



Reprinted
March 4, 1999

HOUSE BILL No. 1758

DIGEST OF HB 1758 (Updated March 3, 1999 5:13 pm - DI 92)

Citations Affected: IC 30-2.

Synopsis: Prepaid funeral services. Makes various amendments to provisions concerning the payment of funeral expenses, burial services, or merchandise in advance of need. Increases from 5% to 10% the transfer fee that may be charged to a successor seller for a contract executed before July 1, 1999.

Effective: July 1, 1999.

Lytle

January 26, 1999, read first time and referred to Committee on Commerce and Economic Development.
February 8, 1999, amended, reported — Do Pass.
March 3, 1999, read second time, amended, ordered engrossed.

HB 1758—LS 7662/DI 92+



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1758

A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 30-2-13-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) **Except as**
3 **provided in subsection (b), this chapter applies to any written**
4 **agreement between a purchaser and a seller that obligates the**
5 **seller to provide prepaid services or merchandise, or both, for a**
6 **named individual in conjunction with the death, funeral, burial, or**
7 **final disposition of the individual.**

8 (~~a~~) (b) Except as provided in subsections (~~b~~) (c) and (~~c~~); (d), this
9 chapter does not apply to the following:

- 10 (1) Perpetual care funds under IC 23-14-1.
11 (2) The sale of burial rights. However, this chapter applies to the
12 sale of services or merchandise sold in conjunction with the sale
13 of burial rights and to the use of free or discounted burial rights
14 as an inducement for a purchaser to transfer sellers.
15 (3) A contract between a purchaser and a seller that requires
16 delivery of prepaid services or merchandise, or both, not later
17 than one (1) year after the date of final payment and for

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1 circumstances other than death.

2 ~~(b)~~ (c) The annual reporting requirements of section 31 of this
3 chapter apply to a perpetual care fund.

4 ~~(e)~~ (d) The solicitation requirements of section 24 of this chapter
5 and the provisions concerning inducement in section 13(h) of this
6 chapter apply to the sale of burial rights.

7 SECTION 2. IC 30-2-13-5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. As used in this
9 chapter, "delivery" means the time when:

10 (1) services are performed in connection with the funeral or other
11 disposition of the purchaser or the individual for whom services
12 are to be provided under the contract; ~~or~~

13 (2) **except for merchandise described in section 8(1)(A) and**
14 **8(1)(C) of this chapter, the merchandise is:**

15 (A) in the possession of the purchaser or used for the intended
16 purpose of the merchandise; or

17 (B) permanently installed on or in cemetery property, the
18 burial rights to which have been transferred or granted to the
19 purchaser or individual for whose interment the merchandise
20 is to be used; or

21 (3) except for merchandise described in section 8(1)(A) and
22 8(1)(C) of this chapter, the merchandise is:

23 (A) **purchased by the seller and** stored in manufactured form,
24 in a manner and number equal to all merchandise sold, on the
25 premises where the merchandise is to be used or installed and
26 specifically identified in the name of the purchaser, although
27 any applicable installation or final finishing fees remain
28 subject to the terms of the contract made under this chapter; or
29 (B) permanently identified with the name of the purchaser or
30 individual for whom the merchandise is to be provided and
31 delivered to a warehouse, with both title to the merchandise
32 and a warehouse receipt delivered to the purchaser, and
33 notification to and acceptance of delivery acknowledged in
34 writing by the purchaser.

35 SECTION 3. IC 30-2-13-8 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. As used in this
37 chapter, "prepaid services or merchandise" or "services or
38 merchandise" includes personal property or services:

39 (1) typically sold or provided in connection with the final
40 disposition or memorialization of human remains, including:

41 (A) caskets or other primary containers, including rental,
42 temporary, or disposable caskets or containers;



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- 1 (B) outer burial containers;
 2 (C) cremation or transportation containers;
 3 (D) funeral clothing or accessories;
 4 (E) monuments;
 5 (F) grave markers;
 6 (G) cremation urns;
 7 (H) embalming services;
 8 (I) funeral directing services provided at the time of death and
 9 in connection with the final disposition of human remains;
 10 (J) ~~opening and closing fees~~;
 11 ~~(K)~~ final date carving fees, including carving fees for double
 12 monuments;
 13 ~~(L)~~ (K) cremation;
 14 ~~(M)~~ (L) cremation services; and
 15 ~~(N)~~ (M) other funeral and burial items, including items of
 16 service or merchandise that may be rented or leased; and
 17 (N) services or merchandise otherwise described as cash
 18 advance items under section 11.5 of this chapter and sold
 19 directly by the seller and not provided by a third person;
 20 and
 21 (2) purchased in advance of need to be provided or delivered after
 22 the death of the ~~individual named~~ purchaser or individual for
 23 whom services or merchandise are to be provided in the
 24 contract.
- 25 SECTION 4. IC 30-2-13-9 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) Except as
 27 provided in subsection (b), as used in this chapter, "purchaser" means
 28 a person or firm contracting with a seller for services or merchandise
 29 to be provided or delivered for a named individual.
- 30 (b) As used in section 13(b) of this chapter, "purchaser" means:
 31 (1) an individual described in subsection (a);
 32 (2) the attorney in fact, appointed under IC 30-5, of an individual
 33 described in subsection (a);
 34 (3) the guardian, appointed under IC 29-3, of an individual
 35 described in subsection (a); or
 36 (4) if an individual described in subsection (a) is deceased:
 37 (A) the surviving spouse of the individual;
 38 (B) if there is no surviving spouse, the adult children of the
 39 individual; or
 40 (C) if there is no surviving spouse or surviving adult child,
 41 the surviving parent or parents of the individual; or
 42 ~~(D)~~ (D) if there is neither a surviving spouse nor adult

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1 children, **nor a surviving parent**, the personal representative
 2 (as defined in IC 29-1-1-3) of the individual.

