

# An Act

ENROLLED SENATE  
BILL NO. 481

By: Stanislawski of the Senate

and

McCall of the House

An Act relating to insurance; amending 36 O.S. 2011, Sections 6124.1 and 7106, which relate to prepaid funeral benefit permits and annual reports; authorizing the transfer of benefits to Insurance Commissioner in certain circumstances; amending 36 O.S. 2011, Section 7102, as amended by Section 17, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2015, Section 7102), which relates to definitions; clarifying certain terms; amending 36 O.S. 2011, Section 7103, which relates to deposits into trust fund; authorizing cemeteries to choose method of distribution from perpetual care fund; providing certain terms for distribution; authorizing Insurance Commissioner to limit or prohibit distributions in certain situations; mandating certain payments; amending 36 O.S. 2011, Section 7105, which relates to investment of trust funds; adding terms affecting certain incomes; amending 36 O.S. 2011, Section 6125, as amended by Section 12, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2015, Section 6125), which relates to deposit of funds; modifying destination of certain funds collected; amending 36 O.S. 2011, Section 7126, which relates to cemetery merchandise trust funds; modifying destination of certain funds collected; and providing an effective date.

SUBJECT: Motor vehicle permits

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

SECTION 1. AMENDATORY 36 O.S. 2011, Section 6124.1, is amended to read as follows:

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

1. The name of the acquiring organization;
2. The date the acquiring organization will take control of the funeral establishment;
3. A listing of all unrealized prepaid funeral benefit contracts funded by insurance assignments;
4. A listing of all unrealized prepaid funeral benefit contracts funded by trusts;
5. A detailed description of existing trusts to include, but not be limited to, the name of the contract holder and the trust value per contract; and
6. Any other information the Insurance Commissioner may request.

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

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

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

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

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

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

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

SECTION 2. AMENDATORY 36 O.S. 2011, Section 7106, is amended to read as follows:

Section 7106. A. The owner of a cemetery maintaining a Perpetual Care Trust Fund, or certificate of deposit in lieu of a Perpetual Care Trust Fund, shall be required to pay to the Insurance Commissioner an annual fee of Two Hundred Dollars (\$200.00), and

file a report of each cemetery by March 15 of each year with the Commissioner, showing, for the preceding calendar year:

1. The gross amount received from sales of grave spaces, lots, mausoleum crypts and niches;

2. The total purchase price of grave spaces, lots, mausoleum crypts and niches on contracts which received final payment and required deposits to the Perpetual Care Fund during the calendar year;

3. The operating expenses incurred during the calendar year which are eligible to be paid from income of the Perpetual Care Fund;

4. The total amount of the principal of the Perpetual Care Fund as of the beginning of the preceding calendar year; and

5. The amount segregated and deposited in the Perpetual Care Fund as provided by the Perpetual Care Fund Act which, if the Perpetual Care Fund is held in trust, shall be certified by the trustee of the Perpetual Care Fund as to correctness thereof, and the trustee shall provide:

- a. the total amount of the principal of the Perpetual Care Fund as of the end of the calendar year,
- b. the securities and other assets in which such perpetual care funds are invested,
- c. the cash on hand,
- d. a verification in writing of all assets in which monies of the Perpetual Care Fund have been invested; provided, the verification shall be obtained from the holder or holders of the assets,
- e. the income derived from the Perpetual Care Fund investments during the calendar year, and
- f. the gross expenditures or transfers from income of the Perpetual Care Fund during the calendar year.

The annual fee collected pursuant to this subsection shall be deposited in the State Insurance Commissioner Revolving Fund created pursuant to Section 307.3 of ~~Title 36 of the Oklahoma Statutes~~ this title.

B. If the Perpetual Care Fund is maintained in a certificate of deposit in lieu of a trust fund, the cemetery shall provide in its annual report a verification from the financial institution as to the amount of principal of the Perpetual Care Fund as of the end of the calendar year, and the amount of funds contributed to the certificate of deposit by the cemetery as of each maturity date of the certificate of deposit during the last calendar year.

