

**TITLE 365. INSURANCE DEPARTMENT**  
**CHAPTER 25. LICENSURE OF AGENTS, ADJUSTERS, BAIL BONDSMEN,**  
**COMPANIES, PREPAID FUNERAL BENEFITS, AND VIATICAL AND LIFE**  
**SETTLEMENTS PROVIDERS AND BROKERS**

**RULEMAKING ACTION:**

Proposed PERMANENT Rules

**RULES:**

- Subchapter 3. Producers, Brokers, Limited Lines Producers and Vehicle  
Protection Product Warrantors
- 365:25-3-1.2. Provisional Producer Licensees [AMENDED]
  - 365:25-3-14. Insurance Adjusters Continuing Education [AMENDED]
  - 365:25-3-15. Variable Annuity Licensing [AMENDED]
  - 365:25-3-16. Examination Exemptions [AMENDED]
  - 365:25-3-21. Training and Education Requirements for the Sale of Annuities
- [NEW]
- Subchapter 5. Bail Bondsmen
- Part 5. General Provisions Pertaining to Bail Bondsmen
- 365:25-5-39. Affidavit as to undertaking [AMENDED]
  - 365:25-5-40. Computation of time in 59 O.S. § 1332 [AMENDED]
  - 365:25-5-44. Notice of return to custody [NEW]
- Part 7. Specific Financial Circumstances Warranting Release of  
Professional Deposit [NEW]
- 365:25-5-50. Authority and scope [NEW]
  - 365:25-5-51. Specific financial circumstances enumerated [NEW]
  - 365:25-5-52. Time governing release of professional deposit [NEW]
  - 365:25-5-53. Limitations upon release of professional deposit below applicable  
limits [NEW]
  - 365:25-5-54. Review of bail bondsmen's administrative history before release of  
professional deposit [NEW]
  - 365:25-5-55. Denial of request if bail bondsman has prior forfeitures [NEW]
  - 365: 25-5-56. Limits on outstanding liabilities [NEW]
  - 365: 25-5-57. Commissioner discretion to release amount less than requested  
[NEW]
  - 365: 25-5-58. Approval of final order by Commissioner [NEW]
- Subchapter 9. Prepaid Funeral Benefits
- 365:25-9-3. Forms [AMENDED]
- Appendix C. Application for Original Permit [NEW]
- Appendix M. Application for Renewal of Permit [NEW]
- Appendix X. Sellers Notice to the Insurance Commissioner [NEW]
- Appendix Y. Assumption Affidavit [NEW]

**AUTHORITY:**

Insurance Commissioner, 36 O.S. §§ 307.1, 1435.19, 1435.29(H), and 6123; 59 O.S. §§ 1302(A) and 1306(A)(5).

**ANALYSIS:**

The amendment to Section 365:3-1.2 increases the number of provisional licensees that a producer may sponsor from five (5) to ten (10) provisional licensees per sponsoring producer.

The amendment to Section 365:25-3-14 sets forth continuing education requirements and requires at least two of the adjuster continuing education credit hours to be state or federal legislative updates. The amendment to Section 365:25-3-15 provides that applicants for a variable annuity license are required to provide proof of current FINRA registration with series 6 or 7 and series 63 or 66, and pay an additional fee for the variable license. Company endorsements are no longer required with submission of a variable annuity application. The addition to Section 365:25-3-16 exempts multi-peril crop adjusters certified by the Federal Risk Management Agency from licensure if working on, or on behalf of, the Federal Crop Insurance Corporation. New Section 365:25-3-21 requires producers to hold a Life producer license before selling, soliciting or negotiating fixed or indexed annuities. The rule requires producers who sell, solicit or negotiate variable annuities to hold a variable annuity license as required by state law. In addition, the rule requires training for all producers who sell, solicit or negotiate fixed, indexed or variable annuities. The rule specifies a difference between the initial four (4) hours of training, which is not Continuing Education approved, and reduces the eight (8) hours for future renewal periods to four (4) hours, which is Continuing Education approved.

The amendment to Section 365:25-5-39 requires provisions regarding an Affidavit as to Undertaking to be mandatory rather than permissive so as to conform to mandatory language in 59 O.S. §1322. The amendment to Section 365:25-5-40 accommodates court clerks using electronic certified mail which has been introduced by the United States Postal Service and allows for certain dates of receipt to be evidenced electronically. The new Section 365:25-5-44 requires a bondsman to notify the court clerk of the county where the forfeiture occurred of the return of the defendant to custody for the purposes of maintaining an updated status of the case and allowing the clerk to monitor pending criminal cases falling under the disciplinary authority of the Oklahoma Insurance Department.

New Part 7 of Subchapter 5, Specific Financial Circumstances Warranting Release of Professional Deposit, establishes standards and guidelines for “the specific circumstances” the Insurance Commissioner may consider when reviewing a professional bail bondsman’s request for the partial release of deposit, as now allowed by amendments to Section 1306(A)(5) of Title 36 enacted in Senate Bill 406.

The amendment to Section 365:25-9-3 and new Appendices C, M, X and Y incorporate statutory changes, re-enact new versions of the revoked forms and add newly created forms as prescribed by Senate Bill 1231 which increases the background information, including requiring biographies from all parties seeking a Prepaid Funeral benefits permit, and provides that the process of assumption of a prepaid funeral trust will be more transparent and provide more

information about the assumption process and the financial fitness and strength of purpose of the acquiring party.

