

By: Representative Formby

To: Insurance

HOUSE BILL NO. 1064
(As Passed the House)

1 AN ACT TO AMEND SECTION 75-63-59, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THAT CONTRACT SELLERS OF PRENEED FUNERAL SERVICES AND
3 MERCHANDISE PLACE AT LEAST EIGHTY-FIVE PERCENT OF THE FUNDS
4 RECEIVED FOR SUCH CONTRACTS FUNDED BY TRUST INTO A TRUST ACCOUNT
5 IN A FINANCIAL INSTITUTION; AND FOR RELATED PURPOSES.

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

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

9 75-63-59. (1) If the contract is funded by trust, the
10 Secretary of State shall be given a copy of the trust document and
11 shall be informed in writing as to how the assets of the trust are
12 held. In the event of any change in the investments of the assets
13 of the trust, or change in the trustee or trust institution, the
14 Secretary of State shall be informed not less than thirty (30)
15 days after the time such change occurs.

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

20 (3) Within twenty (20) days from the end of the month in
21 which the funds were received, the contract seller shall place in
22 a trust account in a financial institution as defined by this
23 article at least eighty-five percent (85%) of the funds received.
24 If the contract seller places less than one hundred percent (100%)
25 in the trust account, the preneed contract shall fully disclose to
26 the contract purchaser the amount deposited in trust and the
27 amount withheld by the contract seller.

28 (4) Reasonable annual trust fees including any income taxes
29 owed to the State of Mississippi and/or the United States Treasury
30 may be withheld from the earnings of the trust.

31 (5) At the time of death, if the contract provider provides
32 the merchandise and services indicated in the contract, the
33 contract provider shall furnish to the trustee a copy of the
34 buyer's death certificate or proof of death and a letter of
35 performance indicating that the contracted merchandise and
36 services were provided by the contract provider to the contract
37 insured. Upon receipt of the letter of performance and death
38 certificate, or proof of death, the trustee shall pay to the
39 contract provider all funds, which shall not be less than the
40 amount of the original purchase price stated in the contract.

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

46 **SECTION 2.** This act shall take effect and be in force from
47 and after July 1, 2006.