WEST VIRGINIA CODE: §47-14-7

§47-14-7. Income on trust accounts.

(a) Whether the payments on a preneed funeral contract are placed in a bank, savings institution, building and loan association, credit union or in a common trust fund as permitted in this article, or are part of a commingled common trust fund as permitted in this article, the income from a contract deposit, except as otherwise provided herein, shall accrue to the credit of the individual account of such contract until such time as the burial goods, funeral goods and funeral services for the contract beneficiary are required to be delivered and returned by reason of such beneficiary's death.

(b) Upon the death of such contract beneficiary, the total amount in the trust account attributable to the contract beneficiary shall be disbursed as follows:

(1) If the cost of the goods and services contracted for at the time of such beneficiary's death exceeds the amount paid under the contract, then the provider may have and use the principal and so much of the interest as may be necessary to defray such additional cost over and above the contract cost: Provided, That to the extent that the cost of goods and services provided exceeds the principal and interest thereon, the provider shall provide and make available the goods and services contracted for at no additional cost to the contract purchaser or to the heirs or personal representative of the contract beneficiary;

(2) To the extent the principal and interest thereon exceed the cost of the goods and services contracted for, then the provider may retain only so much of the principal and interest necessary to defray the total of such cost and the balance shall be returned to the estate of the contract beneficiary or to the contract buyer as may be proper under the provisions of this article or the legislative rules promulgated by the division.

(c) The trustee for the trust shall make annual valuations of assets held in trust. No person may withdraw income from the trust, except for the purpose of executing the terms of the contract, disbursing the trust proceeds as provided in this article and paying costs incidental to the trust, including, but not limited to, reasonable trust fees and tax assessments.

WV Legislature