### **SUBCHAPTER 3. PRODUCERS, BROKERS, LIMITED LINES PRODUCERS AND VEHICLE PROTECTION PRODUCT WARRANTORS**

#### **365:25-3-1.2. Provisional Producer Licensees**

- (a) **Sponsoring producers.** A sponsoring producer may supervise no more than ~~five (5)~~ ten (10) provisional licensees at any time.
- (b) **Pre-licensing education.** The Commissioner shall develop and publish the topic outlines covered in the eight (8) hours of pre-licensing education. Providers and course submissions shall be approved by the Commissioner in the same manner as applicable to continuing education courses. Course submission shall include all course materials. All courses shall be offered as classroom instruction.
- (c) **Time requirements-exceptions.** A provisional producer license may be held for up to six (6) months to complete pre-licensing education requirements. A licensee who is unable to comply with pre-licensing education requirements due to military service, a medical condition, or other extenuating circumstance may request an extension of time to complete the requirements. The request shall be in writing.

#### **365:25-3-14. Insurance adjusters continuing education**

- (a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education which an insurance adjuster must meet, and to set forth the requirements for approval by the Insurance Commissioner of a proposed continuing education course.
- (b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:
  - (1) **"CEC"** means continuing education credit.
  - (2) **"Certificate of course completion"** means a document acceptable to the Commissioner which signifies satisfactory completion of the course and reflects hours of credit earned.
  - (3) **"Continuing Education Advisory Committee"** means the committee established by the Commissioner for the purpose of reviewing and recommending approval or disapproval of continuing education courses.
  - (4) **"Credit hour"** means at least fifty (50) minutes of classroom instruction, unless a correspondence or self-study course.
  - (5) **"Instructor"** means a person who presents course materials approved for continuing education credit hours, and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.
  - (6) **"Instructor Qualification Form"** means a form acceptable to the Commissioner and completed by the instructor which documents qualifications of the instructor.

- (7) **"Licensee"** means a natural person who is licensed by the Commissioner as an insurance adjuster.
- (8) **"Provider"** means a person, corporation, professional association or its local affiliates, an insurance company or any other entity which is approved by the Commissioner and provides approved continuing education to insurance adjusters.
- (9) **"Provider Course Completion Form"** means a form acceptable to the Commissioner and completed by the provider which documents completion of an approved course by an adjuster or adjusters.
- (c) **Exceptions.** Continuing education requirements shall not apply to non-resident adjusters licensed in a state that has a continuing education requirement for adjusters.
- (d) **Continuing education requirements.**
- (1) ~~Twelve hours of CEC during twenty-four month period.~~ All licensees shall complete twelve (12) credit hours of continuing education during each twenty-four month period. All licensees shall complete the required hours of continuing education as set forth in Section 6217(B) of Title 36 of the laws of this state during each twenty-four month period. The twenty-four month period begins the first day of the month following the month in which the license is granted. The credit hours completed must be in those lines in which the adjuster is licensed. ~~Courses taken in excess of twelve (12) hours will not carry forward. However, courses taken in excess of twelve (12) hours may be applied retroactively in order to bring a lapsed license into compliance. Six (6) credit hours in excess of the minimum twenty-four month period requirement shall carry forward to the next twenty-four month period. Excess hours may be applied to bring a lapsed license into compliance.~~
- (2) **Certificates of course completion required for license renewal.** If course completion is not reflected on the license renewal form issued by the Insurance Department, each adjuster shall attach, if requested by the Commissioner, an approved course completion certificate to the license renewal form returned to the Department for verification of course completion. The Commissioner shall maintain a cumulative total of continuing education credit hours to insure compliance within the twenty-four (24) month period.
- (3) **Legislative Updates.** At least two (2) of the continuing education credit hours of instruction completed by licensees each twenty-four month period shall be taken in the following topics:
- \_\_\_\_\_ (A) State legislative updates, or
- \_\_\_\_\_ (B) Federal legislative updates.
- ~~(3)~~ (4) **Credits for instructors.** An instructor who is a licensee shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session by including his/her name and license number on roster.
- ~~(4)~~ (5) **Prerequisite for renewal or reinstatement.** As a prerequisite for license renewal or prior to reinstatement following a lapse of license, an adjuster must submit the

appropriate forms as specified in this section that establish the educational requirements have been met if not currently recorded by the Oklahoma Insurance Department.

(e) **Approval of continuing education providers.**

(1) **Information required.** Each provider shall apply for approval by the Commissioner. All providers, including publicly funded educational institutions, federal agencies, or Oklahoma state agencies, shall provide:

- (A) Name and address of the provider.
- (B) Contact person and his or her address and telephone number(s).
- (C) The location of the courses or programs, if known, unless it is an individual self-study course.
- (D) The number of CEC hours requested for each course.
- (E) Topic outlines which list the summarized topics covered in each course and a copy of any course materials.
- (F) The names and qualification of instructors. An instructor shall have one of the following qualifications:
  - (i) Three (3) years of recent experience in the subject area being taught; or
  - (ii) A degree related to the subject area being taught; or
  - (iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.
- (G) If a prior approved course has materially changed, a summarization of those changes.

