HOUSE BILL NO. 1519

AN ACT TO AMEND SECTION 75-63-59, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PRENEED CEMETARY AND FUNERAL CONTRACTS TO ALLOW THE TRUSTEE TO PAY THE CONTRACT PROVIDER ALL FUNDS OWED FOR THE MERCHANDISE AND SERVICES PROVIDED BY THE CONTRACT PROVIDER UPON RECEIPT OF EITHER A LETTER OF PERFORMANCE OR THE BUYER'S DEATH CERTIFICATE OR PROOF OF DEATH; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-63-59, Mississippi Code of 1972, is amended as follows:

75-63-59. (1) If the contract is funded by trust, the Secretary of State shall be given a copy of the trust document and shall be informed in writing as to how the assets of the trust are held. In the event of any change in the investments of the assets of the trust, or change in the trustee or trust institution, the Secretary of State shall be informed not less than thirty (30) days after the time such change occurs.

(2) Any trustee, other than a financial institution, shall not be the contract provider, the seller, or an officer or director of the contract provider if the contract provider is a corporation.

(3) Within twenty (20) days from the end of the month in which the funds were received, the contract seller shall place in a trust account in a financial institution as defined by this act at least fifty percent (50%) of the funds received. If the contract seller places less than one hundred percent (100%) in the trust account, the preneed contract shall fully disclose to the contract purchaser the amount deposited in trust and the amount withheld by the contract seller.
(4) Reasonable annual trust fees including any income taxes owed to the State of Mississippi and/or the United States Treasury may be withheld from the earnings of the trust.

(5) At the time of death, or at the time of delivery of the merchandise, if the contract provider provides the merchandise and services indicated in the contract, the contract provider shall furnish to the trustee a copy of the buyer's death certificate or proof of death or a letter of performance indicating that the contracted merchandise and services were provided by the contract provider to the contract insured. Upon receipt of the letter of performance or death certificate, or proof of death, the trustee shall pay to the contract provider all funds.

(6) If the contract provider does not furnish merchandise and services as provided in the preneed contract, the trustee shall pay to the estate of the contract insured or the substitute provider not less than the amount deposited in trust, within ten (10) days from notification of the death of the contract insured.

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.