WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

SENATE BILL NO. 347

(By Senator Wooton, et al)

PASSED March 9, 1996
In Effect NINETY DAYS FROM PASSAGE
AN ACT to amend and reenact section twenty-one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section twenty-six, article three-a of said chapter, all relating to the order in which debts of a decedent are to be paid and relieving the decedent's estate and surviving spouse of the obligation to pay the decedent's funeral expenses if payment of those funeral expenses is provided for by an irrevocable pre-need funeral contract or trust.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article two, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section twenty-six, article three-a of said chapter be amended and reenacted, all to read as follows:
ARTICLE 2. PROOF AND ALLOWANCE OF CLAIMS AGAINST ESTATES OF DECEDE

§44-2-21. Order in which debts of decedent are to be paid.

(a) If the applicable assets of the estate are insufficient to pay all claims against the estate in full, the personal representative shall make payment in the following order:

(1) Costs and expenses of administration;

(2) Reasonable funeral expenses;

(3) Debts and taxes with preference under federal law;

(4) Unpaid child support which is due and owing at the time of the decedent’s death;

(5) Debts and taxes with preference under other laws of the state of West Virginia;

(6) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation for persons attending the decedent during his or her last illness; and

(7) All other claims.

(b) If the applicable assets of the estate are insufficient to pay all claims within a class, those claims within that class shall be paid on a pro-rata basis. No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

(c) Notwithstanding the provisions of subsection (a) of this section, if the payment of all funeral expenses of the decedent is provided for by an irrevocable pre-need funeral contract or trust, neither the decedent’s estate nor the decedent’s surviving spouse shall have any obligation for the payment of such funeral expenses.

ARTICLE 3A. OPTIONAL PROCEDURE FOR PROOF AND ALLOWANCE OF CLAIMS AGAINST ESTATES OF DECEDE

§44-3A-26. Order in which debts of decedent are to be paid.
(a) If the applicable assets of the estate are insufficient to pay all claims against the estate in full, the personal representative shall make payment in the following order:

(1) Costs and expenses of administration;
(2) Reasonable funeral expenses;
(3) Debts and taxes with preference under federal law;
(4) Unpaid child support which is due and owing at the time of the decedent’s death;
(5) Debts and taxes with preference under other laws of the state of West Virginia;
(6) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation for persons attending the decedent during his or her last illness; and
(7) All other claims.

(b) If the applicable assets of the estate are insufficient to pay all claims within a class, those claims within that class shall be paid on a pro-rata basis. No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

(c) Notwithstanding the provisions of subsection (a) of this section, if the payment of all funeral expenses of the decedent is provided for by an irrevocable pre-need funeral contract or trust, neither the decedent’s estate nor the decedent’s surviving spouse shall have any obligation for the payment of such funeral expenses.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ......................... this the ........................

day of ........................................ 1996.

Governor