3 SECTION 5. IC 30-2-13-10 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. As used in this
 5 chapter, "seller" means a person **doing business as a sole proprietor**,
 6 a firm, a limited liability company, a corporation, an association, or a
 7 partnership contracting to provide services or merchandise, or both, to
 8 a named individual. ~~or contracting to provide or sell both a contract and~~
 9 ~~a funding mechanism to be used in conjunction with the purchase of~~
 10 ~~services or merchandise.~~

11 SECTION 6. IC 30-2-13-11 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) As used in this
 13 chapter, "trustee" **or "escrow agent, acting as a fiduciary"**, means a:

- 14 (1) bank;
 15 (2) trust company;
 16 (3) savings association; or
 17 (4) credit union;

18 that maintains an office in Indiana and is qualified under state or
 19 federal law to serve as a trustee **or escrow agent, acting as a**
 20 **fiduciary.**

21 (b) For a contract using a life insurance policy as consideration, the
 22 term also includes a life insurance company **or other entity** that
 23 establishes a trust for the purposes of holding and administering life
 24 insurance policies ~~and annuity contracts~~ issued by ~~the~~ **an insurance**
 25 **company to fund contracts under this chapter. Notwithstanding any**
 26 **other law to the contrary, a life insurance company or other entity**
 27 **acting as a trustee shall comply with this chapter.**

28 (c) **For a contract using a previously issued life insurance policy**
 29 **as consideration, the seller is considered to be a qualified trustee if**
 30 **ownership is irrevocably assigned to the seller in conjunction with**
 31 **an assignment of death benefits.**

32 SECTION 7. IC 30-2-13-11.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 1999]: **Sec. 11.5. (a) As used in this chapter,**
 35 **"cash advance item" means an item of property, or services, or**
 36 **merchandise that is not sold directly by a seller and is described to**
 37 **a purchaser as one (1) of the following:**

- 38 (1) **A cash advance.**
 39 (2) **An accommodation.**
 40 (3) **A cash disbursement.**
 41 (4) **An estimated future charge by a third party.**
 42 (5) **A similar term.**



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1 **(b) The term also refers to a service or property obtained from**
 2 **a third party for which the seller collects an estimated payment to**
 3 **be held in trust or escrow until services or merchandise subject to**
 4 **a contract are delivered because the cost of the service or property**
 5 **can only be estimated at the time the contract is made.**

6 **(c) Cash advance items include the following:**

7 **(1) Cemetery or crematory services.**

8 **(2) Pallbearers.**

9 **(3) Public transportation.**

10 **(4) Clergy honoraria.**

11 **(5) Flowers.**

12 **(6) Musicians or singers.**

13 **(7) Nurses.**

14 **(8) Obituary notices.**

15 **(9) Gratuities.**

16 **(10) Death Certificates.**

17 **(11) Sales tax.**

18 **(12) Foreign language interpreters.**

19 **(13) Religious commemorative services.**

20 **(14) Fees charged for the following:**

21 **(A) Interment.**

22 **(B) Opening and closing of a grave or crypt.**

23 **(d) If property or services are not cash advance items under this**
 24 **section, they are services or merchandise under section 8 of this**
 25 **chapter.**

26 SECTION 8. IC 30-2-13-12.1 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12.1. (a) This section
 28 applies to contracts for prepaid services or merchandise, or both,
 29 entered into under this chapter after December 31, 1995, **and before**
 30 **July 1, 1999.**

31 (b) A purchaser may enter into more than one (1) contract under this
 32 chapter for prepaid services or merchandise, or both. Each contract
 33 may be funded with cash, either in a lump sum or installment
 34 payments, or an insurance policy, or both. The purchaser may revoke
 35 the contract if the purchaser sends the seller written notice of the
 36 revocation within thirty (30) days after the contract is signed by the
 37 purchaser and seller. If a purchaser revokes a contract, the seller shall
 38 refund to the purchaser, without interest, all property used to fund the
 39 contract. If the seller receives payment of at least five hundred dollars
 40 (\$500) in cash that must ultimately be placed in trust or escrow under
 41 this section, the seller shall, not more than five (5) days after receiving
 42 the payment, deposit the payment in escrow pending irrevocable



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1 deposit to trust or escrow authorized by either subsection (h) or (i).
2 Thirty (30) days after the contract is signed all property paid or
3 delivered to the seller to fund each contract shall be irrevocably
4 deposited by the seller to trust or escrow authorized by either
5 subsection (h) or (i). Except for installment contracts funded with cash
6 and contracts funded with a newly issued insurance policy that has a
7 limited or qualified death benefit period, all sellers shall guarantee the
8 provision of all services and merchandise sold under a contract
9 authorized by this chapter. At delivery, a seller may not impose
10 additional charges to recover a difference between the original contract
11 retail prices or current retail prices for services and merchandise that
12 are sold under the contract, whichever is greater, and the amount on
13 deposit in trust or escrow.

14 (c) If a contract under this chapter is funded with an insurance
15 policy, the ownership of the insurance policy must be irrevocably
16 assigned to a trustee. The seller may not borrow against, pledge,
17 withdraw, or impair the cash value of the policy.

18 (d) A finance charge may be assessed on a contract sold on an
19 installment basis, and the seller shall disclose to the purchaser all the
20 applicable requirements under federal and state law.

21 (e) A seller or successor seller who has accepted cash or an
22 insurance policy, or both as full payment of a contract under subsection
23 (b) is responsible for providing all contracted prepaid services and
24 merchandise if the insurance company or trust company used to fund
25 the contract is insolvent.

26 (f) A purchaser who purchases a contract with cash or through an
27 insurance contract shall make the payment for the contract payable only
28 to the seller or insurer, respectively.

29 (g) A seller may not accept or deposit to trust or escrow cash, an
30 insurance policy, or any other property as consideration for services or
31 merchandise to be provided in the future except in connection with a
32 contract authorized by this chapter.

33 (h) A trust account authorized and established under this chapter
34 must:

- 35 (1) be irrevocable and require the seller to deposit to trust all
36 sums or property received from the purchaser;
- 37 (2) designate the seller as settlor and the seller as beneficiary;
- 38 (3) designate a trustee qualified under this chapter and authorize
39 the trustee to charge a reasonable fee for services;
- 40 (4) require that a separate account be maintained in the name of
41 each purchaser;
- 42 (5) require that interest earned on the account be added to the

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1 principal and reinvested;

2 (6) permit assets of the separate accounts of several purchasers to
3 be commingled for investment; and

4 (7) require that on delivery of services or merchandise the trustee
5 shall remit to the seller the amount on deposit in the purchaser's
6 trust.

