

SENATE BILL REPORT

SHB 2360

As Reported by Senate Committee On:
Government Operations, Tribal Relations & Elections, February 21, 2012

Title: An act relating to deposit and investment provisions for the prearrangement trust funds of cemetery authorities and funeral establishments.

Brief Description: Concerning deposit and investment provisions for the prearrangement trust funds of cemetery authorities and funeral establishments.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Rivers and Ryu).

Brief History: Passed House: 2/01/12, 96-0.

Committee Activity: Government Operations, Tribal Relations & Elections: 2/21/12 [DP].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Pridemore, Chair; Swecker, Ranking Minority Member; Chase, Nelson and Roach.

Staff: Sam Thompson (786-7413)

Background: The Department of Licensing (DOL) regulates cemetery authorities and funeral establishments.

Consumers may enter into prearrangement contracts with regulated cemetery authorities and funeral establishments for cemetery or funeral merchandise, services, or undeveloped graves to be provided in the future. Cemetery authorities must deposit at least 50 percent of contract funds in a prearrangement trust fund (trust fund). Funeral establishments must deposit at least 90 percent of contract funds in a trust fund. Trust funds must be deposited in certain financial institutions or invested in federal instruments. They may not be used to benefit a cemetery authority or funeral establishment's officers or employees. Cemetery authorities and funeral establishments must annually file financial reports regarding trust funds, and trust funds are periodically examined by DOL.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Washington's prudent investor law generally requires fiduciaries investing property for others to exercise judgment and care that persons of prudence, discretion, and intelligence exercise in managing their own affairs. Within limits, fiduciaries may acquire every kind of property and investment that persons of prudence, discretion, and intelligence acquire for themselves.

Summary of Bill: Regulated cemetery authorities and funeral establishments may deposit trust funds in varied state- or federally-chartered financial institutions in addition to currently authorized depositories.

Trust funds need not be invested in federal instruments, but must be invested in accordance with Washington's prudent investor law. In addition, they may not be:

- borrowed by an officer, director, trustee, or relative of an officer, director, or trustee of the cemetery authority or funeral establishment;
- loaned to the cemetery authority or funeral establishment, its agents or employees, or any business entity in which the cemetery authority or funeral establishment has an ownership interest; or
- invested with persons or business entities operating in a business field directly related to cemeteries or funeral homes.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill appropriately allows prearrangement trust funds to be invested in accordance with prudent investor standards. DOL is neutral on the bill.

Persons Testifying: PRO: J.C. Barr, WA Cemetery, Cremation, and Funeral Assn.; Scott Sheehan, WA Cemetery Assn.