



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5809

by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

225 ILCS 45/4a

Amends the Illinois Funeral or Burial Funds Act. Provides that, in the event a trust is used to fund a pre-need contract, the trustee of the trust shall issue a statement regarding the trust's performance to the beneficiary each month. Provides that the statement shall include the rate of interest, interest earned, net and liquid value, original principal investment, and any fees assessed by the banking or investment institution where the trust is held.

LRB098 18203 ZMM 53333 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Funeral or Burial Funds Act is
5 amended by changing Section 4a as follows:

6 (225 ILCS 45/4a)

7 Sec. 4a. Investment of funds.

8 (a) A trustee has a duty to invest and manage the trust
9 assets pursuant to the Prudent Investor Rule under the Trusts
10 and Trustees Act.

11 (b) The trust shall be a single-purpose trust fund. In the
12 event of the seller's bankruptcy, insolvency or assignment for
13 the benefit of creditors, or an adverse judgment, the trust
14 funds shall not be available to any creditor as assets of the
15 seller or to pay any expenses of any bankruptcy or similar
16 proceeding, but shall be distributed to the purchasers or
17 managed for their benefit by the trustee holding the funds.
18 Except in an action by the Comptroller to revoke a license
19 issued pursuant to this Act and for creation of a receivership
20 as provided in this Act, the trust shall not be subject to
21 judgment, execution, garnishment, attachment, or other seizure
22 by process in bankruptcy or otherwise, nor to sale, pledge,
23 mortgage, or other alienation, and shall not be assignable

1 except as approved by the Comptroller. The changes made by
2 Public Act 91-7 are intended to clarify existing law regarding
3 the inability of licensees to pledge the trust.

4 (c) Because it is not known at the time of deposit or at
5 the time that income is earned on the trust account to whom the
6 principal and the accumulated earnings will be distributed for
7 the purpose of determining the Illinois income tax due on these
8 trust funds, the principal and any accrued earnings or losses
9 related to each individual account shall be held in suspense
10 until the final determination is made as to whom the account
11 shall be paid. The beneficiary's estate shall not be
12 responsible for any funeral and burial purchases listed in a
13 pre-need contract if the pre-need contract is entered into on a
14 guaranteed price basis.

15 If a pre-need contract is not a guaranteed price contract,
16 then to the extent the proceeds of a non-guaranteed price
17 pre-need contract cover the funeral and burial expenses for the
18 beneficiary, no claim may be made against the estate of the
19 beneficiary. A claim may be made against the beneficiary's
20 estate if the charges for the funeral services and merchandise
21 at the time of use exceed the amount of the amount in trust
22 plus the percentage of the sale proceeds initially retained by
23 the seller or the face value of the life insurance policy or
24 tax-deferred annuity.

25 (d) The trustee of the trust shall issue a statement
26 regarding the trust's performance to the beneficiary each

1 month. The statement shall include the rate of interest,
2 interest earned, net and liquid value, original principal
3 investment, and any fees assessed by the banking or investment
4 institution where the trust is held.

5 (Source: P.A. 96-879, eff. 2-2-10.)