

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

ATTEST CLERK

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:

Article 14. Pre-need Burial Contracts.**Section 1. *Pre-need Contracts Against Public Policy.***

2 Any agreement, contract or plan requiring the payment
3 of money in a lump sum or installments which is made
4 or entered into with any person, association, partnership,
5 firm or corporation for the final disposition of a dead hu-
6 man body, or for funeral or burial services, or for the
7 furnishing of personal property or funeral or burial mer-
8 chandise, wherein the delivery of the personal property
9 or the funeral or burial merchandise or the furnishing of
10 professional services by a funeral director or embalmer
11 is not immediately required, is hereby declared to be
12 against public policy and void, unless all money paid
13 thereunder shall be paid to and held by a bank, trust
14 company, or savings and loan association, insured by an
15 agency of the federal government, and which is author-
16 ized to do business in this state, and subject to the terms
17 of an agreement for the benefit of the purchaser of said
18 agreement, contract or plan.

Sec. 2. *All Money Paid on Pre-need Contracts to be*

2 *Deposited within Ten Days.*—All such money shall be

3 deposited with such bank, trust company or savings and
4 loan association, within ten days of payment, and shall
5 be held by such bank, trust company or savings and loan
6 association in a separate account in the name of the fu-
7 neral director, embalmer or supplier of said merchandise
8 and services under said agreement, contract or plan, as
9 trustees for the purchaser until said fund is released as
10 herein provided.

Sec. 3. *Funds Shall Remain on Deposit unless With-*
2 *drawn by Purchaser.*—All payments m a d e under said
3 agreement, contract or plan and any earnings or interest
4 thereon shall remain with such bank, trust company, or
5 savings and loan association until the death of the per-
6 son for whose service the funds were paid: *Provided,*
7 *however,* That said funds shall be released to the purch-
8 aser of the merchandise or services under said agreement,
9 contract or plan, who shall be entitled to receive the same,
10 at any time, upon demand upon said bank, trust com-
11 pany, or savings and loan association, and upon three
12 days notice to the other party to the agreement. The funds
13 deposited shall not be partially withdrawn at any time

14 by the purchaser, but shall be entirely withdrawn, if
15 withdrawn at any time before the completion of the
16 agreement or contract.

Sec. 4. *Payment of Funds by Bank, Trust Company or*
2 *Savings and Loan Association.*—If any balance remains
3 in said account upon the death of the purchaser, the same
4 shall not be paid by such bank, trust company or savings
5 and loan association, to the trustee until the expiration
6 of at least five days after the death of the purchaser for
7 whom such funds were deposited. Such funds shall not be
8 paid by said bank, trust company or savings and loan
9 association until a certified copy of the death certificate
10 of such person shall have been furnished to said bank,
11 trust company or savings and loan association. The pay-
12 ment of such funds and accumulated interest pursuant to
13 sections three or four of this article shall relieve the bank,
14 trust company or savings and loan association of any
15 further liability for such funds or interest. Any balance
16 remaining in said fund after payment for the merchandise
17 and services as set forth in said agreement, contract or
18 plan shall inure to the benefit of the estate of the

19 purchaser or undersaid agreement, contract or plan, and
20 shall be paid over to the estate by the trustee, aforesaid.

Sec. 5. *Provisions of this Article Cannot be Waived by*

2 *Contract.*—Any provision of any such agreement or con-
3 tract whereby a person who pays money under or in con-
4 nection therewith waives any provision of this article
5 shall be void.

Sec. 6. *Article not Applicable to Sale of Lots or Graves.*

2 —This article shall not apply to the sale of lots or graves
3 by a cemetery.

Sec. 7. *Penalties.*—Every person who shall violate any

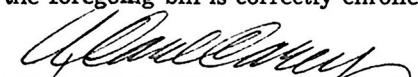
2 provision of this act shall be deemed guilty of a misde-
3 meanor, and, upon conviction shall be fined not less than
4 one hundred dollars, nor more than five hundred dollars,
5 or shall be imprisoned for not less than ten days nor
6 more than ninety days, or both. There shall be a separate
7 fine and/or imprisonment for each violation of this article.

Sec. 8. *Additional Remedies.*—In addition to other rem-

2 edies, an action of injunction may be brought and main-
3 tained by the state of West Virginia to enjoin the viola-
4 tion of this act.

Sec. 9. *Constitutionality*.—The provisions of this act
2 shall be separable, and in case any provision or part
3 thereof shall be held to be unconstitutional or invalid
4 for any reason, the same shall not be held to effect any
5 other paragraph, provision or part of this act.

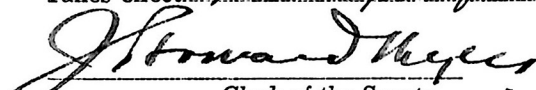
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

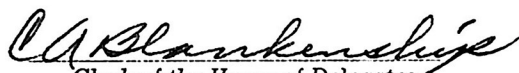

Chairman Senate Committee

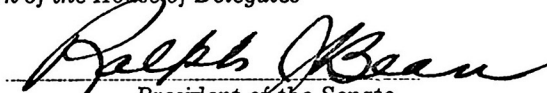

Chairman House Committee

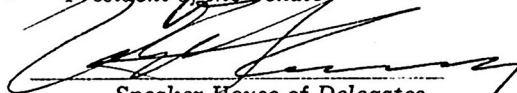
Originated in the House of Delegates

Takes effect 90 days 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



Filed in the Office of the Secretary of State

MAR 17 1953

at West Virginia

FILED