C. The Commissioner shall have authority, at any time, to inspect the books and records of any cemetery, and to make an examination thereof for the purpose of determining if proper sums have been deposited with the trustee in the Perpetual Care Fund, or in a certificate of deposit maintained in lieu of a trust fund, and if the Fund is being properly administered by the trustee in accordance with the provisions of the Perpetual Care Fund Act and rules of the Commissioner. The examination shall be conducted pursuant to Sections 309.1 through 309.7 of ~~Title 36 of the Oklahoma Statutes~~ this title and the cost of the examination shall be paid by the cemetery owner. The cost of the examination shall be billed directly to the cemetery owner by the examiner. Each cemetery owner and trustee is responsible for maintaining satisfactory books and records which adequately justify all information contained in the annual report required by this section.

D. Whenever a cemetery owner and/or trustee refuses to submit the books, records, papers, and instruments of the cemetery to the examination and inspection of the assistants or examiners of the Insurance Commissioner, or refuses or neglects to establish or maintain a Perpetual Care Trust Fund in accordance with the requirements of the Perpetual Care Fund Act within ninety (90) days after a written demand to establish or maintain a Perpetual Care Fund is made by the Commissioner, or in any manner obstructs or interferes with the examination of its cemetery or refuses to be examined on oath concerning any of the affairs of its cemetery, the Commissioner may make application for receivership in the manner of

a domestic insurer pursuant to Sections 1901 through 1920 of this title.

SECTION 3. AMENDATORY 36 O.S. 2011, Section 7102, as amended by Section 17, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2015, Section 7102), is amended to read as follows:

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

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

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

3. "Purchase price" means the gross dollar amount the customer shall pay the cemetery under a contractual agreement between the two to exchange ownership of, or rights to, certain burial spaces. Purchase price shall not include finance charges, sales tax, charges for credit life insurance, opening and closing costs and setting fees, but shall include any amount which the customer is required to pay as a deposit to the Perpetual Care Fund, described in Section 7103 of this title. On sales of burial spaces wherein discounts or free spaces are granted to the customer by the cemetery, the purchase price shall be the fair market value or the normal selling price of that particular type of burial space as sold by the cemetery;

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

5. "Income", except as provided in subsection D of Section 7103 of this title, means the return derived from the principal amount, excluding capital gains;

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

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

SECTION 4. AMENDATORY 36 O.S. 2011, Section 7103, is amended to read as follows:

Section 7103. A. In all cemeteries in this state where burial spaces are sold, not less than ten percent (10%) of the purchase price thereof shall be segregated and set aside as a permanent trust fund to be known as the "Perpetual Care Fund". The Perpetual Care Fund shall be invested as hereinafter prescribed, and the income only shall be used in improving, caring for, and embellishing the lots, walks, drives, parks and other improvements in the cemeteries and maintenance of office and care of records.

B. If a cemetery allows a person or other entity to construct or otherwise establish a burial space at the cemetery that is not purchased from the cemetery, the cemetery shall collect from the person or entity an amount not less than ten percent (10%) of the construction or retail cost of the burial space, to be deposited in the Perpetual Care Fund of the cemetery.

C. The owner or designated agent of a cemetery shall set aside and deposit the amounts required in subsections A and B of this section in a financial institution authorized by law, as trustee, to administer the trusts, not later than thirty (30) days after the close of the month in which was received the final payment on the purchase price of each burial space. The amounts shall be held by the trustee of the Perpetual Care Fund in trust for the specific purposes stated in a written trust agreement. The trust agreement may provide for an individual or other entity to exist as cotrustee; provided, however, in no instance shall the cotrustee have sole access to deposits held in the Perpetual Care Fund, except as otherwise provided in this act.