(2) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval of any provider for violation of or non-compliance with any provision of this section.

(f) **Courses; approval; records.**

(1) **Course approval timeline.** A provider shall apply to the Commissioner for course approval by submitting forms and materials to the Commissioner the first day of the month one full month prior to the date of the first course offering. The Commissioner shall grant or deny approval based upon information submitted in this section regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of CEC hours awarded for an approved course and the line or lines of insurance for which the course qualifies.

(2) **Repeated approved course.** At least fourteen (14) days prior to the repetition of an approved course, the Commissioner shall be notified in writing of the repetition, providing course number, name, date, location and instructor's name.

(3) **Written approval required.** All courses shall require written approval by the Commissioner.

(4) **Withheld or withdrawn approval.** The Commissioner may withhold or withdraw approval for any course. This withdrawal will not affect any CEC hours attained under the course previous to the withdrawal.

(5) **Minimum of one credit hour.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(6) **Continuing education course must be separate from meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(7) **Content of courses.** Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, basic pre-licensing principles of adjusting, and subjects not relating to the adjuster's license.

(8) **Certificate of Course Completion.** At the completion of each course, the provider shall provide the insurance adjuster a "Certificate of Course Completion" Form.

(9) **List of adjusters completing course to Commissioner.** Within ten (10) business days after completion of each course, the provider shall provide the Commissioner a list of all insurance adjusters who completed the course on the Course Completion Form. This list shall contain the course number, date of completion and license numbers of all insurance adjusters completing the course. If the list is not reported within ten (10) business days, a late report fee of \$50.00 shall be paid to the Insurance Department. Failure to pay the late report fee may result in revocation of provider approval. Continued late filing may also result in loss of approval.

(10) **Course records maintained four (4) years.** Providers shall maintain course records for at least four (4) years. The Commissioner may order an examination of a provider, at the provider's expense, for good cause shown.

(11) **Course review fee.** A non-refundable course review fee of thirty dollars (\$30.00) per course shall be submitted by all continuing education providers at the time the course submission is first submitted for review and upon submission for renewal at expiration with the exception of publicly funded educational institutions, federal agencies, Oklahoma state agencies, non-profit organizations, and not-for-profit organizations.

(g) **Approved professional designation programs**

(1) **Definitions.**

(A) **Participation.** As used in 36 O.S. § 1435.29(B)(3), participates means successfully completing any part of a course curriculum totaling twenty (20) classroom or equivalent classroom hours of an approved professional designation program.

(B) **Approved professional designation program.** As used in 36 O.S. § 1435.29(B)(3), an approved professional designation program means an educational insurance program approved by the Commissioner with a sponsoring organization that administers curriculum requirements and testing standards for candidates.

(2) **Requirements.** A professional designation program shall satisfy the following criteria to receive initial and ongoing approval for the program:

- (A) The program shall have a sponsoring organization;
- (B) The program's sponsoring organization shall maintain and govern a code of conduct;
- (C) The program shall be relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma;
- (D) Each course of the professional designation course curriculum shall be a minimum of twenty (20) hours of classroom instruction or equivalent classroom instruction; and
- (E) The program shall include an examination requirement that students shall pass before earning the designation.

(3) **Submissions.** The sponsoring organization shall submit the following to the Commissioner for its professional designation program to be considered for initial and ongoing approval for the program:

- (A) The sponsoring organization's code of conduct;
- (B) The sponsoring organization's membership requirements;
- (C) The professional designation program's course requirements; and
- (D) The professional designation program's examination requirements.

(4) **Submission exemptions.** Professional designation programs recognized by the National Association of Insurance Commissioners (NAIC) for waiver/exemption of pre-licensing education training shall receive initial and continuing approval without submission by the sponsoring organization.

(h) **Presumptive continuing education credit approval.**

(1) **Requirements.** A professional association may receive presumptive approval of the association's continuing education courses by satisfying the following requirements:

- (A) The association shall have a mission statement that includes a commitment to enhance the professional, educational, or ethical skills of its members;
- (B) The association shall maintain and govern a code of member conduct;
- (C) The association shall offer educational programs relevant to the sale, solicitation, or negotiation of insurance products in the State of Oklahoma; and
- (D) The association shall perpetuate its continuity through the election of officers.

(2) **Submissions.** Each professional association shall submit the following to be considered for initial and ongoing presumptive course approval:

- (A) The association's mission statement;
- (B) The association's code of member conduct;
- (C) The chapter officers, the responsibilities for each officer, and the term of office for each officer;
- (D) The mailing address and primary contact for the association; and

