WEST VIRGINIA CODE: §47-14-5

§47-14-5. Disposition of proceeds; trusts; procedure for administration; division to promulgate rules.

(a) All sums paid or collected on such preneed funeral contracts entered into after June 7, 1983, shall be handled in the following manner:

(1) The contract seller or other person collecting the funds may retain for his own use and benefit and for the purpose of covering selling expenses, servicing costs and general overhead, an amount not to exceed ten percent of the total original amount agreed to be paid by the contract buyer as reflected in the original preneed funeral contract. Upon retaining such amount, no further deduction from any sums collected pursuant to the contract for such purposes shall be made by any such seller or person or their assignees or transferees. Such ten percent or other amount is exempt from the trust and refunding provisions of this article;

(2) All of the funds collected under the contract, less the amount authorized to be deducted under subdivision (1) of this subsection, shall be deposited under the provisions of subdivision (3) of this subsection;

(3) Unless otherwise specifically exempt under this article, all funds paid to or collected by any person as the result of a preneed funeral contract shall, within thirty days after receipt thereof by such a person, be deposited in this state: (i) In the name of a trustee who is a contract seller, provider or person making the preneed funeral contract available, in a state or federally chartered and insured bank, savings institution, building and loan institution located in this state or in a state or federally chartered credit union located in this state; or (ii) under the terms of a trust instrument entered into with a national or state bank having trust powers or a trust company located in this state. In the event a preneed funeral contract is funded by the purchase of an insurance policy or an annuity, the premiums paid on such insurance policy or annuity shall be deposited with an insurer licensed pursuant to the provisions of chapter thirty-three of this code.

(b) The funds to be deposited from more than one preneed funeral contract may at the option of the recipient thereof or the certificate of authority holder be placed in a common or commingled trust fund in this state under a single trust instrument.

(c) All deposits, other than for insurance policies or annuities, shall be placed in an account with a trustee in the name of the contract seller, provider or person making the contract available, as set forth in the contract, to whom the contract buyer makes payment. Each trustee shall maintain records showing the trust's investment and, as to each contract showing the amount paid, the amount of interest earned and the current balance with respect to any particular buyer's contract.

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(d) All funds required to be deposited and covered by this article shall remain in this state.

(e) All accounts of money deposited in any bank, savings institution, building and loan association or credit union in accordance with the provisions of this article are subject to periodic examination by the Division of Banking of this state.

(f) The division shall promulgate legislative rules in accordance with the provisions of chapter twenty-nine-a of this code for the purpose of administering the provisions of this article.

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