D. Notwithstanding the requirements of subsection C of this section, if the total amount of the Perpetual Care Fund maintained by the cemetery is an amount equal to or less than the standard insurance amount per depositor as provided by the Federal Deposit Insurance Corporation, the cemetery may, in lieu of depositing the funds in a trust account, purchase a certificate of deposit from a

financial institution according to the terms of this subsection. The certificate of deposit shall be pledged in favor of the Oklahoma Insurance Department with no right of withdrawal by the cemetery, whether before or after maturity, except upon application to, and approval by, the Insurance Commissioner. The terms of the certificate of deposit shall provide for notice to the Insurance Department within thirty (30) days prior to maturity. Only interest accruing from the certificate of deposit may be withdrawn by the cemetery and shall be considered income for purposes of subsection A of this section. If a cemetery maintains a certificate of deposit in lieu of a trust fund, as it collects funds which are required to be deposited into its Perpetual Care Fund, it shall segregate those funds from its other operating funds and contribute those funds to the certificate of deposit upon its next maturity date. If a Perpetual Care Fund of a cemetery is maintained in a certificate of deposit, but grows in an amount greater than the standard insurance amount per depositor as provided by the Federal Deposit Insurance Corporation, the cemetery shall comply with the provisions of subsection C of this section by placing all of its Perpetual Care Fund in trust and shall no longer maintain a certificate of deposit as authorized by this subsection.

E. A cemetery regulated under this section may choose distribution from the perpetual care fund in the form of either all net ordinary income or an amount, not to be reduced by taxes or fees, not exceeding five percent (5%) of the average fair market value of the trust funds.

1. A cemetery may select a distribution method by delivering written instructions to the trustee of the fund no later than thirty (30) days prior to the beginning of the calendar year. Such notification shall also be provided to the Insurance Commissioner. The distribution method and distribution rate selected shall remain in effect unless the cemetery notifies the trustee and the Insurance Commissioner of its desire to effect a change.

2. Disbursements from the trust shall be made on a monthly, quarterly, semi-annual or annual basis, as agreed upon by the cemetery and the trustee.

3. In the event that the trustee does not receive written instructions from the cemetery informing the trustee of the method

of calculation chosen, then the trustee shall calculate and disburse the net ordinary income, as earned, on a monthly basis.

4. If the cemetery company selects a distribution based on the average fair market value calculation, the trustees must ensure that an investment policy is in place whose goals and objectives are supportive of the growth of the care and maintenance fund. In order to withdraw up to five percent (5%) of trust funds, the current market value of the trust after the withdrawal shall be greater than the aggregate of eighty percent (80%) of the market value of the trust as of the preceding calendar year, plus the total contributions made to trust principal from such date to the date that the method of calculation is selected. If this is not the case, distributions will be limited for that year to the net ordinary income.

5. The Insurance Commissioner may limit or prohibit the distribution based on average fair market value calculation in situations where investment returns and distribution practices have not resulted in sufficient protection of the care fund's trust principal from a three to five year analysis, or where the trustee and any investment manager are not able to demonstrate sufficient knowledge and expertise regarding the effective implementation of distributing income for the maintenance of the cemetery using this method.

F. Without regard to the withdrawal method selected pursuant to subsection E of this section, capital gains taxes shall be paid from the trust principal.

SECTION 5. AMENDATORY 36 O.S. 2011, Section 7105, is amended to read as follows:

Section 7105. Accumulated trust funds held by the trustee of the Perpetual Care Fund shall be invested in the manner provided in the Oklahoma Trust Act, Sections 175.1 through 175.57 of Title 60 of the Oklahoma Statutes, and any amendments thereto. The income derived therefrom shall be returned to the cemeteries to be used by them only as provided by the Perpetual Care Fund Act and in a manner consistent with elections made pursuant to subsection E of Section 7103 of this title.