7 Upon full delivery of all services and merchandise under the contract,
8 if the amount on deposit in the trust is greater than the seller's total
9 current retail price of all services and merchandise under the contract,
10 the remaining amount may but need not be returned to the individual,
11 if any, designated by the purchaser to receive the remainder, or to the
12 purchaser's estate.

13 (i) An escrow account authorized and established under this chapter
14 must:

15 (1) be irrevocable and require the seller to deposit to escrow all
16 sums or property received from the purchaser;

17 (2) designate the seller as settlor and beneficiary;

18 (3) designate a trustee qualified under this chapter and authorize
19 the trustee to charge a reasonable fee for services;

20 (4) require that the escrow account be maintained in the name of
21 the seller and serve as a depository for all cash or other property
22 received by the seller to fund contracts sold by the seller;

23 (5) permit the commingling of cash for investment;

24 (6) permit the seller to withdraw from the escrow account the
25 current retail value of prepaid services or merchandise delivered
26 under this chapter; and

27 (7) permit any interest earned or appreciation in value of money
28 or other property deposited in escrow to be paid to the seller not
29 more frequently than monthly, to the extent that the total value of
30 the escrow account after a payment under this subdivision is not
31 less than the current retail value of all services and merchandise
32 under the contracts that remain undelivered.

33 (j) A trust account or an escrow account established under this
34 chapter:

35 (1) must include the provisions set forth in either subsection (h)
36 or (i);

37 (2) may be included as an integral part of a seller's contract
38 through the execution of an adoption agreement that references
39 the trust account or escrow account; and

40 (3) is not required to be represented by a separate trust or escrow
41 document for each contract.

42 (k) The entire value of an irrevocable trust or an escrow established

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1 under this chapter may not be considered as a resource in determining
2 a person's eligibility for Medicaid under IC 12-15-2-17.

3 (l) A contract for prepaid services or merchandise, or both, entered
4 into after June 30, 1997, must contain a statement that:

5 (1) the purchaser may revoke the contract under subsection (b)
6 within thirty (30) days after the contract is signed; and

7 (2) after thirty (30) days, the contract is irrevocable.

8 (m) This chapter does not prohibit a purchaser from immediately
9 making the trust or escrow required under this chapter irrevocable and
10 assigning ownership of an insurance policy used to fund a contract to
11 obtain favorable consideration for Medicaid, Supplemental Security
12 Income, or another public assistance program under federal or state
13 law.

14 SECTION 9. IC 30-2-13-12.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 1999]: **Sec. 12.5. (a) This section applies to
17 the following contracts entered into or established under this
18 chapter after June 30, 1999:**

19 (1) **Contracts for prepaid services.**

20 (2) **Contracts for prepaid merchandise.**

21 (3) **Trusts or escrows established to hold consideration paid
22 for services or merchandise subject to a contract entered into
23 under this chapter.**

24 (b) **A contract between a purchaser and a seller must:**

25 (1) **specify that the consideration for the contract is:**

26 (A) **cash, payable either in lump sum or installments; or**

27 (B) **an insurance policy that is:**

28 (i) **newly issued in conjunction with and integral to the
29 contract;**

30 (ii) **issued previously in a transaction separate and
31 distinct from the contract; or**

32 (iii) **both.**

33 **If a contract is funded with an insurance policy, the
34 ownership of the policy must be irrevocably assigned to a
35 trustee and the seller may not borrow against, pledge,
36 withdraw, or impair the cash value of the policy;**

37 (2) **specify that only the purchaser, acting by written notice to
38 the seller, may revoke the contract within thirty (30) days
39 after the date the contract is signed by the purchaser and the
40 seller and that the contract becomes irrevocable upon the
41 expiration of the thirty (30) day period;**

42 (3) **specify that, if the contract is revoked, the seller shall**

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1 refund and return to the purchaser, without interest, the cash
2 or insurance policy used to fund the contract;

3 (4) specify that not more than thirty (30) days after the
4 contract is signed by the purchaser and the seller, the whole
5 of the cash or insurance policy serving as consideration for
6 the contract must be deposited into a trust or escrow
7 authorized by subsection (c) or (d). However, a seller may
8 elect to serve as trustee of a previously existing life insurance
9 contract;

10 (5) except as provided in subsection (f), unconditionally
11 require that the seller shall deliver all services or
12 merchandise, or both, specified in the contract and receive as
13 consideration for the delivery of services or merchandise, or
14 both, only the cash or insurance policy held in trust or escrow
15 without regard to the solvency of the insurer or the adequacy
16 or loss in value of any cash deposit or insurance policy used to
17 fund a contract;

18 (6) except as provided in subsection (f), prohibit a seller from
19 imposing additional charges to recover any shortage or
20 difference between the retail prices for services or
21 merchandise, or both, in effect on the date of delivery of the
22 services or merchandise, or both, and the value of the trust or
23 escrow applicable to the contract on the date of delivery;

24 (7) require that a seller accepting the transfer of a contract
25 permitted under section 13 of this chapter shall honor the
26 requirements and obligations of the contract;

27 (8) permit the seller to assess a finance charge on a contract
28 sold on an installment basis and require that the seller
29 disclose to the purchaser the applicable requirements of
30 federal and Indiana law;

31 (9) provide that the contract must comply with the following
32 requirements:

33 (A) The contract must be made in a form that is:

- 34 (i) written in clear and understandable language; and
- 35 (ii) printed in a size and style of type that is easy to read.

36 (B) The contract must describe the services, merchandise,
37 or cash advance items being purchased.

38 (C) The contract must identify the following by name,
39 address, and telephone number:

- 40 (i) The seller, including the name of the entity or person
41 owning or controlling the seller if other than the seller.
- 42 (ii) The purchaser.

