

3B:11-16 to 3B:11-18

LEGISLATIVE HISTORY CHECKLIST

NJSA: 3B:11-16 to 3B:11-18; 2A:102-13

(Funeral expense monies--prepaid--permit pooled trust funds)

LAWS OF: 1985

CHAPTER: 147

Bill No: S2252

Sponsor(s): Lesniak

Date Introduced: September 20, 1984

Committee: Assembly: Commerce and Industry

Senate: Labor, Industry and Professions

Amended during passage: Yes

Date of Passage: Assembly: February 25, 1985

Senate: December 17, 1985

Date of Approval: April 24, 1985

Following statements are attached if available:

Sponsor statement: Yes

Attached Assembly amendments, adopted 2-4-85 (with statement)

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

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CHAPTER 147 ... 85
4-24-85

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SENATE, No. 2252

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 20, 1984

By Senator LESNIAK

Referred to Committee on Labor, Industry and Professions

AN ACT concerning pooled trust funds composed of prepaid funeral expense monies**, amending P. L. 1957, c. 182** and supplementing chapter 11 of Title 3B of the New Jersey Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. **[Notwithstanding any law, rule or regulation to the con-
2 trary, nothing shall prohibit the pooling of prepaid]** **Prepaid**
3 funeral expense monies ***may be deposited into a pooled trust*
4 *account in a federally insured State or federally chartered bank,*
5 *savings bank or savings and loan association*** pursuant to a written
6 trust agreement the beneficiaries of which shall be the consumers
7 advancing said monies. Any such trust agreement shall assure
8 that the following terms and conditions are clearly and con-
8A spicuously disclosed in writing to those consumer beneficiaries prior
8B to the acceptance of any monies by the **[trustee]** **trustees**:

9 a. The right to immediately withdraw on demand any monies
10 plus accrued interest paid into the trust.

11 b. The right to receive periodic statements not less than once
12 per year reflecting the amount of principal and accrued interest if
13 any, in the trust.

14 c. The amount or rate of commissions to be taken.

15 d. The identity and location of the **[trustee]** **trustees**.

16 e. The location of the trust agreement and the conditions under
17 which it may be examined.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted October 18, 1984.

**—Assembly committee amendments adopted January 23, 1985.

***—Assembly amendments adopted February 4, 1985.

1 2. **[A trustee]** *The trustees* of a pooled trust fund **[for**
 2 the benefit of not less than 200 individual consumers**]** *estab-*
 3 *lished pursuant to section 1 of this act* *for the benefit of not*
 4 *less than 200 individual consumers* shall be entitled to a com-
 5 mission of not more than **[6%** on all income received**]** *1% per*
 6 *annum of the corpus of the trust fund*. *The trustees of a pooled*
 7 *trust fund for the benefit of less than 200 individual consumers shall*
 8 *not be entitled to any commission.* **[Expenses]** *All ex-*
 9 *penses* incurred **[by a trustee]** in the administration of such
 10 a trust or the services rendered thereby shall be deducted from
 11 income received by the **[trustee]** *trustees* and in no event
 12 shall the **[trustee]** *trustees* invade the corpus of the trust
 13 funds.

1 **3.** The Commissioner of Banking shall determine whether,
 2 among pooled trust funds established pursuant to this act, adequate
 3 competition exists with respect to interest rate yield and commis-
 4 sions or fees charged during the one year period following the
 5 effective date of this act. No later than one year after the effective
 6 date of the act the commissioner shall report to the Legislature his
 7 findings and any recommendations he may have to provide for
 8 greater competition among pooled trust funds.

9 The commissioner shall adopt rules and regulations pursuant to
 10 the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1
 11 et seq.) as may be necessary to effectuate the purposes of this
 12 section.

1 4. Section 1 of P. L. 1957, c. 182 (C. 2A:102-13) is amended to
 2 read as follows:

3 1. Any and all moneys paid to a funeral director, undertaker,
 4 cemetery, or any other person, firm or corporation, under or in
 5 connection with an agreement for the sale of personal property to
 6 be used in connection with a funeral or burial, or for the furnishing
 7 of personal services of a funeral director or undertaker, wherein
 7A the personal property is not to be delivered or the personal services
 8 are not to be rendered until the occurrence of the death of the
 9 person for whose funeral or burial such property or services are to
 10 be furnished shall be trust funds in the possession of such funeral
 11 director, undertaker, cemetery, or other person, firm or corpora-
 12 tion, and shall be deposited by him or it within 30 days after receipt
 13 thereof**[,]** in a special account maintained exclusively for the de-
 14 posit of such moneys in a *federally insured and State or federally*
 15 *chartered bank, savings bank or savings and loan association; or,*
 16 *if the person paying the moneys requests, in a pooled trust account*
 17 *established pursuant to P. L., c. . . . (C.) (now*

18 *pending before the Legislature as this bill) and chosen by the*
19 *person paying the moneys* **[banking institution as defined in the**
20 **Banking Act of 1948]**, and shall be so held on deposit, together with
21 any interest thereon, until said personal property has been
22 delivered and said personal services have been rendered, unless
23 sooner repaid, in whole or in part. No **[banking]** *depository* in-
24 stitution shall be liable for the misuse, misapplication or improper
25 withdrawal by any such funeral director, undertaker, cemetery or
26 other person, firm or corporation, of any moneys deposited in such
27 **[banking]** *depository* institution pursuant to this act.**

1 ****[3.]**** **5.** This act shall take effect immediately.

