WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1955

ENROLLED

HOUSE BILL No. 419

(By Mr. Allen)

PASSED Mar 9 1955

In Effect 90 Days from Passage

MAR 17, 1955
ENROLLED

House Bill No. 419
(By Mr. Sapp)

[Passed March 9, 1955; in effect ninety days from passage.]

AN ACT to amend chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article fourteen, relating to the sale of personal property or services under prearranged funeral agreements, contracts or plans, requiring the proceeds thereof to be held by banks, trust companies or savings and loan association insured by an agency of the federal government for the purposes intended therein and providing penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

That chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article fourteen, to read as follows:

Section 1. Pre-need Contracts Against Public Policy.

2 Any agreement, contract or plan requiring the payment of money in a lump sum or installments which is made or entered into with any person, association, partnership, firm or corporation for the final disposition of a dead human body, or for funeral or burial services, or for the furnishing of personal property or funeral or burial merchandise, wherein the delivery of the personal property or the funeral or burial merchandise or the furnishing of professional services by a funeral director or embalmer is not immediately required, is hereby declared to be against public policy and void, unless all money paid thereunder shall be paid to and held by a bank, trust company, or savings and loan association, insured by an agency of the federal government, and which is authorized to do business in this state, and subject to the terms of an agreement for the benefit of the purchaser of said agreement, contract or plan.

Sec. 2. All Money Paid on Pre-need Contracts to be Deposited within Ten Days.—All such money shall be
deposited with such bank, trust company or savings and loan association, within ten days of payment, and shall be held by such bank, trust company or savings and loan association in a separate account in the name of the funeral director, embalmer or supplier of said merchandise and services under said agreement, contract or plan, as trustees for the purchaser until said fund is released as herein provided.

Sec. 3. Funds Shall Remain on Deposit unless Withdrawn by Purchaser.—All payments made under said agreement, contract or plan and any earnings or interest thereon shall remain with such bank, trust company, or savings and loan association until the death of the person for whose service the funds were paid: Provided, however, That said funds shall be released to the purchaser of the merchandise or services under said agreement, contract or plan, who shall be entitled to receive the same, at any time, upon demand upon said bank, trust company, or savings and loan association, and upon three days notice to the other party to the agreement. The funds deposited shall not be partially withdrawn at any time
by the purchaser, but shall be entirely withdrawn, if withdrawn at any time before the completion of the agreement or contract.

Sec. 4. Payment of Funds by Bank, Trust Company or Savings and Loan Association.—If any balance remains in said account upon the death of the purchaser, the same shall not be paid by such bank, trust company or savings and loan association, to the trustee until the expiration of at least five days after the death of the purchaser for whom such funds were deposited. Such funds shall not be paid by said bank, trust company or savings and loan association until a certified copy of the death certificate of such person shall have been furnished to said bank, trust company or savings and loan association. The payment of such funds and accumulated interest pursuant to sections three or four of this article shall relieve the bank, trust company or savings and loan association of any further liability for such funds or interest. Any balance remaining in said fund after payment for the merchandise and services as set forth in said agreement, contract or plan shall inure to the benefit of the estate of the
purchaser or undersaid agreement, contract or plan, and
shall be paid over to the estate by the trustee, aforesaid.

Sec. 5. Provisions of this Article Cannot be Waived by
Contract.—Any provision of any such agreement or con-
tract whereby a person who pays money under or in con-
nection therewith waives any provision of this article
shall be void.

Sec. 6. Article not Applicable to Sale of Lots or Graves.
—This article shall not apply to the sale of lots or graves
by a cemetery.

Sec. 7. Penalties.—Every person who shall violate any
provision of this act shall be deemed guilty of a misde-
meanor, and, upon conviction shall be fined not less than
one hundred dollars, nor more than five hundred dollars,
or shall be imprisoned for not less than ten days nor
more than ninety days, or both. There shall be a separate
fine and/or imprisonment for each violation of this article.

Sec. 8. Additional Remedies.—In addition to other rem-
edies, an action of injunction may be brought and main-
tained by the state of West Virginia to enjoin the viola-
tion of this act.
Sec. 9. *Constitutionality.*—The provisions of this act shall be separable, and in case any provision or part thereof shall be held to be unconstitutional or invalid for any reason, the same shall not be held to effect any other paragraph, provision or part of this act.
The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

 Clerk of the Senate

 Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 16

day of March 1953.

Governor