



Spec Sheet

FUNERAL HOME PREPAID BENEFIT (FHPB) Conversion from Trust to Insurance funded

Statutes: 36 § 6125 and OAC Subchapter 9, 365:25-9-1 to 365:25-9-8

Disclaimer: The following is an overview of the laws pertaining to conversion of insurance funded funeral home prepaid benefits. A link to the OSCN and OAC webpages are on the RIS webpage so the user can perform additional research.

Definitions 365:25-9-8(b)

"Applicant" means a permit holder who files an application with the Oklahoma Insurance Department to convert its trust-funded prepaid funeral benefit contract(s) under existing contracts to insurance funded prepaid funeral benefit contract(s).

"Cash Surrender Value" means the net amount due the policy owner from the insurer upon surrender of an insurance policy, which will never be less than the amount of the trust funds transferred from the trust to the insurance policy as of transfer date.

"Death Benefit" means the total of all contract principal payments collected and accumulated earnings that are transferred at conversion, together with all future gross premiums paid and all accumulated interest earned annually on accumulated interest thereon. Interest must be compounded annually and calculated on gross premiums paid. The post-conversion death benefit can never be less than the pre-conversion death benefit.

"Insurance policy" means either: (A) A standard life or accident insurance policy; or (B) An individual or group fixed annuity contract relating to an insurance conversion application.

"Load" means any commission, allowance, surrender charge or other compensation, expense load, premium expense, administrative charge or expense, policy fees, or other fee or expense paid to an Oklahoma Insurance Department licensed agent associated with or occurring by reason of sale, issuance, lapse, surrender, or redemption of an insurance policy in connection with the conversion of any trust-funded prepaid funeral contract to insurance funded prepaid funeral contract.

"Post-conversion Administrator" means the administrator, who shall be the funeral home requesting conversion, or an administrator selected by the funeral home requesting conversion, of the prepaid funeral benefits contracts who holds and administers the prepaid funeral contracts after conversion and assumes responsibility for receiving the proceeds of the insurance policy upon maturity of a contract and processing payment to the funeral provider after verifying that the funeral service and merchandise under the prepaid funeral contract have been delivered.

"Required reserves" means the reserve liabilities for all outstanding insurance contracts valued or calculated pursuant to actuarial standards and statutory accounting standards not inconsistent with the Oklahoma Insurance Code.

Application Requirements 365:25-9-8(c) - (d)

The following items are required for the conversion application.

- Funeral Home holding the FH Prepaid Benefits trust must have an active FH Prepaid Benefit Permit and be in good standing with the Oklahoma Insurance Department (OID)
- Submit a completed conversion application to the OID via OPTins
- Not have been found to be in violation of any applicable laws or regulations relating to the Oklahoma Insurance Code or not have any other deficiencies of any significance that have not been remedied or corrected to the satisfaction of the Oklahoma Insurance Department.

Copy of Letter from Insurer to Applicant - Furnish a letter to the applicant from an insurer authorized to do business in Oklahoma evidencing the policy form number and setting out the insurer's agreement to issue insurance policies to convert the prepaid funeral contracts from trust funded benefits to insurance funded benefits.

Copy of Written Commitment to Commissioner - Furnish a copy of the written commitment to the Commissioner containing the agreement between or among the insurer, the applicant, and the post-conversion administrator regarding the transfer, receipt, and the application of trust funds upon conversion, which commitment must require a copy of each insurance policy issued be furnished to the owner of the insurance policy and that a copy be made available to the respective prepaid funeral contract purchasers upon request, in the event they are not the owners of the policies.

Pre-conversion Summary - Furnish a pre-conversion summary of the individual prepaid funeral contracts, which must include, at a minimum, the following information (as of a date within thirty (30) days of the date of application), as well as aggregated totals for each category of information, if appropriate:

- (A) Individual prepaid funeral benefits contract purchaser's name
- (B) Individual prepaid funeral benefits contract owner's name if other than the purchaser
- (C) Date of execution of pre-converted prepaid funeral contract
- (D) Face amount of the contract
- (E) Amount paid in and the unpaid balance
- (F) Accumulated earnings
- (G) Amount due the prepaid funeral contract purchaser upon cancellation and the amount due the applicant upon death of the prepaid funeral contract owner, assuming death or cancellation were to occur on or about the date of the application
- (H) Amount retained by the applicant under the Okla. Stat. tit. 36, § 6125 (statutes are below)
- (I) Whether the pre-converted contract is or was a contract pursuant to Okla. Stat. tit. 36, § 6125(B)(1) or § 6125(B)(2).

Post-conversion Summary - Furnish a post-conversion summary of the individual prepaid funeral contracts, which must include, at a minimum, the following information (as of the same date of the pre-conversion summary), as well as aggregated totals for each category of information, if appropriate:

- (A) Name of insured or annuitant
- (B) Owner of insurance policy or annuity if other than the insured or annuitant
- (C) Original prepaid funeral contract amount

- (D) Amount paid in and the unpaid balance
- (E) Amount applied to the purchase of the insurance policy
- (F) Initial cash surrender value and initial death benefit under the insurance policy
- (G) Amount retained by the applicant under the Okla. Stat. tit. 36, § 6125

Actuarial Certification - Furnish an actuarial certification certifying that the reserves to be held by the insurance company with respect to the conversion will be adequate to pay claims as they become due (dated no more than six (6) months prior to the date of the application).