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- (iii) The contract beneficiary if the beneficiary is an individual other than the purchaser.**
- (D) The contract must contain the seller's certificate of authority number and the date of the contract.**
- (E) The contract must provide that if an item of the particular services or merchandise specified in the contract is unavailable at the time of delivery, the seller shall deliver services or merchandise similar in style, quality, and of equal value to the unavailable item in the place of the item.**
- (F) The contract must disclose the precise manner in which the contract is to be funded by:**
 - (i) identifying the consideration for the contract;**
 - (ii) identifying the name, number, if known, and issuer of any insurance policy used to fund the contract; and**
 - (iii) including the identity and location of the trustee or escrow agent who is to hold the trust or escrow.**
- (G) The contract must disclose that the seller reserves the right to assess an extra charge for:**
 - (i) transportation costs;**
 - (ii) services or merchandise incurred in the transport of human remains a distance greater than twenty-five (25) miles from the seller's place of business; and**
 - (iii) service charges necessarily incident to the transport of human remains and in excess of those service charges specified in the contract.**
- (H) The contract must disclose the following:**
 - (i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).**
 - (ii) That a commission or fee will be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).**
- (10) specify that a purchaser has the unrestricted right to designate one (1) or more successor sellers to whom the contract may be transferred under section 13 of this chapter, but that such a transfer is effective only with the consent of the newly designated seller and upon the fulfillment of the other requirements of section 13 of this chapter;**
- (11) specify that if cash advance items are funded in the contract, the seller agrees to deliver the cash advance items under one (1) of the following alternatives:**
 - (A) Delivery is unconditionally guaranteed at the option of the seller.**

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- 1 **(B) Delivery is conditionally guaranteed for a seller and**
 2 **will be equal in value to the total value of the trust or**
 3 **escrow account maintained for the purchaser multiplied by**
 4 **the percentage of the total original contract price**
 5 **represented by cash advance items;**
 6 **(12) specify that a release from trust or escrow shall occur**
 7 **only upon the seller's delivery of services or merchandise, or**
 8 **both;**
 9 **(13) permit, at the option of the seller, the incorporation of the**
 10 **trust or escrow language contained in subsection (c) or (d)**
 11 **directly into the contract;**
 12 **(14) prohibit the seller from charging any service, transaction,**
 13 **or other type of fee or charge unless the fee is:**
 14 **(A) authorized under subsections (c)(1) and (d)(6) and**
 15 **section 27 of this chapter; or**
 16 **(B) included within the definitions contained in section 8 or**
 17 **11.5 of this chapter.**
 18 **(c) A trust account authorized and established under this**
 19 **chapter must:**
 20 **(1) be irrevocable and require that:**
 21 **(A) the seller deposit the insurance policy used to fund the**
 22 **contract into the trust account;**
 23 **(B) the seller deposit the cash used to fund the contract into**
 24 **the trust account. However, within ten (10) days following**
 25 **the date the contract becomes irrevocable, and at the sole**
 26 **discretion of the seller, the contract must permit the seller**
 27 **to deliver a portion of the funeral services subject to the**
 28 **contract and to receive from trust an amount not to exceed**
 29 **ten percent (10%) of the seller's total contract price for**
 30 **services or merchandise only. Cash deposited into trust**
 31 **may not be used to purchase an insurance policy.**
 32 **(2) designate the seller as the beneficiary of the trust;**
 33 **(3) designate a trustee qualified under this chapter and**
 34 **authorize the trustee to assess the charges authorized under**
 35 **section 18 of this chapter;**
 36 **(4) require that a separate account be maintained in the name**
 37 **of each purchaser;**
 38 **(5) require that any interest, dividend, or accumulation in the**
 39 **account be reinvested and added to the principal;**
 40 **(6) permit the assets of the several, separate accounts to be**
 41 **commingled for investment purposes;**
 42 **(7) require that on receipt of the seller's proof of delivery of**



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1 services or merchandise the trustee shall remit to the seller
 2 the full amount in trust applicable to the purchaser's contract
 3 and all of the accumulated interest; and

4 (8) permit the seller to retain the remaining amount if the
 5 amount in the trust account is greater than the seller's total
 6 current retail price of all services and merchandise subject to
 7 the contract at the time of delivery of all services or
 8 merchandise subject to the contract. However, in the case of
 9 a contract funded under subsection (b)(1)(B)(ii), the seller
 10 may not retain the remaining amount but must pay the
 11 remaining amount to the designated beneficiary. In the case
 12 of all other contracts funded under this chapter, the seller
 13 may opt to return the remaining amount to the individual
 14 designated by the purchaser to receive the remainder or to the
 15 purchaser's estate.

16 (d) An escrow account authorized and established under this
 17 chapter must do all of the following:

18 (1) Be irrevocable and require that the seller deposit all cash
 19 or the insurance policy used to fund the contract into the
 20 escrow account.

21 (2) Designate the seller as the beneficiary of the trust.

22 (3) Designate an escrow agent qualified under this chapter to
 23 act as escrow agent and authorize the escrow agent to assess
 24 the charges authorized under section 18 of this chapter.

25 (4) Require that the escrow account be maintained in the
 26 name of the seller and serve as a depository for all cash or
 27 insurance policies used to fund contracts sold by the seller.

28 (5) Permit the investment of and commingling of cash for
 29 investment purposes.

30 (6) Permit the seller to receive an administrative or service fee
 31 at the option of the seller. The seller may opt to receive the fee
 32 after the day following the date the contract becomes
 33 irrevocable. The amount of the fee may not exceed ten percent
 34 (10%) of the seller's total contract price for services or
 35 merchandise.

36 (7) Require that on delivery of services or merchandise, the
 37 escrow agent shall remit to the seller an amount equal to:

38 (A) the seller's original retail price as set forth in the
 39 contract for the services or merchandise delivered; minus

40 (B) the amount, if any, received by the seller under
 41 subdivision (6).

42 (8) Permit the seller to receive monthly payments of the

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interest earned or the appreciation in the value of the escrow assets to the extent that the total value of the escrow after a payment authorized under this subdivision is not less than:

(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus

(B) the amounts, if any, received by the seller under subdivision (6).