- (E) The list of continuing education courses approved in Oklahoma and offered by the professional association in the past twenty-four (24) months.
- (3) **Notification of approval or disapproval.**
- (A) The Commissioner shall notify the association within ninety (90) days from the receipt of submission whether presumptive approval for continuing education courses was granted. The notification shall indicate the reasons for disapproval.
- (B) Submissions to the Commissioner by an association seeking presumptive approval of continuing education courses shall include the course summary, instructor name, course date and location and shall be submitted to the Commissioner at least fifteen (15) business days prior to the presentation of the course.
- (C) If the Commissioner receives a report or reports that the content of a continuing education course may violate paragraph 365:25-3-1(f)(7) of this section, the Commissioner may review the content and determine if the course should be disapproved for noncompliance. The Commissioner shall notify the association if the course has been disapproved due to non-compliance, and the association shall immediately cease offering the course upon receipt of the notification. The association may then make corrections to a disapproved course to bring the course into compliance with paragraph 365:25-3-1(f)(7) of this section and submit the course for approval by the Commissioner in the manner of an original submission for presumptive continuing education course approval.
- (D) Should an association receive notification of three (3) disapproved courses within a twenty-four (24) month period, the association's presumptive approval for continuing education courses shall be rescinded for twenty-four (24) months after which time the association may re-apply for presumptive approval.
- (4) **Assignment of course number.** The Commissioner shall assign a course number once the presumptive approval for continuing education courses has been granted and shall notify the association of the assigned course number. All future correspondence relating to that course shall reference the assigned course number.
- (5) **Instructor approval.** Instructors shall be approved by the Commissioner at least fourteen (14) calendar days prior to a presentation of a course. The Commissioner may disapprove any course if instructor approval has not been granted.
- (6) **Review.** Course approval shall be reviewed every three (3) years. The association shall re-submit the items required in subparagraph 365:25-3-14(H)(3)(B) of this section during the fourth quarter of the last approval year.
- (7) **Agency management courses.** Agency management courses shall not be considered for presumptive continuing education approval.
- (i) **Self study and distance learning courses.** The Insurance Commissioner shall determine appropriate guidelines and standards for self-study and distance learning CEC offerings. The guidelines and standards shall include authentication of the registered licensee, technology

requirements for course delivery and testing protocols. Guidelines and standards shall be reviewed and updated as appropriate and published on the Commissioner's website annually. Failure to follow the guidelines and standards established by the Commissioner may result in denial of continuing education credit for the adjuster and revocation of the course approval and or provider status for the Provider.

(j) **Repeating courses.** An insurance adjuster may repeat a course within the twenty-four month period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the adjuster may not during the twelve month period earn more than the maximum credits designated for the course. An adjuster may repeat a course after two (2) license renewal dates have elapsed and receive the maximum credits designated for the course.

(k) **Extension of time.** For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by the act may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding twelve-month period. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the twenty-four month period.

(l) **Continuing education advisory committee.**

(1) There shall hereby be established the Continuing Education Advisory Committee. This committee shall consist of representatives from the Agents Licensing Division, and representatives from the industry (not to exceed three (3) individuals) as designated by the Commissioner. Members of the Advisory Board established by 36 O.S. § 6221 may also serve on the Continuing Education Advisory Committee. The committee shall meet at least quarterly and additionally as required. Members of the committee shall serve without pay and shall not be reimbursed for any expenses associated therewith.

(2) Prior to the Commissioner's approval or disapproval of a course in subsection 365:25-3-14(e), the Continuing Education Advisory Committee will review the course submitted and make its nonbinding recommendation to the Commissioner on granting or denying approval based upon information submitted pursuant to subsection 365:25-3-14(e) and additional information regarding the course, if necessary. Each course approval shall be valid for a period of no longer than two (2) years, unless the course has a material change. Material changes to courses require course resubmission for overall course review and approval. Course materials may be resubmitted as requested for review at the time of expiration. All existing courses previously approved and current with the Commissioner shall be submitted in accordance with the expiration date as granted by the Commissioner unless the course has a material change, as previously detailed.

(m) **Severability provision.** If any provision of this section, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the section, and the

application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

### **365:25-3-15. Variable annuity licensing**

~~No test shall be required of an An~~ applicant for a variable annuity license ~~if shall~~:

- (1) ~~The applicant provides~~ Provide proof of current ~~NASD~~ FINRA registration with series 6 or 7 and series 63 or 66, and
- (2) ~~The applicant pays~~ Pay an additional license fee as required by 36 O.S. § 1435.23(A)(4)(b) with the submission of an application ~~and company endorsements~~ as prescribed by the Insurance Commissioner.

### **365:25-3-16. Examination exemptions**

(a) The following applicants are cognizant of and capable of fulfilling the responsibilities of the license without an examination:

- (1) limited lines producers,
- (2) surplus lines brokers,
- (3) aircraft title producer license if the applicant was licensed as a title insurance producer prior to November 1, 2006, and
- (4) a person licensed as an insurance producer in another state who moves to this state and makes application to become a resident licensee within ninety (90) days of establishing legal residence. The examination exemption shall apply for the lines of authority held in the prior state. A person shall qualify for this exemption by providing a clearance letter from the prior state dated within ninety (90) days from the date of receipt of the application.

(b) Multi-peril crop adjusters certified by the Federal Risk Management Agency working in partner with, or on behalf of, the Federal Crop Insurance Corporation may obtain a crop/hail license upon presentation of the federal certification without having to take an examination.

### **365:25-3-21. Training and education requirements for the sale of annuities**

**(a) Training and education requirements for the producers who sell, solicit or negotiate annuities.**

- (1) A producer may not sell, solicit or negotiate annuities unless the individual is licensed as an insurance producer holding a Life or Variable license and has completed a one-time initial four (4) hour training course. The training shall meet the requirements set forth in subsection (b) of this section.
- (2) An individual already licensed and selling, soliciting or negotiating annuities on the effective date of this regulation may not continue to sell solicit or negotiate annuities unless the individual has completed a one-time training course as set forth in subsection (b) of this section, within one-year from July 14, 2010.
- (3) Effective November 1, 2010, all producers who sell, solicit or negotiate annuities shall satisfactorily complete four (4) hours of continuing education regarding annuities

prior to each subsequent biennial license renewal period after the renewal period the licensee completed the eight (8) hour requirement. A producer may not continue to sell, solicit or negotiate annuities unless they have completed the required continuing education during each renewal period. The continuing education requirements shall be set forth in subsection (b) of this section.

