

Bill No. CS for SB 1610

Amendment No.      Barcode 031160

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Garcia moved the following amendment:

**Senate Amendment (with title amendment)**

On page 15, line 13, through page 19, line 14, delete those lines

and insert:

Section 9. Subsection (1) of section 497.417, Florida Statutes, is amended to read:

497.417 Disposition of proceeds received on contracts.--

(1) Any person who is paid, collects, or receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise shall deposit ~~in this state~~ an amount at least equal to the sum of 70 percent of the purchase price collected for all services sold and facilities rented; 100 percent of the purchase price collected for all cash advance items sold; and 30 percent of the purchase price collected or 110 percent of the wholesale cost, whichever is greater, for each item of merchandise sold. The method of determining wholesale cost shall be established by

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1 rule of the board and shall be based upon the  
2 certificateholder's stated wholesale cost for the 12-month  
3 period beginning July 1 during which the initial deposit to  
4 the preneed trust fund for the preneed contract is made. Such  
5 deposits shall be made within 30 days after the end of the  
6 calendar month in which payment is received, under the terms  
7 of a revocable trust instrument entered into with a trust  
8 company operating pursuant to chapter 660, with a national or  
9 state bank holding trust powers, or with a federal or state  
10 savings and loan association holding ~~having~~ trust powers ~~or a~~  
11 ~~trust company~~. The trustee shall take title to the property  
12 conveyed to the trust for the purpose of investing,  
13 protecting, and conserving it for the certificateholder;  
14 collecting income; and distributing the principal and income  
15 as prescribed in this chapter. The certificateholder is  
16 prohibited from sharing in the discharge of these  
17 responsibilities, except that the certificateholder may  
18 request the trustee to invest in tax-free investments and may  
19 appoint an adviser to the trustee. The trust agreement shall  
20 be submitted to the board for approval and filing. The funds  
21 shall be held in trust, both as to principal and income earned  
22 thereon, and shall remain intact, except that the cost of the  
23 operation of the trust or trust account authorized by this  
24 section may be deducted from the income earned thereon. The  
25 contract purchaser shall have no interest whatsoever in, or  
26 power whatsoever over, funds deposited in trust pursuant to  
27 this section. In no event may said funds be loaned to a  
28 certificateholder, an affiliate of a certificateholder, or any  
29 person directly or indirectly engaged in the burial, funeral  
30 home, or cemetery business. Furthermore, the  
31 certificateholder's interest in said trust shall not be

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1 pledged as collateral for any loans, debts, or liabilities of  
2 the certificateholder and shall not be transferred to any  
3 person without the prior written approval from the department  
4 and the trustee which shall not be unreasonably withheld.  
5 Even though the certificateholder shall be deemed and treated  
6 as the settlor and beneficiary of said trust for all purposes,  
7 all of said trust funds are exempt from all claims of  
8 creditors of the certificateholder except as to the claims of  
9 the contract purchaser, her or his representative, the board,  
10 or the department.

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12 (Redesignate subsequent sections.)

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page 2, lines 2-10, delete those lines

18

19 and insert:

20 associations;

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