(e) A trust account or an escrow account established under this section must contain a concise written description of all the provisions of this chapter that apply to the account.

(f) A seller's guarantee of delivery of all services or merchandise subject to a contract sold by the seller or transferred to a seller is unconditional except in the instance of one (1) of the following circumstances:

(1) An installment contract funded with cash or an insurance policy issued in conjunction with the contract is guaranteed to the extent of the cash paid or death benefits available at the time of death of the individual for whom services or merchandise are to be provided.

(2) A contract funded with an insurance policy issued previously and not in conjunction with the contract is guaranteed to the extent of the death benefit proceeds available at the time of the individual for whom services or merchandise are to be provided.

(3) A contract funded with an insurance policy issued in conjunction with the contract, but having a limited or qualified death benefit period, is guaranteed to the extent of the death benefit proceeds available at the time of the death of the individual for whom services or merchandise are to be provided.

(4) A transportation expense incurred by the seller while transporting human remains a distance greater than twenty-five miles (25) from the seller's place of business, plus any charge for services or merchandise necessarily incident to the transport of the human remains.

(5) The seller agrees to conditionally guarantee the delivery of cash advance items under subsection (b)(11)(B).

In the instance of unguaranteed delivery, the seller may reduce the value or number of the services or merchandise subject to the contract or cash advance items delivered or deliver the services or merchandise in full on the condition that the seller receives

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1 adequate consideration to compensate the seller for the
2 unguaranteed part of the contract.

3 (g) The entire value of an escrow or trust established under this
4 chapter may not be considered as a resource in determining a
5 person's eligibility for Medicaid under IC 12-15-2-17.

6 (h) This chapter does not prohibit a purchaser from
7 immediately making the trust or escrow required under this
8 chapter irrevocable and assigning ownership of an insurance policy
9 used to fund a contract to obtain favorable consideration for
10 Medicaid, Supplemental Security Income, or another public
11 assistance program under federal or state law.

12 (i) A seller may not accept or deposit into a trust or escrow
13 account cash, an insurance policy, or any other property as
14 consideration for services or merchandise to be provided in the
15 future except in conjunction with a contract authorized by this
16 chapter.

17 SECTION 10. IC 30-2-13-13 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) Notwithstanding
19 section 10 of this chapter, as used in this section, "seller" means an
20 individual, **a person doing business as a sole proprietor**, a firm, a
21 corporation, an association, **a limited liability company**, or a
22 partnership:

23 (1) contracting to provide prepaid or at-need services or
24 merchandise, or and both, to a named individual; ~~or and~~

25 **(2) holding a certificate of authority under this chapter.**

26 ~~(2) contracting to provide or sell both a contract and a funding
27 mechanism to be used in conjunction with the purchase of prepaid
28 or at-need services or merchandise.~~

29 (b) A purchaser has the option to designate one (1) or more
30 successor sellers to provide:

31 (1) prepaid services or merchandise; or

32 (2) at-need services or merchandise.

33 A purchaser who exercises the purchaser's option to designate a
34 successor seller shall give written notice of the designation to the
35 ~~original~~ **currently designated** seller, successor seller, and trustee or
36 escrow agent. **Only a purchaser may exercise the option to
37 designate a new seller. However, the designation is ineffective
38 unless the newly designated seller consents to the designation.**

39 (c) If a purchaser designates a successor seller, **and the successor
40 seller consents to the designation**, not less than thirty (30) days after
41 receiving notice under subsection (b), the seller who was previously
42 designated shall:



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- 1 (1) relinquish **and transfer** all rights under the contract;
 2 (2) transfer to the successor the contract; and
 3 (3) release from trust **or escrow for subsequent deposit to the**
 4 **successor seller's trust or escrow** all property being held as
 5 consideration for the contract, **together with an itemized**
 6 **statement disclosing all services or merchandise delivered as**
 7 **of the date of transfer.**

8 The seller and the successor sellers shall cooperate to ensure that there
 9 is no forfeiture or loss of a right or benefit under the contract and that
 10 all contract terms are fulfilled. Except out-of-state transfers, the seller
 11 who was previously designated **in a contract executed before July 1,**
 12 **1999,** may elect to charge a successor seller a transfer fee not to exceed
 13 **five ten** percent (~~5%~~) (**10%**) of the previously designated seller's
 14 contract price. If similar prepaid or at-need services or merchandise
 15 are purchased from one (1) or more sellers, the contract that is first in
 16 time prevails and is valid.

17 (d) The trustee shall confirm the transfer to the seller, successor
 18 seller, and purchaser by written notice confirming the identity and
 19 value of the property transferred.

20 (e) It is a violation of this chapter for a seller to knowingly induce
 21 a purchaser to breach an existing contract that provides for prepaid or
 22 at-need services or merchandise.

23 (f) This section does not abrogate the requirements of IC 25-15-4
 24 concerning contracting for or delivering at-need services and
 25 merchandise.

26 (g) It is a violation of this chapter for a seller to knowingly:

27 (1) induce a purchaser who has the right to designate a successor
 28 seller under subsection (b) to:

- 29 (A) make a designation of a successor seller;
 30 (B) breach an existing contract for prepaid or at-need services
 31 or merchandise; or
 32 (C) enter into an at-need or prepaid contract calling for the
 33 delivery of similar services or merchandise; or

34 (2) offer a monetary inducement or the exchange or substitution
 35 of free or discounted services or merchandise in an effort to
 36 induce a purchaser to effect a change in the designation of a seller
 37 of prepaid or at-need services or merchandise.

38 (h) It is a violation of this chapter for a seller to provide free or
 39 discounted burial rights:

- 40 (1) as an inducement or as consideration for the transfer of a
 41 contract; or
 42 (2) in an effort to induce a purchaser to effect a change in the

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1 designation of a seller of prepaid or at-need services or
2 merchandise.

3 SECTION 11. IC 30-2-13-14 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) A trust or an
5 escrow agreement created under:

- 6 (1) IC 23-14-49-1;
7 (2) IC 30-2-9; or
8 (3) IC 30-2-10;

9 may not be converted to a trust or an escrow agreement required by
10 section 12 **or 12.5** of this chapter.

