

IC 30-4-5.5

Chapter 5.5. Enforcement Powers of Attorney General

IC 30-4-5.5-1

Remedies by attorney general against certain trustees and other individuals

Sec. 1. (a) This section applies to the following:

- (1) A trustee of a benevolent trust, including a perpetual care fund or endowment care fund established under IC 23-14-48 or a prepaid funeral trust or escrow account established under IC 30-2-9, IC 30-2-10, or IC 30-2-13.
- (2) A cemetery owner.
- (3) A funeral home.
- (4) A beneficiary of a contract entered into under IC 30-2-9.
- (5) A seller (as defined in IC 30-2-13-10) under IC 30-2-13.
- (6) Any other person that holds a perpetual care fund, an endowment care fund, or a prepaid funeral trust fund.

(b) A person described in subsection (a) may not do any of the following:

- (1) Commit a breach of trust.
- (2) Violate the mandate of a charitable trust.
- (3) Violate a duty listed in this article.
- (4) Fail to comply with a requirement or prohibition set forth in any of the following:
 - (A) IC 23-14-48.
 - (B) IC 23-14-48.5.
 - (C) IC 23-14-49.
 - (D) IC 23-14-51.
 - (E) IC 30-2-9.
 - (F) IC 30-2-10.
 - (G) IC 30-2-13.
 - (H) IC 30-4.

(c) The attorney general may petition a court to issue one (1) or more of the following remedies for a breach, violation, or failure enumerated in subsection (b):

- (1) Injunctive relief.
- (2) Appointment of temporary or permanent receivers.
- (3) Permanent removal of trustees.
- (4) Appointment of permanent replacement trustees subject to court approval.

A remedy under this subsection is in addition to any other remedy.

(d) The attorney general may seek a remedy listed in subsection (c) against a trustee, a trust, or any other person described in subsection (a) for a breach, violation, or failure enumerated in subsection (b).

(e) A court in which an action is brought under this section may do the following:

- (1) Issue a temporary restraining order, preliminary injunction, or permanent injunction.
- (2) Order a trustee, an escrow agent, a seller (as defined in

IC 30-2-13-10), a cemetery owner, or a funeral home to pay restitution or money unlawfully received or retained from purchasers and deposit the restitution or money into an escrow account for distribution to aggrieved purchasers.

(3) Order a trustee, an escrow agent, a seller (as defined in IC 30-2-13-10), a cemetery owner, or a funeral home to reimburse the state for reasonable costs incurred by the attorney general in investigating and prosecuting a violation of this section.

(4) Impose civil penalties.

(5) Provide for the appointment of a receiver.

As added by P.L.245-2005, SEC.8. Amended by P.L.61-2008, SEC.15.