

SENATE BILL NO. 2314

Introduced by

Senators Stenehjem, Bowman, Dever

Representatives Nelson, Weiler

1 A BILL for an Act to amend and reenact section 23-06-03.1 of the North Dakota Century Code,
2 relating to pre-need funeral contracts.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 23-06-03.1 of the 1999 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **23-06-03.1. Payments on pre-need funeral contracts to be deposited - Depository**
7 **shall keep record of deposit - Personal property storage - Penalty.** Whenever payments
8 are made to any person upon pre-need funeral service contracts, one hundred percent of the
9 funds collected under such contracts for the sale of professional service or personal property to
10 be used in funeral services and fifty percent of the funds collected under such contracts for the
11 sale of cemetery merchandise must be deposited in or transferred to a trust company or to a
12 federally insured bank, credit union, or savings and loan association in this state, within ten
13 days. Payments received from any sale of professional service or personal property to be used
14 in funeral services or cemetery merchandise which cannot or would not be serviced by any
15 licensed funeral establishment or cemetery association in the area where the service or
16 property was sold are specifically included, whether or not such sales might otherwise be
17 considered pre-need funeral service contracts, within the payments to be deposited under this
18 section. The funds may be released or transferred by the bank, credit union, savings and loan
19 association, or trust company to the depositor upon the death of the person for whose benefit
20 the funds were paid. A certified copy of the certificate of death must be furnished to the bank,
21 credit union, savings and loan association, or trust company as prima facie evidence of death.
22 The funds may be released or transferred by the bank, credit union, savings and loan
23 association, or trust company to the person making the payment, ~~prior to~~ before the death of
24 the person for whose benefit the funds are paid, upon a five-day written notice by registered or

1 certified mail made by the bank, credit union, savings and loan association, or trust company to
2 the depositor or transferor at the request of the person making the payment. Upon written
3 request, however, a pre-need purchaser may make a certain amount of the pre-need funds
4 irrevocable. The irrevocable amount may not exceed the amount of the allowable asset
5 exclusion used for determining eligibility for medical assistance under chapter 50-24.1 at the
6 time the pre-need contract is entered. The pre-need purchaser has forty-five days from
7 entering the contract to cancel an irrevocable contract by giving notice to the pre-need seller.

8 Any bank, credit union, savings and loan association, or trust company receiving such a
9 deposit or transfer shall keep a complete record of the deposit or transfer, showing the name of
10 the depositor or transferor, name of the person making payment, name of the person for whose
11 benefit payment is made, and any other pertinent information.

12 Any personal property to be used in funeral services or cemetery merchandise which is
13 sold to a purchaser on the basis that it will be identified and marked as belonging to such
14 purchaser, and stored or warehoused for the purchaser, must be stored or warehoused at some
15 location within this state.

16 Any person who willfully violates this section or any rule or order of the commissioner
17 under this section is guilty of a class C felony. Each violative act constitutes a separate offense
18 and a prosecution or conviction of any one offense does not bar a prosecution or conviction for
19 any other offense.