



Spec Sheet

Cemetery Merchandise Trust (CMT) Transfer of Ownership

Statutes: 36 O.S. § 7121 – 7135 and OAC 365:25-23-1 to 365:25-23-9

Disclaimer: The following is an overview of the laws pertaining to Cemetery Merchandise Trusts. A link to the OSCN and OAC webpages are on the RIS webpage for your convenience.

Transfer of Ownership CMT

Cemetery Merchandise Trust may be transferred per 36 O.S. § 7123. Entities are required to maintain an active permit on file with the Regulated Industry Services (RIS) Division of the Oklahoma Insurance Department until you have been issued an order form the department approving the transfer.

36 O.S. § 7123(B). An organization with any prepaid cemetery merchandise contracts subject to the provisions of the Cemetery Merchandise Trust Act shall apply for, and obtain, approval of the Commissioner before transferring or conveying in any manner the cemetery, its obligations or both the cemetery and its obligations under the prepaid cemetery merchandise contracts. The application shall be accompanied by a fee equal to that required under Section

7125 of this title and shall include such information as the Commissioner may prescribe. The Commissioner shall not approve any such transfer or conveyance until the applicant has provided sufficient evidence that a cemetery merchandise trust fund equal to the minimum funding requirement is maintained pursuant to Section 7126 of this title or the applicant has obtained a surety bond pursuant to the provisions of Section 7127 of this title.

BUYER'S responsibility

The acquiring organization shall be issued a Cemetery Merchandise Trust 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.**

365:25-23-5. Trust fund and trustee

A holder of a Cemetery Merchandise Permit with funds in trust shall keep the Insurance Department informed of the identity of the trustee at all times and at all times shall comply with the provisions of 36 O.S. § 7126. Prior to changing the trustee, trust agreement or trust location, a permit holder shall notify the Commissioner at least thirty (30) days prior to any transfer or change stating the reason for the proposed change.

Requirements:

1. Maintain an active CMT permit (submit a new initial application if you do not have an active permit currently)

2. Purchase Agreement - attach an executed copy of the purchase agreement between the acquiring organization & the seller. The agreement will be reviewed to confirm that the prepaid benefits are being transferred appropriately and clearly defined in the purchase agreement. Redacted agreements will be rejected.
3. CMT Transfer of Ownership BUYER application
4. Trust agreement between the acquiring organization and the financial institution acting as trustee post transfer.
5. Surety bond if applicable

SELLER'S responsibility

365:25-23-9. Notice of sale

The seller of a cemetery with a cemetery merchandise trust permit, shall make application **forty-five (45) days prior** to the transfer of ownership using a form approved by the Commissioner. A transfer may only be made to a permit holder in good standing with the Department. In addition to the notice, the seller shall also submit a copy of the proposed Seller's Agreement and a listing of all undelivered prepaid cemetery merchandise contracts. The listing shall provide the contract holder's name; the beneficiary's name or names, contract number, contract value, and the trust value at the time of notice. No transfer may be made without the Commissioner's prior written approval.

The selling organization shall not relinquish control of or the responsibility for funds held in the trust until authorization has been given by the Insurance Commissioner.

1. Maintain an active CMT permit until the transfer is complete and authorized by the Insurance Commissioner
2. Sellers Notice to the Insurance Commissioner
3. Purchase Agreement - attach an executed copy of the purchase agreement between the acquiring organization & the seller. The agreement will be reviewed to confirm that the prepaid benefits are being transferred appropriately and clearly defined in the purchase agreement. Redacted agreements will be rejected.
4. CMT Transfer of Ownership SELLER application
5. Trust agreement between the organization and the financial institution acting as trustee pretransfer.
6. Surety bond if applicable
7. A listing of all undelivered prepaid cemetery merchandise contracts. The listing shall provide the contract holder's name, the beneficiary's name or names, contract number, contract value, and the trust value at the time of notice, **prepared and dated no more than 60 days prior to the filing date**
8. Investment or financial statement for trust fund, **prepared and dated no more than 60 days prior to the filing date**

What to expect: The RIS Division will review the applications within 30 days of receiving complete, executed buyer and seller applications. **Both applications must be received before the review will begin.** An email will be sent to the contact listed as the OPTins filer should missing or additional information be required. The filer must respond within 30 days to any request for information. No response to our request will result in the application for transfer being rejected and further action taken against the seller and buyer.