

## CHAPTER 62

### PREPAID CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES — TRUST OR SURETY BOND PAYMENTS

H.F. 404

**AN ACT** relating to payments for prepaid cemetery and funeral merchandise, and funeral services that are required to be placed in trust or secured by a surety bond.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 523A.201, subsections 2 and 3, Code 2011, are amended to read as follows:

2. If a seller agrees to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof and performance or delivery may be more than one hundred twenty days following the initial payment on the account, a minimum of eighty percent of all payments made under ~~the a guaranteed purchase agreement or a minimum of one hundred percent of all payments made under a nonguaranteed purchase agreement~~ shall be placed and remain in trust until the person for whose benefit the funds were paid dies.

3. If a purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof provides that payments are to be made in installments, the seller shall deposit eighty percent of each payment made under a guaranteed purchase agreement and one hundred percent of each payment made under a nonguaranteed purchase agreement in the trust fund until the full amount required to be placed in trust has been deposited. If the purchase agreement is financed with or sold to a financial institution, the purchase agreement shall be considered paid in full and the trust requirements shall be satisfied within fifteen days after the seller receives funds from the financial institution.

Sec. 2. Section 523A.201, subsection 8, Code 2011, is amended to read as follows:

8. Interest or income earned on amounts deposited in trust shall remain in trust under the same terms and conditions as payments made under the purchase agreement, except that a ~~limited liability corporation that was formed in 2002 for the purpose of purchasing a cemetery from a foreign entity reorganizing under bankruptcy and such corporation is comprised of six establishments all located within the same county~~ seller may withdraw so much of the interest or income as represents the difference between the amount needed to adjust the trust funds for inflation as set by the commissioner based on the consumer price index and the interest or income earned during the preceding year not to exceed fifty percent of the total interest or income on a calendar-year basis. The early withdrawal of interest or income under this provision does not affect the purchaser's right to a credit of such interest or income in the event of a nonguaranteed price agreement, cancellation, or nonperformance by such ~~limited liability corporation a seller~~.

Sec. 3. Section 523A.405, subsection 8, Code 2011, is amended to read as follows:

8. The amount of the surety bond shall equal eighty percent of the payments received pursuant to guaranteed purchase agreements and one hundred percent of the payments received pursuant to nonguaranteed purchase agreements, or the applicable portion thereof, for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, and the amount needed to adjust the amount of the surety bond for inflation as set by the commissioner based on the consumer price index. The seller shall review the amount of the surety bond no less than annually and shall increase the bond as necessary to reflect additional payments. The amount needed to adjust for inflation shall be added annually to the surety bond during the first quarter of the seller's fiscal year.

Sec. 4. Section 523A.601, subsection 6, paragraph a, Code 2011, is amended to read as follows:

a. (1) A guaranteed purchase agreement that is funded by a trust shall include a conspicuous statement in language substantially similar to the following language:

For your prearranged funeral agreement, we will deposit not less than eighty percent of

your payments in trust at (name of financial institution), (street address), (city), (state) (zip code) within fifteen days following receipt of the funds. For your protection, you will be notified within sixty days from the date of deposit ~~from~~ by the financial institution, if acting as a trustee of trust funds under this chapter, to confirm that the deposit of these funds has been made establishing a trust fund as required by law. If you do not receive this notification, you may contact the Iowa insurance division for assistance by calling the insurance division at (telephone number) or by mail at (street address), (city), Iowa (zip code), or you may contact the financial institution by calling the financial institution at (telephone number) or by mail at the address indicated above.

(2) A nonguaranteed purchase agreement that is funded by a trust shall include a conspicuous statement in language substantially similar to the following language:

For your prearranged funeral agreement, we will deposit all of your payments in trust at (name of financial institution), (street address), (city), (state) (zip code) within fifteen days following receipt of the funds. For your protection, you will be notified within sixty days from the date of deposit by the financial institution, if acting as a trustee of trust funds under this chapter, to confirm that the deposit of these funds has been made establishing a trust fund as required by law. If you do not receive this notification, you may contact the Iowa insurance division for assistance by calling the insurance division at (telephone number) or by mail at (street address), (city), Iowa (zip code), or you may contact the financial institution by calling the financial institution at (telephone number) or by mail at the address indicated above.

Approved April 14, 2011