

2/21/95 Commerce

FILED FEB 21 1995

SENATE FILE 171
BY RITTMER

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for an increase in the amount which must be
2 deposited in trust related to funeral services or funeral
3 merchandise to be furnished upon the future death of a person
4 and applying penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

S.F. 171

1 Section 1. Section 523A.1, Code 1995, is amended to read
2 as follows:

3 523A.1 TRUST FUND ESTABLISHED.

4 1. a. Whenever Except as provided in paragraph "b",
5 whenever an agreement is made by any person, firm, or
6 corporation to furnish, upon the future death of a person
7 named or implied in the agreement, funeral services or funeral
8 merchandise, a minimum of eighty percent of all payments made
9 under the agreement shall be and remain trust funds until
10 occurrence of the death of the person for whose benefit the
11 funds were paid, unless the funds are sooner released to the
12 person making the payment by mutual consent of the parties.
13 Payments otherwise subject to this section are not exempt
14 merely because they are held in certificates of deposit.

15 b. On or after July 1, 1995, whenever an agreement is made
16 pursuant to paragraph "a", one hundred percent of all payments
17 made under the agreement shall be and remain trust funds until
18 occurrence of the death of the person for whose benefit the
19 funds were paid, unless the funds are sooner released to the
20 person making the payment by mutual consent of the parties.
21 Payments otherwise subject to this section are not exempt
22 merely because they are held in certificates of deposit.

23 2. Interest or income earned on amounts deposited in trust
24 under this section shall remain in trust under the same terms
25 and conditions as the payments made under the agreement,
26 except that the seller may withdraw so much of the interest or
27 income as represents the difference between the amount needed
28 to adjust the trust funds for inflation as set by the
29 commissioner based on the consumer price index and the
30 interest or income earned during the preceding year not to
31 exceed fifty percent of the total interest or income, on a
32 calendar year basis. The early withdrawal of interest or
33 income pursuant to this provision does not affect the
34 purchaser's right to the full refund or credit of such
35 interest or income in the event the payments and interest in

1 trust are released to the purchaser or in the event of a
2 nonguaranteed price agreement, respectively. This provision
3 does not affect the purchaser's right to a total refund of
4 principal and interest or income in the event of
5 nonperformance.

6 3. a. If Except as provided in paragraph "b", if an
7 agreement pursuant to this section is to be paid in
8 installment payments, the seller shall deposit eighty percent
9 of each payment in trust until the full amount to be trusted
10 has been deposited. If the agreement is financed with or sold
11 to a financial institution, then the agreement shall be
12 considered paid in full and the deposit requirements of this
13 section shall be satisfied within fifteen days after the close
14 of the month of receipt of the funds from the financial
15 institution.

16 b. On or after July 1, 1995, if an agreement pursuant to
17 this section is to be paid in installment payments, the seller
18 shall deposit one hundred percent of each payment in trust.
19 If the agreement is financed with or sold to a financial
20 institution, then the agreement shall be considered paid in
21 full and the deposit requirements of this section shall be
22 satisfied within fifteen days after the close of the month of
23 receipt of the funds from the financial institution.

24 4. This section does not apply to payments for merchandise
25 delivered to the purchaser. Delivery includes storage in a
26 warehouse under the control of the seller or any other
27 warehouse or storage facility approved by the commissioner
28 when a receipt of ownership in the name of the purchaser is
29 delivered to the purchaser, the merchandise is insured against
30 loss, the merchandise is protected against damage, title has
31 been transferred to the purchaser, the merchandise is
32 appropriately identified and described in a manner that it can
33 be distinguished from other similar items of merchandise, the
34 method of storage allows for visual audits of the merchandise,
35 and the annual reporting requirements of section 523A.2,

1 subsection 1, are satisfied.

2 Sec. 2. Section 523A.19, subsection 1, paragraph b, Code
3 1995, is amended to read as follows:

4 b. Has utilized trust funds for personal or business
5 purposes in a manner inconsistent with this chapter and the
6 amount of funds currently held in trust is less than **eighty**
7 the following:

8 (1) Eighty percent of all payments made under the
9 agreements an agreement referred to in section 523A.1 which is
10 entered into prior to July 1, 1995.

11 (2) One hundred percent of all payments made under an
12 agreement referred to in section 523A.1 which is entered into
13 on or after July 1, 1995.

14 EXPLANATION

15 This bill increases the amount which a person, who agrees
16 to furnish funeral services or funeral merchandise upon the
17 future death of a person, must deposit in trust from a minimum
18 of 80 percent of all payments made under the agreement to 100
19 percent of all such payments for agreements entered into on or
20 after July 1, 1995.

21
22
23
24
25
26
27
28
29
30
31
32
33
34
35