
HOUSE BILL No. 1026

DIGEST OF INTRODUCED BILL

Citations Affected: IC 30-2.

Synopsis: Funeral trust funds. Provides that a person who knowingly or intentionally disburses funds in a funeral trust for purposes other than the intended purposes of the trust commits a Class C felony. Provides that a trustee that disburses funds in a funeral trust without verifying the death of the person for whose funeral or burial the funds were paid commits a Class A infraction. Provides that the seller of a funeral trust established after June 30, 2008, may not be an affiliate, a parent, or a subsidiary organization of the trustee of the funeral trust.

Effective: July 1, 2008.

Cheatham

January 8, 2008, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1026



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 30-2-9-7, AS AMENDED BY P.L.113-2007,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 7. (a) Except as provided in subsection (b) **or (c)**,
4 a person who violates this chapter or makes any false and fraudulent
5 report required under this chapter commits a Class B misdemeanor.

6 (b) A person who knowingly or intentionally uses **or disburses**
7 funds in a funeral trust established under this chapter for purposes
8 other than the purposes required under this chapter commits a Class C
9 felony.

10 (c) **Except as authorized in an agreement described in section 4**
11 **of this chapter permitting the early withdrawal of funds, a trustee**
12 **that disburses funds in a funeral trust established under this**
13 **chapter without verifying the death of the person for whose funeral**
14 **or burial the funds were paid commits a Class A infraction.**

15 SECTION 2. IC 30-2-10-9, AS AMENDED BY P.L.113-2007,
16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2008]: Sec. 9. (a) Except as provided in subsection (b), a



1 person who knowingly violates this chapter commits a Class A
2 misdemeanor.

3 (b) A person who knowingly or intentionally uses **or disburses**
4 funds in a funeral trust established under this chapter for purposes
5 other than the purposes required under this chapter commits a Class C
6 felony.

7 **(c) A trustee that disburses funds in a funeral trust established**
8 **under this chapter in the absence of satisfactory evidence that the**
9 **contract under which the funds were deposited has been performed**
10 **commits a Class A infraction.**

11 SECTION 3. IC 30-2-13-38 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 38. (a) A seller who
13 violates a provision of this chapter commits an uncured deceptive act
14 (as defined in IC 24-5-0.5-2).

15 (b) A person doing business as a sole proprietor, a firm, a limited
16 liability company, a corporation, an association, or a partnership, but
17 not acting as a seller that:

18 (1) sells or advertises prepaid services or merchandise or services
19 or merchandise (as defined in section 8 of this chapter) and fails
20 to obtain the certificate of authority required by section 33 of this
21 chapter; or

22 (2) sells or advertises prepaid services or merchandise or services
23 or merchandise (as defined in section 8 of this chapter) after the
24 entity's certificate of authority has:

25 (A) expired; or

26 (B) been rescinded, revoked, or suspended by the board;
27 commits a Class A misdemeanor. Each act committed in violation of
28 this subsection constitutes a separate offense.

29 (c) The following may maintain an action to enjoin an individual or
30 entity from continuing to violate this section:

31 (1) The board.

32 (2) The attorney general.

33 (3) The prosecuting attorney of a county in which a violation
34 occurs.

35 (d) A purchaser has a private right of action against a seller who
36 commits an uncured deceptive act.

37 **(e) A trustee or escrow agent, acting as a fiduciary, that**
38 **disburses funds in a trust or escrow account established under this**
39 **chapter without verifying that the seller has delivered the services**
40 **or merchandise for which the funds were deposited commits a**
41 **Class A infraction.**

42 SECTION 4. IC 30-2-13-39 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2008]: **Sec. 39. (a) This section does not apply to a trust funded
3 by the method described in section 11(c) of this chapter.**

4 **(b) A seller may not be an affiliate, a parent, or a subsidiary
5 organization of the trustee or escrow agent, acting as a fiduciary,
6 of a trust or escrow account established after June 30, 2008, to hold
7 consideration paid for services or merchandise subject to a
8 contract entered into under this chapter by the seller and a
9 purchaser.**

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