11 (b) A contract that has been funded with cash may not subsequently
12 be changed to be funded with **an insurance policy**.

13 (c) A contract that has been funded with **an insurance policy** may
14 not subsequently be changed to be funded with cash.

15 **(d) Unless the provisions of the contract require otherwise, a**
16 **new or successor trustee or escrow agent may not qualify and serve**
17 **as trustee without the written consent of the purchaser and the**
18 **seller designated to provide services or merchandise subject to a**
19 **contract under this chapter.**

20 SECTION 12. IC 30-2-13-15 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) If a seller:

- 22 (1) ceases to have a certificate of authority or loses a professional
23 license required to provide services under this chapter;
24 (2) ceases to exist or operate;
25 (3) is incapable of performing the seller's obligations under an
26 unperformed contract for any reason; or
27 (4) sells or leases the seller's business, facilities, or assets;

28 the seller shall give notice to the board and to each purchaser for whom
29 funds are held in a trust **or escrow** under this chapter. **The notice shall**
30 **specify the reason for the issuance of the notice.**

31 (b) The seller's written notice under subsection (a) must be:

- 32 (1) addressed to the purchaser's last known address; and
33 (2) mailed within fifteen (15) days after the seller becomes
34 incapable of performing the obligations under the contract.

35 (c) A purchaser who receives a notice under subsection (a) has thirty
36 (30) days after the date the notice was mailed by the seller to select and
37 designate a new seller **under section 13 of this chapter** to become the
38 beneficiary of the trust **or the designated recipient of the escrow**
39 **funds**. The first seller shall send written notice of the designation of a
40 new seller to the newly designated seller or to the trustee.

41 (d) A seller shall transfer all unperformed contracts and funds held
42 in trust or escrow under this chapter to the seller who is the successor



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1 owner or lessee of the transferring seller. The successor seller shall
2 perform all contracts transferred under this subsection.

3 **(e) If a purchaser fails to designate a new seller, the designation**
4 **shall be made by the board.**

5 SECTION 13. IC 30-2-13-16 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Except for sales
7 of stock or merchandise in the ordinary course of the seller's business,
8 a seller who has deposited money or an insurance policy ~~in trust~~ under
9 **section 12 or 12.5** of this chapter may not:

10 (1) sell, consolidate, merge, or dispose of assets; or

11 (2) lease the seller's business, facilities, or assets;

12 without providing, as an integral part of the transaction or occurrence,
13 for the designation of a successor seller of the money or insurance
14 policy placed in trust. **For purposes of this section, a change in**
15 **control determines the seller's obligation.**

16 (b) If a seller acting as a trustee of an insurance policy fails to
17 designate a qualified successor seller, the board shall make the
18 designation. However, the designated successor must be willing to
19 accept the designation.

20 (c) This section does not restrict a purchaser's right to designate a
21 new seller in accordance with section 13 of this chapter.

22 SECTION 14. IC 30-2-13-18 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. A trustee ~~who~~
24 **administers a trust that is funded by a deposit of money or an escrow**
25 **agent** may be reimbursed for necessary expenses and be paid
26 reasonable compensation for those services from the trust ~~or escrow~~.
27 **A trustee or an escrow agent shall also be permitted to withdraw**
28 **from trust or escrow any federal or state tax liability assessed**
29 **against the purchasers' interest in the trust or escrow.**

30 SECTION 15. IC 30-2-13-20 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. If an agent and a
32 purchaser execute a contract covering funeral services (as defined in
33 IC 25-15), the contract is valid only if the contract is ratified by a
34 funeral director licensed under IC 25-15 who is directly affiliated with
35 the seller as an agent when the contract is made. **A contract ratified**
36 **by an unaffiliated licensed funeral director is void.**

37 SECTION 16. IC 30-2-13-27 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. Each seller of a
39 prepaid contract under this chapter shall pay to the board ~~not later than~~
40 ~~March 1~~ of each year from money ~~not deposited in a trust the following~~
41 ~~amounts for each contract written during the preceding calendar year:~~

42 (†) Two dollars and fifty cents (\$2.50) for each contract having a

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1 total purchase price of less than one thousand dollars (\$1,000):
 2 (2) Five dollars (\$5) for each contract having a total purchase
 3 price of at least one thousand dollars (\$1,000): trustee two
 4 dollars and fifty cents (\$2.50) on contracts having a value of
 5 less than one thousand dollars (\$1,000) and five dollars (\$5) on
 6 contracts having a value of at least one thousand dollars
 7 (\$1,000) at the time the cash or an insurance policy used to
 8 fund the contract is placed in the trust or escrow account.
 9 However, no fee is due and payable on contracts funded with
 10 a previously issued life insurance policy. The payment may be
 11 charged to the purchaser or, at the option of the seller, paid
 12 by the seller. A trustee shall quarterly report and remit to the
 13 board all payments received by the trustee from all sellers
 14 during the preceding quarter. The report must identify the
 15 name and address of each seller from whom the trustee
 16 received payments and the total amount of the payments. The
 17 payments are administered under section 28 of this chapter.

18 SECTION 17. IC 30-2-13-29 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 29. (a) Money in the
 20 fund may be used to provide restitution **to a seller who performs a**
 21 **defaulted contract**, to a purchaser, or to a purchaser's estate for
 22 pecuniary loss arising from a trust or an escrow required by:

- 23 (1) this chapter;
- 24 (2) IC 23-14-49-1;
- 25 (3) IC 30-2-9; or
- 26 (4) IC 30-2-10.

27 The repeal of a statute cited in this subsection does not terminate the
 28 ability of a party to a contract made under the repealed statute to
 29 receive restitution under this chapter.

30 (b) The purchaser, **seller**, or other interested person must request
 31 restitution by filing a verified complaint with the board.

32 (c) The board may investigate any verified complaint. Within sixty
 33 (60) days after a verified complaint is filed, the board shall determine
 34 if a seller has defaulted on a contract. If the seller's obligation to
 35 perform under the contract cannot be collected from the seller, the
 36 board shall order the auditor of state to make restitution from the fund.

