



LRB096 06325 ASK 25356 a

1                                    AMENDMENT TO SENATE BILL 1682

2            AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1682 by replacing  
3 everything after the enacting clause with the following:

4            "Section 5. The Illinois Funeral or Burial Funds Act is  
5 amended by changing Sections 1, 1a, 1a-1, 1b, 2, 3, 4, 4a, 5,  
6 and 8.1 and by adding Section 1a-2 as follows:

7            (225 ILCS 45/1) (from Ch. 111 1/2, par. 73.101)

8            Sec. 1. Payment under pre-need contract. Except as  
9 otherwise provided in this Section, all sales proceeds paid to  
10 any person, partnership, association or corporation with  
11 respect to merchandise or services covered by this Act, upon  
12 any agreement or contract, or any series or combination of  
13 agreements or contracts, which has for a purpose the furnishing  
14 or performance of funeral services, or the furnishing or  
15 delivery of any personal property, merchandise, or services of  
16 any nature in connection with the final disposition of a dead

1 Comptroller shall request that the Attorney General engage in  
2 all reasonable post-judgment collection steps to collect such  
3 claims from the judgment debtor and reimburse the Fund.

4 (d) The Fund shall not be applied toward any restitution  
5 for losses in any lawsuit initiated by the Attorney General or  
6 Comptroller or with respect to any claim made on a pre-need  
7 contract that occurred prior to the effective date of this  
8 amendatory Act of the 96th General Assembly.

9 (e) Notwithstanding any other provision of this Section,  
10 the payment of restitution from the Fund shall be a matter of  
11 grace and not of right and no purchaser shall have any vested  
12 right in the Fund as a beneficiary or otherwise.

13 (f) The Fund may not be allocated for any purpose other  
14 than that specified in this Act.

15 (225 ILCS 45/1b) (from Ch. 111 1/2, par. 73.101b)

16 Sec. 1b. (a) Whenever a seller receives sales proceeds  
17 under a pre-need contract that the purchaser elects to fund by  
18 a trust agreement, the seller may retain an initial amount  
19 equal to 5% of the purchase price of the services, personal  
20 property or merchandise, or 15% of the purchase price of outer  
21 burial containers. Thereafter, a seller shall deposit into  
22 trust the amounts specified in this Section so that no later  
23 than upon the final payment on the contract, the trust shall  
24 equal or exceed 95% of the purchase price of all services,  
25 personal property, or merchandise, except for outer burial

1 containers, and 85% of the purchase price of outer burial  
2 containers.

3 (b) In the event that sales proceeds to be deposited into a  
4 trust are received pursuant to a cash sale or an ~~a retail~~  
5 installment contract, the seller may retain the initial  
6 percentage authorized by subsection (a) of this Section ~~and any~~  
7 ~~finance charge paid by the purchaser~~, and thereafter shall  
8 deposit into the trust the entire balance of sales proceeds  
9 received.

10 (c) In the event that the deposits into a trust required by  
11 this Section do not, after final payment by the consumer,  
12 result in the trust containing at least 95% of the purchase  
13 ~~sales~~ price of all services, personal property or merchandise,  
14 except for outer burial containers and 85% of the purchase  
15 price of outer burial containers, the seller shall make an  
16 additional deposit into the trust in an amount sufficient to  
17 meet these percentages.

18 (d) The trustee may not be the seller or provider of  
19 funeral services or merchandise unless the seller holds sales  
20 of less than \$500,000 in trust, and ~~deposits funds for which~~  
21 ~~the seller is acting as trustee in (1) withdrawable accounts of~~  
22 ~~State chartered or federally chartered savings and loan~~  
23 ~~associations insured by the Federal Deposit Insurance~~  
24 ~~Corporation; (2) deposits or certificates of deposits in State~~  
25 ~~or federal banks insured by the Federal Deposit Insurance~~  
26 ~~Corporation; or (3) share accounts or share certificate~~

1 ~~accounts in a State or federal credit union, the accounts of~~  
2 ~~which are insured as required by the Illinois Credit Union Act~~  
3 ~~or the Federal Credit Union Act, as applicable.~~

4 (Source: P.A. 88-477.)

5 (225 ILCS 45/2) (from Ch. 111 1/2, par. 73.102)

6 Sec. 2. (a) If a purchaser selects a trust arrangement to  
7 fund the pre-need contract, all trust deposits as determined by  
8 Section 1b shall be made within 30 days of receipt.

9 (b) A trust established under this Act must be maintained  
10 with a corporate fiduciary as defined in Section 1-5.05 of the  
11 Corporate Fiduciary Act.+

12 ~~(1) in a trust account established in a bank, savings~~  
13 ~~and loan association, savings bank, or credit union~~  
14 ~~authorized to do business in Illinois in which accounts are~~  
15 ~~insured by an agency of the federal government; or~~

16 ~~(2) in a trust company authorized to do business in~~  
17 ~~Illinois.~~

18 (c) Trust agreements and amendments to the trust agreements  
19 used to fund a pre-need contract shall be filed with the  
20 Comptroller.

21 (d) (Blank).

22 (e) A seller or provider shall furnish to the trustee and  
23 depository the name of each payor and the amount of payment on  
24 each such account for which deposit is being so made. Nothing  
25 shall prevent the trustee ~~or a seller or provider acting as a~~

1 ~~trustee in accordance with this Act~~ from commingling the  
2 deposits in any such trust fund for purposes of its management  
3 and the investment of its funds as provided in the Common Trust  
4 Fund Act. In addition, multiple trust funds maintained under  
5 this Act may be commingled or commingled with other funeral or  
6 burial related trust funds if all record keeping requirements  
7 imposed by law are met.

8 (f) (Blank). ~~Trust funds may be maintained in a financial~~  
9 ~~institution described in subsection (b) which is located in a~~  
10 ~~state adjoining this State where: (1) the financial institution~~  
11 ~~is located within 50 miles of the border of this State, (2) its~~  
12 ~~accounts are federally insured, and (3) it has registered with~~  
13 ~~the Illinois Secretary of State for purposes of service of~~  
14 ~~process.~~

15 (g) Upon no less than 30 days prior notice to the  
16 Comptroller, the seller may change the trustee of the fund.  
17 Failure to provide the Comptroller with timely prior notice is  
18 an intentional violation of this Act.

19 (h) A trustee shall at least annually furnish to each  
20 purchaser a statement containing: (1) the receipts,  
21 disbursements, and inventory of the trust, including an  
22 explanation of any fees or expenses charged by the trustee  
23 under Section 4 of this Act or otherwise, (2) an explanation of  
24 the purchaser's right to a refund, if any, under this Act, and  
25 (3) identifying the primary regulator of the trust as a  
26 corporate fiduciary under state or federal law.