Form of Assignment - Furnish a copy of the form of assignment, if any, to be used in assigning insurance policy rights or proceeds to the post-conversion administrator.

Withdrawal option 36 § 6125 (E) - A purchaser 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 forms shall be retained on file for at least six (6) years by the organization.

Standards for Approval 365:25-9-8(e)

An application for conversion will be approved by the Commissioner if, in the Commissioner's opinion, the rights and interests of the prepaid funeral contract purchasers under the insurance funded contract arrangement will be safeguarded to at least the same degree as provided under the trust-funded benefits contract. An application may be approved without the necessity of a hearing.

- A) The transfer of the trust funds to the insurance company must be at least equal to the full sum required to be deposited as trust principal by the applicant plus all net earnings accumulated with respect thereto, as of the transfer date. No load may be deducted from the trust funds transferred pursuant to the conversion application.
- B) No provision in the insurance policy may allow for contesting coverage, limit death benefits in the case of suicide, refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the policy at the time the prepaid funeral contract is funded, matures, or cancels.
- C) The insurance company must demonstrate that, in the previous seven years, the average death benefit growth under the same or substantially similar insurance policies issued by the insurance company to fund prepaid funeral contract has been at least 3.0% of accumulated premiums based on gross premiums paid. If the insurance company cannot so demonstrate, then the insurance policy must provide for guaranteed growth of the death benefit of no less than 2.0% annum compounded annually on gross premiums paid beginning in the first year of the policy.
- D) The post-conversion administrator is responsible for payment of all death and cancellation claims pursuant to the terms of the prepaid funeral benefits contract and in accordance with Okla. Stat. tit. 36, § 6125.
- E) Any insurance policy issued on any individual must be for an amount not less than the amount of principal and interest transferred for that individual to the insurance company, and any supplemental insurance policy issued to cover the unfunded portion of the contract must have a face amount that is at least as great as the unfunded principal balance. No credit or reduction may be made for interest earned or accrued on the paid-in principal balance.
- F) The insurance policy must provide each prepaid funeral contract purchaser with a cash surrender value or cancellation benefit that is at least the same the amount of the trust funds transferred from the trust to the

insurance policy as of transfer date and for the duration of the prepaid funeral contract less any amount due to the purchaser from the funeral home.

- G) The post-conversion administrator must submit to the OID within 90 days of the date of transfer of the trust funds, a post-conversion summary of the individual prepaid funeral contracts as of the conversion date, which must include, at a minimum, the following information, as well as aggregated totals for each category of information.
- Insured's name
 - Insured's policy number
 - The original prepaid funeral contract amount
 - Amount paid in
 - Unpaid balance of the prepaid funeral contract
 - Amount retained by the applicant under Okla. Stat. tit. 36, § 6125
 - Amount applied to the purchase of the insurance policy
 - Initial cash surrender value and initial death benefit under the insurance policy
- H) The applicant shall relinquish to the post-conversion administrator the individual prepaid funeral contract ledgers reflecting the amount paid and the amount left owing on the prepaid funeral contract, if any. The post-conversion administrator shall be responsible for maintaining such ledgers to reflect the principal balance of the converted contract as well as any outstanding balances.
- I) Within 90 days of the execution of the conversion order, the post-conversion administrator must submit a notarized statement to the department attesting that the insurance policies have been issued and funded on behalf of the contract purchasers listed in the original post-conversion summary included in the conversion application and that all notices required under subsection (c)(3)(I) of this section have been given. Within 120 days of the execution of the conversion order, all requirements under this section for completion of a conversion must be met, if they are not, the conversion order is void without further action of the department.
- J) If for any reason the Commissioner deems it necessary before final approval of the conversion order, the Commissioner may order a financial examination of the trust. The cost of said financial examination shall be paid by the applicant and conducted in accordance with Section 6129.1 of Title 36 of the Oklahoma Statutes, as the Commissioner deems warranted. The applicant shall demonstrate compliance with the Oklahoma Insurance Code, and if the applicant fails to do so, the Commissioner may request an examination of the trust as set forth in Section 6129.1 of Title 36 of the Oklahoma Statutes.
- K) The Commissioner may hold a hearing on an application. Hearings shall be conducted pursuant to the Oklahoma Insurance Code, Insurance Department rules and regulations, and the laws of the State of Oklahoma. The applicant shall have the burden to demonstrate by a preponderance of the evidence the existence of all factors necessary to entitle the applicant to convert to insurance funded benefits from trust-funded benefits.

Amount retained by the applicant under the Okla. Stat. tit. 36, § 6125

36 O.S. § 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 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.

36 O.S. § 6125(A)(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.

36 O.S. § 6125(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.

||