37 (d) The amount of restitution may not exceed the gross amount of
 38 the original contract plus interest, compounded annually, on the gross
 39 amount that is figured, for each year or part of a year for which
 40 restitution is owed, using the lesser of:

- 41 (1) the rate set forth in IC 24-4.6-1-101 in effect on January 1 of
 42 each year; or

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1 (2) the monthly average yield on United States Treasury
 2 Securities for the month of January of each year, adjusted to a
 3 constant maturity of one (1) year, as published by the Federal
 4 Reserve.

5 The fund may not be charged with court costs or the payment of legal
 6 or other fees. In computing the amount of restitution, the board shall
 7 give credit for:

- 8 (1) merchandise delivered; and
 9 (2) resources still existing in trust.

10 (e) When restitution is paid from the fund, the fund is subrogated to
 11 the amount of the restitution, and the board shall ask the attorney
 12 general to take all reasonable steps to collect the subrogated amount
 13 from the seller. Any amount collected shall be deposited in the fund.

14 (f) Money in the fund may only be used for a purpose that is
 15 specified in this section.

16 (g) The payment of restitution from the fund is not a right, and a
 17 purchaser does not have a vested right in the fund as a beneficiary of
 18 the fund.

19 (h) The status of the fund shall be annually reviewed by the board.
 20 If the board determines during its annual review that the fund balance
 21 equals or exceeds one million **five hundred thousand** dollars
 22 ~~(\$1,000,000)~~ **(\$1,500,000)**, the board shall suspend payments to the
 23 fund until after the next annual review that the board determines that
 24 the fund balance is less than one million **five hundred thousand**
 25 dollars ~~(\$1,000,000)~~: **(\$1,500,000)**.

26 SECTION 18. IC 30-2-13-36 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 36. The board may
 28 suspend the certificate of authority of a seller who violates a provision
 29 of this chapter. **The board may suspend the certificate of authority**
 30 **of a seller who intentionally violates section 12.5 of this chapter for**
 31 **at least one (1) year. The board may assess a seller a fine of not**
 32 **more than ten thousand dollars (\$10,000) for each violation of**
 33 **section 12.5, 13, 15, 21, 23, 24, or 25 of this chapter to be added to**
 34 **the fund established under section 28 of this chapter.**

35 SECTION 19. IC 30-2-13-38 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 1999]: Sec. 38. (a) **A seller who violates a**
 38 **provision of this chapter commits an uncured deceptive act (as**
 39 **defined in IC 24-5-0.5-2).**

40 (b) **A person, a firm, a limited liability company or a**
 41 **corporation that:**

- 42 (1) **sells or advertises prepaid services or merchandise and**

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1 **services (as defined in section 8 of this chapter) and fails to**
2 **obtain the certificate of authority required by section 33 of**
3 **this chapter; or**
4 **(2) sells or advertises prepaid services or merchandise and**
5 **services (as defined in section 8 of this chapter) after the**
6 **entity's certificate of authority has:**
7 **(A) expired; or**
8 **(B) been rescinded, revoked, or suspended by the board;**
9 **commits a Class A misdemeanor. Each act committed in violation**
10 **of this subsection constitutes a separate offense.**
11 **(c) The following may maintain an action to enjoin an individual**
12 **or entity from continuing to violate this section:**
13 **(1) The board.**
14 **(2) The attorney general.**
15 **(3) The prosecuting attorney of a county in which a violation**
16 **occurs.**
17 **(d) A purchaser has a private right of action against a seller who**
18 **commits an uncured deceptive act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred House Bill 1758, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "a" and insert "**any**".

Page 4, line 38, delete "a service, property," and insert "**an item of property or services**".

Page 4, line 39, delete "listed in subsection (c)".

Page 5, between lines 26 and 27, begin a new paragraph and insert: "**(d) If property or services are not cash advance items under this section, they are services or merchandise under section 8 of this chapter.**".

Page 8, line 21, after "for" insert "**prepaid**".

Page 13, delete lines 36 through 38, begin a new paragraph and insert:

"(j) If the division of family and children has a claim against the purchaser's estate under IC 12-14-21, money that is:

(1) retained by the seller under subsection (c)(9); or

(2) returned to an individual designated by the purchaser or to the purchaser's estate under subsection (c)(9);

is subject to recovery by the division of family and children.".

and when so amended that said bill do pass.

(Reference is to HB 1758 as introduced.)

BOTTORFF, Chair

Committee Vote: yeas 14, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1758 be amended to read as follows:

Page 2, delete lines 35 through 38.

Page 3, line 22, delete "but".

Page 3, line 23, delete "provided" and insert "**and sold**".

Page 3, line 23, after "seller" insert "**and not provided by a third person**".

Page 4, line 1, delete "are" and insert "**is**".

Page 4, line 1, after "no" insert "**surviving spouse or**".

Page 4, line 1, delete "children" and insert "**child**".

Page 4, line 16, after "trustee" insert "**or escrow agent, acting as a fiduciary**",.

Page 4, line 19, reset in roman "or".

Page 4, line 20, delete "or".

Page 4, delete line 21.

Page 4, line 23, after "trustee" insert "**or escrow agent, acting as a fiduciary**".

Page 4, line 38, delete "or services" and insert "**, or services,**".

Page 4, line 39, delete "provided" and insert "**sold**".

Page 5, line 25, after "opening" insert "**and closing of**".

Page 5, delete line 26.

Page 10, line 16, after "number," insert "**if known,**".

Page 10, line 18, after "trustee" insert "**or escrow agent**".

Page 10, between lines 28 and 29, begin a new line double block indented and insert:

"(H) The contract must disclose the following:

(i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).

(ii) That a commission or fee will be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).

Page 10, line 32, after "effective" insert "**only**".

Page 11, line 11, delete "sections 12.5(c)(8)" and insert "**subsections (c)(1) and (d)(6)**".

Page 11, line 11, after "and" insert "**section**".