4 by a trustee in the administration of such a trust or the services
 5 rendered thereby shall be deducted from income received by the
 6 trustee and in no event shall the trustee invade the corpus of the
 7 trust funds.

1 3. This act shall take effect immediately.

SPONSOR'S STATEMENT

This bill will allow for the pooling of prepaid funeral trust funds pursuant to a written trust agreement the beneficiaries of which are individual consumers who elect to prepay funeral expenses. Consumers electing to have their monies become part of these funds are entitled to receive written notice of a right to withdraw their monies, accrued interest from the trust on demand, periodic statements of account, the rate of commissions to be taken by the trustees, the identity and location of the trustee and the location of the trust agreement.

The bill recognizes that the pooling of trust funds for investment purposes pursuant to normal and customary banking and trust practices will yield higher rates of return to consumer beneficiaries than the deposit of monies on an individual basis. Since administrative services are performed by trustees in the form of receiving, investing and paying out monies to consumer beneficiaries and to funeral directors, commissions are permitted as compensation in an amount of not more than 6% of the total income received by the trustees. All expenses incurred by the trustees or in the rendering of trust services to the beneficiary are to be borne out of this commission.

S 2252 (1985)

ASSEMBLY COMMERCE AND INDUSTRY COMMITTEE

STATEMENT TO

SENATE, No. 2252

with Assembly committee amendments and Senate amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 1985

This bill allows the pooling of prepaid funeral expense funds pursuant to a written trust agreement in which the beneficiaries are the persons prepaying these funds. The written trust agreement must contain the following terms and conditions: the right of beneficiaries to immediately withdraw their moneys plus accrued interest, the right to at least a yearly statement of the account, the rate of commissions to be taken by the trustee, the identity and location of the trustee, and the location of trust agreement and the conditions under which it may be examined. Beneficiaries must be notified in writing of these terms and conditions before they prepay their money. A trustee of a pooled trust fund is entitled to a commission of not more than 1% per annum on the corpus. The trustee must pay the administrative expenses of the pooled trust fund from this commission.

The Assembly Commerce and Industry Committee has amended the bill to entitle the trustees of any pool trust fund to charge a commission, including a fund for the benefit of fewer than 200 consumers. The committee has amended the bill to require that:

1. The pool trust accounts be in federally insured state or federally chartered banks, savings banks or savings and loan associations;
2. All expenses incurred in the administration of a pool trust fund, not just those incurred by the trustees, be deducted from the income received by the trustee;
3. Funeral directors or others accepting any prepayment for a funeral deposit the moneys into a pooled trust account of the consumer's choice, if the consumer so requests; and
4. The Commissioner of Banking make a determination as to whether there is adequate competition among the trust funds with respect to interest rate yields and commissions charged during the first year following the effective date and report his finding and any recommendations to the Legislature.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 2252

with Senate committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 18, 1984

This bill allows the pooling of prepaid funeral expense funds pursuant to a written trust agreement in which the beneficiaries are the persons prepaying these funds. The written trust agreement must contain the following terms and conditions: the right of beneficiaries to immediately withdraw their monies plus accrued interest, the right to at least a yearly statement of the account, the rate of commissions to be taken by the trustee, the identity and location of the trustee, and the location of trust agreement and the conditions under which it may be examined. Beneficiaries must be notified in writing of these terms and conditions before they prepay their money. A trustee of a pooled trust fund for 200 or more persons is entitled to a commission of not more than 1% per annum of the corpus of the trust fund. The trustee must pay the administrative expenses of the pooled trust fund from this commission.

*OR
MS*

*S. 2252 (2nd OCR) and
A 2333 (2nd OCR) should
be identical*

**ADOPTED
FEB 4 1985**

Assembly Amendments

to

Senate Bill No. 2252 (OCR)
(With Committee amendments typed copy)

Amend:

Page	Sec.	Line	
<i>Note to Printer, these noted as follows:</i>			
<i>On Jan 28 Committee amendments (typed copy)</i> 1	2	1-2	<i>floor amendments are</i> After "act" insert "for the benefit of not less than 200 individual consumers"
<i>On the printed OCR</i> 1	2	4	After "." insert "The trustees of a pooled trust fund for the benefit of less than 200 individual consumers shall not be entitled to any commission."

STATEMENT

This amendment reinserts and clarifies lan-
guage which permits only the trustees of pooled
trust funds which benefit 200 or more individual
consumers to charge a commission.

*Note to printer S. 2252 (2nd OCR)
(typed copy) consists of printed OCR
plus typed ^{Assembly} committee amendments adopted
Jan 28, 1985.*