**(b) Training and continuing education requirements.**

(1) The initial training and continuing education requirements set forth by this section shall consist of Oklahoma and Federal laws, regulations and requirements pertaining to annuities, prohibited sales practices, suitability, fraudulent and unfair trade practices and any other topics approved and specified by the Insurance Commissioner

(2) The one-time training required by this section shall be no less than four (4) hours and shall be applied as continuing education course credits under Section 1435.29 of Title 36 of the Oklahoma Statutes.

(3) The following producers are exempt from the four (4) hour initial training requirement:

(i) Producers who hold an active FINRA registration with series 6 or 7 and 63 or 66 qualifications;

(ii) Producers who hold one of the following designations: CLU, LUTCF, CFP, ChFC; and

(iii) Producers who have a minimum of five (5) years experience in the sale of annuity contracts prior to the effective date of this requirement.

(4) All producers who sell, solicit or negotiate annuities shall complete four (4) hours of continuing education pertaining to annuities during each biennial renewal period. The continuing education as required by this paragraph shall be applied as a continuing education course under Section 1435.29 of Title 36 of the Oklahoma Statutes.

(5) All producers exempt from the initial training requirement shall complete four (4) hours of continuing education as required by paragraph 3 of subsection (a) of this section for all subsequent renewal periods after July 14, 2011.

(6) Training or continuing education materials shall not include any sales or marketing information other than those required by state or federal law.

**(c) Insurer requirements.**

Insurers shall:

(1) Obtain verification that a producer receives training required by paragraph 1 of subsection (a) of this section before a producer is permitted to sell, solicit or negotiate annuity products;

(2) Maintain records subject to the record retention requirements of this state; and

(3) Make that verification available to the Commissioner upon request.

**(d) Training received in other states.** The satisfaction of the training requirements as set out in this section from any state shall be deemed to satisfy the training requirements in this state.

## SUBCHAPTER 5. BAIL BONDSMEN

## PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

### **365:25-5-39. Affidavit as to undertaking**

An Affidavit ~~As To~~ as to Undertaking ~~must~~ shall be included on every appearance bond and ~~should~~ shall declare the amount of premium (consideration) and security (collateral) received or promised. It ~~should~~ shall further include the nature and description of, and the name of the person from whom it was received or promised. Information provided on the Affidavit ~~As To~~ as to Undertaking ~~should~~ shall correspond with the information contained in the following:

- (1) appearance bond,
- (2) bondsman's office records, and
- (3) monthly report.

### **365:25-5-40. Computation of time in 59 O.S. §1332**

(a) In computing any period of time in 59 O.S. §1332, 12 O.S. §2006(A) will be followed. 12 O.S. §2006(A) states, in pertinent part, as follows: *The day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes or any other day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time, in which event the period runs until the end of the next day which is not a legal holiday or a day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time. Unless otherwise provided by law, when the period of time prescribed or allowed is less than eleven (11) days, intermediate legal holidays and any other day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time shall be excluded from the computation.*

(b) The defendant shall be returned to custody within ninety days or the forfeiture shall be paid on the ninety-first day, and the time begins to run as follows:

- (1) If the bondsman dates the return receipt, or the date of receipt of the order and judgment of forfeiture is evidenced electronically, then the days start running the next day.
- (2) If the bondsman ~~doesn't~~ does not date the return receipt or the date of receipt of the order and judgment of forfeiture is not evidenced electronically, but the insurer or professional does, or the date of receipt is evidenced electronically, then the days start running the next day.
- (3) If neither the bondsman nor the insurer or professional dates the return receipt, nor is the date of receipt of the order of judgment of forfeiture evidenced electronically, then the days start running the day after the order and judgment of forfeiture was mailed.

### **365:25-5-44. Notice of return to custody**

Following a forfeiture, if the defendant has been 'returned to custody' as defined in 59 O.S. § 1332(C)(3), the bondsman shall file notice with the court clerk of the county where the

forfeiture occurred by the ninety-first day after receipt of the order and judgment of forfeiture, certifying the defendant was returned to custody by the ninetieth day after receipt of the order and judgment of forfeiture. Failure to provide notice prior to the ninety-first day shall be a violation of 59 O.S. § 1310(A)(2).

## **PART 7. SPECIFIC FINANCIAL CIRCUMSTANCES WARRANTING RELEASE OF PROFESSIONAL DEPOSIT**

### **365:25-5-50. Authority and scope**

This regulation is promulgated by the Insurance Commissioner pursuant to Section 1306(A)(5) of Title 59 of the laws of this state to describe the nature and scope of the specific financial circumstances warranting a release of a bail bondsman's professional deposit.