SECTION 6. AMENDATORY 36 O.S. 2011, Section 6125, as amended by Section 12, Chapter 269, O.S.L. 2013 (36 O.S. Supp. 2015, Section 6125), is amended to read as follows:

Section 6125. A. 1. The organization may retain from the first funds collected, the first ten percent (10%) of the purchase price of all contracts issued pursuant to paragraph 1 of subsection B of this section. Thereafter, one hundred percent (100%) of all funds collected pursuant to the provisions of contracts for prepaid funeral benefits, except for outer enclosures as defined by the Funeral Services Licensing Act, shall be ~~placed in interest bearing investments authorized by Article 16 of the Insurance Code, except to the extent the Insurance Commissioner may determine that a particular asset may be inappropriate for investment for prepaid funeral benefits~~ invested in the manner provided in the Oklahoma Trust Act, Sections 175.1 through 175.57 of Title 60 of the Oklahoma Statutes, and any amendments thereto.

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

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

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

1. A contract for Specific and Described Funeral Merchandise and Service at a Guaranteed Price. The provisions of this type of contract shall provide that interest paid by the organization upon monies deposited in trust shall be added to the principal and that principal and interest shall become available for disbursement to the organization upon the death of the beneficiary and if withdrawal of monies occurs prior to death, the net value, plus the amount withheld pursuant to paragraph 1 of subsection A of this section, shall be paid to the purchaser. Net value of the contract for purposes of this section shall be determined by adding the amount of all principal paid in pursuant to the provisions of the contract plus all interest payable pursuant to subsection D of this section less taxes and administrative fees;

2. A contract establishing a fund for prepaid funeral benefits. The provisions of this type of contract shall require an initial minimum deposit of Twenty-five Dollars (\$25.00) and shall grant the purchaser the right to add to the fund at the discretion of the purchaser. The provisions of this contract shall provide that the funds accumulated shall apply to the cost of the funeral services and merchandise selected and that any funds remaining unused shall be refunded to the purchaser or to the personal representative or designated beneficiary of the purchaser and if withdrawal of monies occurs prior to death, the organization may retain from the interest, all interest incurred in excess of the minimum amount payable pursuant to subsection D of this section less taxes and administrative fees. This type of contract shall also bear upon it the language: "Exact Funeral Merchandise and Services to be Selected at Time of Death";

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

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

accounts which bear principal reduced by previously made cash withdrawals.

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

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

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

F. Following the death of a beneficiary for whom a contract has been purchased, the organization shall prepare a statement, acknowledged by the purchaser if the purchaser is not the beneficiary, or by the personal representative of the purchaser if

the purchaser is the beneficiary, setting forth the use of the funds deposited and the party to whom any unused funds were disbursed. A copy of this statement shall remain in the files of the organization for at least six (6) years and a copy shall be delivered to the trust depository and the purchaser.

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

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

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

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

K. No organization holding a permit issued pursuant to the provisions of Sections 6121 and 6124 of this title shall accept any funds except pursuant to the provisions of a contract for prepaid

funeral or burial benefits authorized by the provisions of Sections 6121 through 6136.18 of this title, and no organization shall accept funds from a purchaser in excess of the contracted price of prepaid funeral or burial benefits purchased.

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

SECTION 7. AMENDATORY 36 O.S. 2011, Section 7126, is amended to read as follows:

Section 7126. A. Each organization shall establish and maintain a cemetery merchandise trust fund with a financial institution having trust powers. A cemetery merchandise trust fund shall at all times be in the custody of a financial institution. Any cemetery merchandise trust funds may be invested, reinvested, exchanged, retained, sold and managed as a part of common trust funds in the manner ~~required by and subject to the Insurance Commissioner and at the election of the trustee provided in the~~ Oklahoma Trust Act, Sections 175.1 through 175.57 of Title 60 of the Oklahoma Statutes, and any amendments thereto. A copy of each contract or a written notice containing all relevant information regarding the prepaid cemetery merchandise contracts for which deposits are made shall be furnished to the financial institution. The financial institution shall serve as trustee for the purposes of the Cemetery Merchandise Trust Act.

B. Deposits to a cemetery merchandise trust fund shall be carried in the name of the organization and the amounts deposited therein may be commingled. Provided, however, the accounting records shall establish a separate account for each prepaid cemetery merchandise contract and shall show the amounts deposited, and the income or loss accruing thereon, with respect to each prepaid

cemetery merchandise contract. The trustee shall reimburse the organization for all income taxes and costs incurred with respect to the operation of the fund, and the trustee shall be reimbursed from the earnings of the fund for all reasonable costs incurred in serving as trustee, including a reasonable fee for its services. The taxes and costs shall be paid from earnings for the fund prior to the allocation of earnings to the individual accounts.

