
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1069 Session of
2017

INTRODUCED BY SANTORA, MILLARD AND READSHAW, APRIL 10, 2017

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, APRIL 10, 2017

AN ACT

1 Amending the act of August 14, 1963 (P.L.1059, No.459), entitled
2 "An act prohibiting future need sales of cemetery merchandise
3 and services, funeral merchandise and services, except under
4 certain conditions; requiring the establishment of and
5 deposit into a merchandise trust fund of certain amount of
6 the proceeds of any such sale; providing for the
7 administration of such trust funds and the payment of money
8 therefrom; conferring powers and imposing duties on orphans'
9 courts, and prescribing penalties," further providing for
10 merchandise trust fund and for financial report.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 2 of the act of August 14, 1963 (P.L.1059,
14 No.459), referred to as the Cemetery and Funeral Merchandise
15 Trust Fund Law, is amended by adding subsections to read:

16 Section 2. * * *

17 (a.1) The seller may retain, and apply to operating
18 expenses, all or a portion of the remaining thirty percent of
19 the retail sale price of the personal property or personal
20 services sold under the following conditions:

21 (1) the seller's merchandise trust fund is funded in an
22 amount equal to seventy percent of the retail sales price of all

1 preneed contracts pursuant to which deposits into the fund are
2 required; and

3 (2) the seller has made all initial and periodic deposits
4 required under 9 Pa.C.S. Ch. 3 (relating to regulation of
5 cemetery companies).

6 (a.2) If the seller's merchandise trust fund and permanent
7 lot care fund are not funded as required under subsection (a.1),
8 the remaining thirty percent of the retail sale price of the
9 personal property or personal services sold shall be directed to
10 the appropriate fund as necessary to comply with subsection
11 (a.1).

12 (a.3) The seller shall file an affidavit with the State Real
13 Estate Commission when the funding levels required under
14 subsection (a.1) are achieved and every six months thereafter.
15 The State Real Estate Commission shall review the affidavit and
16 upon verification that it contains all required information,
17 provide a certificate of compliance to the seller and forward a
18 copy of the affidavit to the orphans' court of the county in
19 which the trustee of the merchandise trust fund is situate. The
20 affidavit shall be filed in a form and manner established by the
21 State Real Estate Commission.

22 (a.4) Upon receipt of a certificate of compliance, the
23 seller may retain any remaining percentage of the retail price
24 of property or personal services sold.

25 * * *

26 Section 2. Section 6 of the act is amended to read:

27 Section 6. (a) Every two years after effective date of this
28 act, the trustee shall, prior to the first of December, file a
29 financial report of the merchandise trust fund with the orphans'
30 court of the county in which the trustee is situate, setting

1 forth the principal thereof, the investments and payments made
2 and income earned and disbursed[.] and forward a copy of the
3 report filed with the orphans' court to the State Real Estate
4 Commission.

5 (b) The orphans' court having jurisdiction over any such
6 merchandise trust fund or the State Real Estate Commission may,
7 at any time, require the person creating the same or the trustee
8 to file a report and submit its records in relation to any such
9 fund. If the court determines that the fund is not being
10 maintained in accordance with the provisions of this act, it
11 shall make such orders as may be necessary to compel compliance
12 with the provisions hereof.

13 Section 3. This act shall take effect in 60 days.