### **365:25-5-51. Specific financial circumstances enumerated**

(a) For purposes of Section 1306(A)(5) of Title 59 of the laws of this state, the specific financial circumstances warranting release of a professional deposit are:

- (1) Fire that damages or destroys either the office or residence of the bondsman;
- (2) Flood that damages or destroys either the office or residence of the bondsman;
- (3) Other natural disaster that damages or destroys either office or residence of the bondsman;
- (4) Medical problem or illness sustained by either the bondsman or a member of the immediate family of the bondsman.
- (5) The bondsman has unused bail writing capacity of at least forty percent (40%) of their liability limit, and has at least twelve (12) consecutive months of being at sixty percent (60%) or below this writing limit.

(b) The bondsman shall have the burden of showing the Commissioner by clear and convincing evidence the existence or occurrence of the circumstances, as well as providing to the Commissioner any necessary supporting documentation or other evidence the Commissioner requires.

### **365:25-5-52. Time governing release of professional deposit**

The Commissioner shall release the professional deposit no earlier than ninety (90) days following the receipt of the request for release.

### **365:25-5-53. Limitations upon release of professional deposit below applicable limits**

The Commissioner shall not release any portion of the professional bondsman deposit that results in the deposit dropping below the applicable limit set by Section 1306(A)(2) of Title 59 of the laws of this state.

### **365:25-5-54. Review of bail bondsmen's administrative history before release of professional deposit**

The Commissioner shall review the bondsman's administrative history to determine if the bondsman owes any outstanding fines to the Commissioner or has any pending or concluded disciplinary action for unpaid bail bond forfeitures. The Commissioner shall not release the deposit if outstanding fines are owed or if forfeitures were unpaid in the time allowed by Section 1332 of Title 59 of the laws of this state. The Commissioner also shall not release the deposit if there are more than three (3) final Insurance Department administrative actions in the twelve (12) months preceding the release request.

**365:25-5-55. Denial of request if bail bondsman has prior forfeitures**

The Commissioner shall refuse the bondsman's deposit release request if the Commissioner was ever ordered by a Hearing Examiner to pay any forfeiture from the bondsman's professional deposit.

**365:25-5-56. Limits on outstanding liabilities**

The bondsman's outstanding liabilities cannot exceed sixty percent (60%) of the professional deposit writing limit for at least one year prior to making application for partial release of deposit.

**365: 25-5-57. Commissioner discretion to release amount less than requested**

The Commissioner shall have the authority to release an amount less than requested by the professional bondsman, if the bondsman's requested amount will cause the remaining deposit to be insufficient to cover additional bail liabilities incurred by the bondsman.

**365:25-5-58. Approval of final order by Commissioner**

The final deposit release order shall be approved by the Commissioner or the Commissioner's designee, pursuant to Section 1306(A) (6) of Title 59 of the laws of this state.

**SUBCHAPTER 9. PREPAID FUNERAL BENEFITS**

**365:25-9-3. Forms**

**(a) General requirements.**

**(1) Application for prepaid funeral benefits permit form.** ~~An Application for Prepaid Funeral Benefits Permit, Form PFB-1, application for Prepaid Funeral Benefits form shall be filed using the Prepaid Funeral Benefits Permit Original Application as set forth in Appendix C of this chapter. The application must be filed with and approved by the Insurance Commissioner before any contracts covered by this act may be marketed. The statutory fee of \$50.00 must accompany this application. An NAIC UCAA Biographical Affidavit must be submitted for each owner(s) of the organization and each "designated agent" as defined by Section 6126 of the "Act".~~

**(2) Bond form requirements.** Appendix D of this chapter is a sample bond to be used in connection with "The Act". Any variance from this form must have the prior written

approval of the Insurance Commissioner. If any bond required by "The Act" is canceled for any reason, a thirty (30) day written notice must be given by the insurer to the Insurance Commissioner.

(3) **Conversion Forms.** Applications for Conversion from a trust funded prepaid funeral benefit to an insurance-funded prepaid funeral benefit shall be filed with and approved by the Insurance Commissioner before any contracts covered by "The Act" may be converted. Applications for Conversion shall be filed using the Application for Conversion form as set forth in Appendix R of this chapter. Any variance from this form must have prior written approval by the Insurance Commissioner.

(4) **Notice of Sale.** The seller of a prepaid funeral benefits permit holding funeral home must make application forty-five (45) days prior to the transfer of ownership using the Sellers Notice to the Insurance Commissioner (PFSN 2009) form as set forth in Appendix X of this chapter. In addition to the notice, the seller must also submit a listing of unrealized prepaid funeral contracts. Insurance funded contracts should be listed independently from trust funded contracts. The listing will, at minimum, reflect the contract holder's name, contract number, contract value, the name of the insurer and the policy's face value (when applicable), and the trust value at the time of notice (when applicable).

(5) **Assumption Affidavit.** The buyer of a prepaid funeral benefits permit holding funeral home must notify the Commissioner of their intent to purchase thirty (30) days prior to transfer of ownership using the Assumption Affidavit (PFAA 2009) form as set forth in Appendix Y of this chapter.

(6) **Application for Renewal.** The application for renewal of a prepaid funeral benefits permit must be filed with the Commissioner no later than December 31 of each year, using the Application for Renewal (PFBR 2009) form as set forth in Appendix M of this chapter, in order to renew the permit for the succeeding calendar year. The statutory fee of \$50.00 must accompany the application.

