refuses  
18 to submit the books, records, papers and instruments of an  
19 organization to the examination and inspection of the assistants or  
20 examiners of the Insurance Commissioner, or refuses or neglects to  
21 establish or maintain a cemetery merchandise trust fund in  
22 accordance with the requirements of the Cemetery Merchandise Trust  
23 Act within ninety (90) days after a written demand to establish or  
24 maintain a cemetery merchandise trust fund is made by the

1 Commissioner, or in any manner obstructs or interferes with the  
2 examination of its cemetery merchandise trust fund, or refuses to be  
3 examined on oath concerning any of the affairs of its cemetery  
4 merchandise trust fund, the Commissioner may make application for  
5 receivership in the manner of a domestic insurer pursuant to  
6 Sections 1901 through 1920 of Title 36 of the Oklahoma Statutes, in  
7 addition to the penalties and other enforcement provisions of the  
8 Cemetery Merchandise Trust Act.

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

10 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE  
11 February 14, 2023 - DO PASS AS AMENDED BY CS  
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