Page 11, delete lines 17 through 19, begin a new line block indented and insert:

"(1) be irrevocable and require that:

(A) the seller deposit the insurance policy used to fund the contract into the trust account;

(B) the seller deposit the cash used to fund the contract into



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the trust account. However, within ten (10) days following the date the contract becomes irrevocable, and at the sole discretion of the seller, the contract must permit the seller to deliver a portion of the funeral services subject to the contract and to receive from trust an amount not to exceed ten percent (10%) of the seller's total contract price for services or merchandise only. Cash deposited into trust may not be used to purchase an insurance policy."

Page 11, line 30, after "on" insert "**receipt of the seller's proof of**".

Page 11, line 31, delete "an amount equal to the seller's" and insert "**the full amount in trust applicable to the purchaser's contract and all of the accumulated interest; and**".

Page 11, delete lines 32 through 39.

Page 11, line 40, delete "(9)" and insert "**(8)**".

Page 12, line 2, after "," insert "**in the case of a contract funded under subsection (b)(1)(B)(ii),**".

Page 12, delete lines 3 through 5, begin a new line block indented and insert:

"not retain the remaining amount but must pay the remaining amount to the designated beneficiary. In the case of all other contracts funded under this chapter, the seller may opt to return the remaining amount to the individual designated by the purchaser to receive the remainder or to the purchaser's estate."

Page 12, line 7, after "must" insert "**do all of the following**".

Page 12, line 8, delete "be" and insert "**Be**".

Page 12, line 9, delete "trust" and insert "**escrow**".

Page 12, line 10, delete ";" and insert ".".

Page 12, line 11, delete "designate" and insert "**Designate**".

Page 12, line 11, delete ";" and insert ".".

Page 12, line 12, delete "designate" and insert "**Designate**".

Page 12, line 14, delete ";" and insert ".".

Page 12, line 15, delete "require" and insert "**Require**".

Page 12, line 17, delete ";" and insert ".".

Page 12, line 18, delete "permit" and insert "**Permit**".

Page 12, line 19, delete ";" and insert ".".

Page 12, line 12, delete "a trustee" and insert "**an escrow agent**".

Page 12, between lines 19 and 20, begin a line block indented and insert:

"(6) Permit the seller to receive an administrative or service fee at the option of the seller. The seller may opt to receive the fee after the day following the date the contract becomes

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irrevocable. The amount of the fee may not exceed ten percent (10%) of the seller's total contract price for services or merchandise."

Page 12, line 20, delete "(6) require" and insert "**(7) Require**".

Page 12, line 21, after "equal to" delete "the" and insert ":".

Page 12, delete lines 21 through 23, begin a new line double block indented and insert:

"(A) the seller's original retail price as set forth in the contract for the services or merchandise delivered; minus (B) the amount, if any, received by the seller under subdivision (6)."

Page 12, line 24, delete "(7) permit" and insert "**(8) Permit**".

Page 12, line 27, after "less than" delete "the" and insert ":".

Page 12, delete lines 28 through 30, begin a new line double block indented and insert:

"(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus (B) the amounts, if any, received by the seller under subdivision (6)."

Page 13, line 10, before "individual" insert "**death of the**".

Page 13, delete lines 39 through 42.

Page 14, delete lines 1 through 2.

Page 14, line 5, reset in roman "an".

Page 14, line 6, reset in roman "individual,".

Page 14, line 8, after "partnership" insert ":".

Page 14, line 9, reset in roman "(1)".

Page 14, line 10, delete "." and insert ";".

Page 14, line 10, after "or" insert "**and**".

Page 14, between lines 10 and 11, between a new line block indented and insert:

"(2) holding a certificate of authority under his chapter."

Page 14, line 20, delete ".".

Page 14, line 20, reset in roman "or".

Page 14, line 21, reset in roman "escrow agent."

Page 14, line 34, delete "However, a seller using an escrow shall".

Page 14, delete lines 35 through 36.

Page 14, line 39, delete "for".

Page 14, delete lines 40 through 42.

Page 15, delete line 1.

Page 15, line 2, delete "certificate of authority,".

Page 15, line 2, after "designated" insert "**in a contract executed**

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before July 1, 1999,".

Page 15, line 3, strike "five" and insert "**ten**".

Page 15, line 4, strike "(5%)" and insert "**(10%)**".

Page 15, line 4, delete "original".

Page 15, line 4, strike "contract".

Page 15, line 5, delete "," and insert "."

Page 15, line 5, delete "less any services or merchandise delivered as of the date of".

Page 15, line 6, delete "notice of transfers."

Page 16, line 8, after "trustee" insert "**or escrow agent**".

Page 16, line 21, after "trust" insert "**or escrow**".

Page 16, line 30, delete "." and insert "**or the designated recipient of the escrow funds.**".

Page 17, line 18, delete "." and insert "**or escrow.**".

Page 17, line 19, after "trust" insert "**or escrow**".

Page 17, line 37, after "trustee" insert "**two dollars and fifty cents (\$2.50) on contracts having a value of less than one thousand dollars (\$1,000) and**".

Page 17, line 38, after "(\$5)" insert "**on contracts having a value of at least one thousand dollars (\$1,000)**".

Page 17, line 39, after "." insert "**However, no fee is due and payable on contracts funded with a previously issued life insurance policy.**".

Page 19, line 9, after "million" insert "**five hundred thousand**".

Page 19, line 9, strike "\$1,000,000" and insert "**(\$1,500,000)**".

Page 19, line 11, after "million" insert "**five hundred thousand**".

Page 19, line 12, strike "\$1,000,000." and insert "**(\$1,500,000).**".

Page 19, line 16, delete "shall" and insert "**may**".

Page 19, line 20, after "chapter" insert "**to be added to the fund established under section 28 of this chapter.**".

Page 19, line 26, after "company," insert "**or**".

Page 19, line 26, after "corporation" delete ",".

Page 19, line 27, delete "an association, or a partnership".

Page 19, line 37, after "." insert "**Each act committed in violation of this subsection constitutes a separate offense.**".

(Reference is to HB 1758 as printed February 9, 1999.)

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