



State of Tennessee

PUBLIC CHAPTER NO. 247

HOUSE BILL NO. 785

By Representatives Hicks, Todd

Substituted for: Senate Bill No. 602

By Senator Jackson

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5, Part 4, relative to trusts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-5-407(a), is amended by deleting the language "as defined in § 62-5-403" and is further amended by adding the following language to the end of the subsection:

As used in this section, "trustee" means a savings and loan association, bank, savings bank, credit union, or trust company organized under the laws of any state or organized under the laws of the United States.

SECTION 2. Tennessee Code Annotated, Section 62-5-407(b), is amended by deleting the subsection and substituting the following:

(b)

(1) If the pre-need funeral contract purchaser chooses to fund the pre-need funeral contract by a trust deposit or deposits, the pre-need seller shall deposit all funds with the trustee, to be held in trust, within fifteen (15) calendar days of receipt. The pre-need seller, at the time of making the deposit, shall furnish to the trustee the name of each pre-need funeral contract beneficiary and the amount of payment on each for which the deposit is being made.

(2) The trustee may establish:

(A) A separate trust fund for each pre-need funeral contract;

(B) A single trust fund for all pre-need funeral contracts issued by a pre-need seller; or

(C) A single trust fund for all pre-need funeral contracts issued by multiple pre-need sellers.

(3) For trusts established pursuant to subdivisions (b)(2)(A) and (b)(2)(B), the trust accounts must be carried in the name of the pre-need seller and the pre-need seller must be based in this state.

(4) A trustee managing a trust established pursuant to this section shall manage the trust in accordance with the Tennessee Uniform Prudent Investor Act of 2002, compiled in title 35, chapter 14. However, § 35-14-103(b) does not apply to trusts, or trustees managing a trust, established pursuant to this section.

(5) Accounting records for trusts established pursuant to this section must be established and maintained for each individual pre-need funeral contract beneficiary showing the amounts deposited and invested, and interest, dividends, increases, and accretions earned.

(6) A trustee managing a trust established pursuant to this section shall:

HB 785

(1) Provide a semiannual financial report concerning the trust to the department in a manner determined appropriate by the department by rule; and

(2) Make accounting records for the trust available to the comptroller of the treasury and the department, upon request, for review and audit.

(7) If the trustee uses a board for the management of the trust established pursuant to this section, then the trustee shall maintain insurance on behalf of each board member against liability asserted against or incurred by the board member in that capacity.

SECTION 3. Tennessee Code Annotated, Section 62-5-407(a), is amended by deleting the language "to transfer all trust assets held by the trustee" in the last sentence of the subsection and substituting the language "to transfer all trust assets related to the pre-need funeral contracts issued by the pre-need seller held by the trustee".

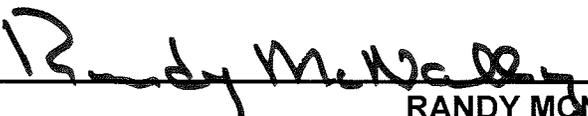
SECTION 4. For the purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2019, the public welfare requiring it.

HOUSE BILL NO. 785

PASSED: April 17, 2019



GLEN CASADA, SPEAKER
HOUSE OF REPRESENTATIVES



RANDY McNALLY
SPEAKER OF THE SENATE

APPROVED this 2nd day of May 2019



BILL LEE, GOVERNOR