~~(b) **Additional general requirements.** Withdrawal forms, individual refunds, renewal applications, and the annual statement of financial condition shall be submitted to the Insurance Commissioner for review by submitting one copy of the withdrawal form and individual refund. Submit the original renewal application and annual statement of financial condition.~~

~~(1) **Withdrawal forms.** Appendix E of this chapter is the application which must be submitted to the Insurance Commissioner in order to withdraw funds after a contract has been fulfilled.~~

~~(2) **Individual refunds.** Appendix F of this chapter, must be submitted to the Insurance Commissioner when a person desires to withdraw any funds deposited for prepaid funeral expenses prior to fulfillment of the contract.~~

~~(3) **Annual reports.**~~

~~(A) Annual reports must be filed in accordance with Section 6128 of "The Act". Such reports should be submitted in columnar form in alphabetical order according to the last name of the contract holder. Appendix G of this chapter is~~

~~included for the sole purpose of establishing guidelines for this report.~~—A complete annual report shall be composed of the following items arranged in the order shown below:

- (i) PF-1-a
- (ii) PF-1-b
- (iii) PF-1-c
- (iv) PF-1-d
- (v) PF-2-a
- (vi) PF-2-b
- (vii) PF-2-c
- (viii) PF-3

(B) Computer print-outs may be submitted in lieu of the reports listed above so long as each legibly provides no less information than shown in the Insurance Commissioner's sample forms. Not less than one page of each annual report form shown above, other than the PF-2-b, shall be submitted. However, where a particular form is not relevant to the operations of a given permitholder, it may be submitted clearly marked, "Not Applicable".

~~(C) All itemized statements of charges must be submitted with the annual report in accordance with Section 6123 of Title 36 of the Oklahoma statutes.~~

~~(4)(2) **Annual statement of financial condition.** An Annual Statement of Financial Condition\_(Reconciliation of Trust Accounts)(form PF-3) must be filed in accordance with Section 6129 of "The Act". ~~Appendix H of this chapter (Form PF 3) is included for the sole purpose of establishing guidelines for this statement.~~~~

~~(5) **Renewal application.** A renewal application (PFB-2) must be filed with the Commissioner no later than December 31 of each year in order to renew the permit for the succeeding calendar year. The statutory fee must accompany this renewal application.~~

APPENDIX C. PREPAID FUNERAL BENEFITS PERMIT ORIGINAL APPLICATION [NEW]

PREPAID FUNERAL BENEFITS PERMIT ORIGINAL APPLICATION

General Information

Name of Organization:

\_\_\_\_\_

include True name and if applicable Doing Business As name)

Type of Organization: \_\_\_\_\_ Sole Proprietor\* \_\_\_\_\_ Partnership\* \_\_\_\_\_  
Corporation\*

State Tax ID: \_\_\_\_\_ Federal Tax ID: \_\_\_\_\_

\*Each Proprietor or member of the Partnership/Corporation must submit a Biographical Affidavit

Physical Address:

\_\_\_\_\_

Mailing Address:

\_\_\_\_\_

Phone Number: \_\_\_\_\_ Alt Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_  
(if applicable)

Email Address: \_\_\_\_\_ Web Address: \_\_\_\_\_

Funeral Director in Charge:

\_\_\_\_\_

General Interrogatories

1. Has the owner or any principal employees of the organization been admonished, censored, suspended or fined within the last year by the Oklahoma Funeral Board for violations involving funeral home activities?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please attach statement of explanation.

2. Have any of the principals (owner[s], manager, employees with fiduciary duties, etc.) ever been convicted of a felony or misdemeanor involving moral turpitude?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, explain:

\_\_\_\_\_

3. Have you or your organization ever applied for a permit from this Department?

Yes \_\_\_\_\_ No \_\_\_\_\_  
 Were you approved or denied?  
 Approved \_\_\_\_\_ Denied \_\_\_\_\_  
 If denied, please attach statement of explanation.  
 If approved, did your permit lapse, was it sold or other  
 \_\_\_\_\_?  
 Please attach statement of explanation.

Prepaid Funeral Contract Funding

Insurance Assignment Only

Does the establishment offer an in-house insurance agent? \_\_\_\_\_ If yes,  
 please provide agent's Name and License Number \_\_\_\_\_

Insurance and/or Trust

Financial Institution where trust monies will be deposited; attach additional  
 sheet if necessary.

Name	Address	City	Zip
(A Trust Agreement must be submitted for each financial institution listed.)			

Designated Agent(s), as defined in §6126, who will be responsible for the  
 deposit of funds collected under contracts for prepaid funeral benefits;  
 attach additional sheet if necessary.

Name	Address	City	Zip
------	---------	------	-----

Name	Address	City	Zip
(Submit a Biographical Affidavit for each Designated Agent.)			

I, \_\_\_\_\_, being  
 first duly sworn, state that I have read the within and foregoing application  
 and that the answers supplied by me therein are true and correct to the best  
 of my knowledge and belief and further that I will comply with the Prepaid  
 Funeral Benefit laws of Oklahoma and the Rules of the State Insurance  
 Commissioner in all my conduct under the permit.

STATE OF \_\_\_\_\_ )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Date

Applicant's Printed Name and Title

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

(notary seal)

The statutory fee of \$50.00, made payable to the Oklahoma Insurance  
Department, must accompany this application.

