

By: Representative Formby

To: Insurance

HOUSE BILL NO. 1064  
(As Sent to Governor)

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 85% OF THE FUNDS RECEIVED FOR SUCH  
4 CONTRACTS FUNDED BY TRUST INTO A TRUST ACCOUNT IN A FINANCIAL  
5 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 deposited in trust.

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.