C. An organization entering into a prepaid cemetery merchandise contract shall be entitled to retain all of the purchase price under the prepaid cemetery merchandise contract until it has received an amount equal to thirty-five percent (35%) of the purchase price of the cemetery merchandise sold in a prepaid cemetery merchandise contract.

D. After an organization has received the amount it is entitled to receive, in accordance with subsection C of this section, all payments of the purchase price to the organization pursuant to a prepaid cemetery merchandise contract shall be deposited by the organization in a cemetery merchandise trust fund until such time as the requirements of subsection E of this section have been satisfied or delivery is made of the cemetery merchandise, or until an amount satisfying the minimum funding requirement has been deposited. Thereafter, all payments of the purchase price in excess of the minimum funding requirement may be retained by the organization. Deposits shall be made within ten (10) business days after the end of the month in which such deposits are received by the organization.

E. Annually, as of December 31 of each year, each organization shall determine the wholesale cost for all cemetery merchandise covered by a prepaid cemetery merchandise contract for which funds are then held in a cemetery merchandise trust or in an individual merchandise account. If the amount held with respect to a prepaid cemetery merchandise contract exceeds the minimum funding required, the excess shall be paid by the trustee of the cemetery merchandise trust to the organization. In such event, no further deposit shall be required with respect to the prepaid cemetery merchandise contract until such time as the amount held no longer exceeds the minimum funding requirement. If the minimum funding requirement is not satisfied, no amount shall be paid to or withdrawn by the organization and the organization shall continue or shall resume, as

the case may be, making the deposits required by subsection D of this section.

F. No part of the monies required to be held in a cemetery merchandise trust fund pursuant to the provisions of the Cemetery Merchandise Trust Act shall ever be used for any other purpose other than investment as authorized by this section until delivery of the cemetery merchandise is made.

G. Delivery of cemetery merchandise for the purposes of this subsection may be accomplished in one of the following ways:

1. Actual and physical delivery of the cemetery merchandise to the purchaser;
2. Physical attachment of the cemetery merchandise to realty or cemetery space owned by the purchaser;
3. Certification by an approved manufacturer to the purchaser that the organization has paid the wholesale price of the cemetery merchandise and that the cemetery merchandise shall be delivered upon request of the purchaser;
4. Written notification to the purchaser by the organization that the cemetery merchandise is in the possession of the organization and may be removed by the purchaser upon full payment for the cemetery merchandise; and
5. When construction or permanent installation of the cemetery merchandise has been completed, with respect to cemetery merchandise which is affixed to realty.

H. Upon delivery of the cemetery merchandise pursuant to a prepaid cemetery merchandise trust contract, the organization shall present the trustee with a verified statement that delivery has been made, and upon the presentation, the trustee shall pay to the organization the amount of any funds held in trust with respect to the cemetery merchandise delivered and no further deposits shall be made with respect to the cemetery merchandise.

I. Should the buyer move to a community in which the cemetery does not accept transfers of outer enclosures from the cemetery

which the buyer has entered into a cemetery merchandise contract, the selling organization will refund sixty-five percent (65%) of the retail price plus interest equal to the annual interest computed from the date that the contract was paid in full based on the passbook interest rate of the financial institution at the time that the refund is requested.

SECTION 8. This act shall become effective November 1, 2016.

Passed the Senate the 1st day of March, 2016.

*Kevin Daniel*  
Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2016.

*[Signature]*  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 14<sup>th</sup>

day of April, 20 16, at 2:37 o'clock P M.

By: *Audrey Rockwell*

Approved by the Governor of the State of Oklahoma this 20<sup>th</sup>

day of April, 20 16, at 4:10 o'clock P M.

*Mary Fallin*  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: *Chris Benge*