PFB-2009

**APPENDIX M. APPLICATION FOR RENEWAL OF PREPAID FUNERAL BENEFITS PERMIT [NEW]**

Application for Renewal of Prepaid Funeral Benefits Permit - Renewal

Year \_\_\_\_\_

Permit Number: \_\_\_\_\_

Name of Organization: \_\_\_\_\_  
(include True name and if applicable Doing Business As name)

hereby makes application for a renewal of permit from the Oklahoma Insurance Commissioner as authorized by Title 36 § 6121 et seq.

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Alt Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_ Web Address: \_\_\_\_\_

Funeral Director in Charge: \_\_\_\_\_

The organization also agrees to comply with all requirements of the Prepaid Funeral Benefits Act (§ 6121 et seq.) which in part includes notification of those acting as designated agents (§6126). Please create a listing of the organizations designated agents and attach the listing to this application for renewal.

Does the establishment offer an in-house insurance agent? \_\_\_\_\_ If yes, please provide:

Agent's Name and License Number: \_\_\_\_\_

---

I, \_\_\_\_\_, being first duly sworn, state that I have read the within and foregoing application for renewal and that the answers supplied by me therein are true and correct to the best of my knowledge and belief and further that I will comply with the Prepaid Funeral Benefit laws of Oklahoma and the Rules of the State Insurance Commissioner in all my conduct under the permit.

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_  
Signature of Applicant Date

\_\_\_\_\_  
Applicant's Printed Name and Title

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires

(notary seal)

**\*A Fifty Dollar (\$50.00) renewal fee, payable to the Oklahoma Insurance Department, must accompany application.**

PFBR-2009

APPENDIX X. SELLERS NOTICE TO THE INSURANCE COMMISSIONER [NEW]

Sellers Notice to the Insurance Commissioner

\_\_\_\_\_  
Permit Number

KNOW ALL BY THESE PRESENTS that I, \_\_\_\_\_, (Seller) current  
(Current Owner)  
owner of \_\_\_\_\_ doing business as a Prepaid Funeral Benefits  
(Name of Funeral Establishment)

organization in the State of Oklahoma and required by OKLA. STAT. TIT. 36 §  
6124.1 to provide notice of Transfer in Ownership hereby submit to you the  
following;

- a) Name of Acquiring Organization \_\_\_\_\_
- b) Date Acquiring Organization Assumes Control \_\_\_\_\_
- c) Attached and made part of this Notice is the required listing of  
outstanding Prepaid Funeral Contracts

The Seller, now obligates the acquiring organization to apply for and receive  
a permit of sameness from the Insurance Commissioner of the State of  
Oklahoma, prior to acting as the Prepaid Funeral Benefits organization for  
all prepaid funeral contracts included in the transfer of ownership.

Seller further agrees that all monies paid into Trust as part of the prepaid  
funeral contract remain under the control of Seller until the Insurance  
Commissioner, in order to safeguard the rights and interests of the  
individual prepaid funeral contract holder, expressly authorizes the transfer  
of said Trust monies to the Buyer.

I, \_\_\_\_\_ hereby affirm that all information provided in this  
notice  
(Current Owner)

and inscribed on the attached listing of outstanding Prepaid Funeral  
Contracts is true and correct. I further affirm that I have disclosed any  
adverse change foreseen due to the transfer in Ownership.

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and affirmed before me on \_\_\_\_\_ by \_\_\_\_\_  
(Date) (Current Owner)

\_\_\_\_\_  
(Signature of Notarial Officer)

(seal)

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*(Title)*

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*(Commission Expiration)*

PFSN 2009

APPENDIX Y. ASSUMPTION AFFIDAVIT [NEW]

Assumption Affidavit

KNOW ALL BY THESE PRESENTS that I, \_\_\_\_\_, (Acquirer), acting  
*Acquirer of Funeral Establishment*

in accordance with OKLA. STAT. TIT. 36 §6124.1, now make notice of intent to  
purchase \_\_\_\_\_, a provider of prepaid funeral services and/or merchandise.  
*(Name of Funeral Establishment)*

Application has been made to the Insurance Commissioner of the State of  
Oklahoma to enter into contracts and receive payments thereon for prepaid  
funeral services and/or merchandise, in accordance with OKLA. STAT. TIT. 36  
§6121 et seq.

As the Acquirer, I have been made aware of existing insurance funded and  
trust funded contracts for prepaid funeral services and/or merchandise  
underwritten by the Seller and accept the Sellers identification and  
itemization of said contracts.

Acquirer further agrees that all monies accrued in the Seller's Trust remain  
under the Sellers control until the Insurance Commissioner, as means of  
safeguarding the rights and interests of the individual prepaid funeral  
contract holder, expressly authorizes transfer of said Trust monies to the  
Acquirer.

I, \_\_\_\_\_ hereby affirm that all information provided in this  
*(Acquirer of Funeral Establishment)*  
affidavit is true and correct. I further affirm that I have disclosed any  
adverse change foreseen due to the transfer in Ownership.

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and affirmed before me on \_\_\_\_\_ by \_\_\_\_\_  
*(Date)* *(Buyer)*

\_\_\_\_\_  
*(Signature of Notarial Officer)*

(seal)

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Commission Expiration)*