

MEETING MINUTES

Date: Wednesday, March 26, 1969

Committee Members Present: Marvin L. White, Chairman  
Chic Hecht  
Floyd R. Lamb  
Coe Swobe  
Emerson Titlow

Others Present: Mr. Louis Mastos, Insurance Commissioner of Nevada  
Mr. Douglas Erickson, Chief Deputy Insurance Commissioner  
Mr. John A. Porter, Deputy Attorney General  
Mr. Preston E. Tidvall, Superintendent of Banks  
Mr. William C. Sanford, Attorney, Reno  
Mr. Frank Fahrenkopf, Attorney, Reno  
Mr. Rank F. Knafelc, O.K. Distributors  
Mr. Milton J. Gumbert, Sierra Wine & Liquor Co.

Chairman White called the meeting to order at 7:00 P.M.

The chairman announced there were a number of bills to be considered at this meeting and requested comments from the group as each bill was introduced.

S.B. 449 Introduced by Committee on Commerce.  
Confirms privilege of assigning life insurance policies.

Mr. William C. Sanford, speaking for the bill, was recognized. Most property in the state, including insurance, is considered community property and, to avoid tax on his estate, a husband frequently transfers his right to his wife. Until last year the Internal Revenue Service has taken the position that insurance is not transferrable and, therefore, must be included in the husband's estate. Even though the husband executes an instrument passing title to his wife, this has not been accepted as an endorsement to the policy. However, last year IRS ruled that such a transfer to the wife would be recognized as valid and value would not be taxable, providing the existence of a state law specifically providing that insurance (group) may be transferred (including the right to conversion). In this way, the husband may transfer to his wife his right to insurance, including the right to convert in case of termination or withdrawal from the group. The present Nevada law does not have this provision and, thus, does not meet the IRS regulations. This is the reason for proposing S.B. 449 and its adoption will, in no way, prejudice the state's insurance code.

Senator Swobe asked if other states had adopted similar legislation. Mr. Sanford answered in the affirmative and reminded the group the bill provided for no mandatory action.

Mr. Mastos said that this subject had been discussed at great length; that the Insurance Department found no objection to the bill; that it seemed to be the only way to meet IRS regulations. He added that the insurance

companies have been agreeable to such assignments, but without a supporting state statute, the IRS would not accept them.

S.C.R. 25 Introduced by Committee on Commerce.  
Directs legislative commission study on Uniform Consumer Credit Code for certain purposes.

Senator Swobe spoke on this resolution. He said that S.B. 170, adopting a Uniform Consumer Credit Code, had been drafted in an effort to tie it in with the requirements of Senator Proxmire's federal truth-in-lending bill. Subsequently several meetings were held with interested people and it was found that the proposed legislation left many questions unanswered. It was determined that even if S.B. 170 were passed, there was no guarantee it would meet with the approval of the Federal Reserve Board; in addition, at the moment, there can be no estimate of the cost of policing such legislation. Therefore the conclusion was reached that it would be best to table the bill and institute a study by a legislative commission to determine actions being taken by other states on similar legislation, cost of administration, reaction of Federal Reserve Board to such legislation, etc.

In answer to Senator Lamb's inquiry, Senator Swobe said the purpose of the Consumer Credit Code was the protection of the consumer against unscrupulous peddlers and lenders and it started as a "full disclosure" bill, geared principally to the ghetto areas.

S.B. 316 Introduced by Senator Herr.  
Requires real estate listings to be in writing.

The chairman read an amendment to this bill, which, in effect, is a complete re-write of the bill. The bill, as first offered, was determined as not accomplishing the intended purpose. The meat of the legislation is that in order for there to be any court action pursued in case of disagreement, there must have been a written instrument covering a real estate listing; a verbal agreement would not be acceptable as basis for court action.

Senator Lamb moved for adoption of the amendment. Senator Hecht seconded. No vote was taken at this time.

S.B. 213 Introduced by Senator White.  
Regulates information and files of credit bureaus.

Senator White, who introduced this bill, briefly reviewed the reasons he felt legislation such as this was required. As an example, he said that under current practice, credit bureau files note only when some kind of court action is brought against an individual; they do not note the disposition - dismissal, for instance, of such action - and this can work to the detriment of the individual. Senator Hecht said he felt it was not the credit bureau's responsibility to follow the happenings of a person's private life and it was the charge of the individual to clear his own credit record by having the disposition of a court action, for example, recorded and thus made a matter of public record; it would then appear in the credit bureau's file.

Senator Swobe agreed that there had been abuses in this field, but said there are hearings now being held in Washington and from those hearings it is anticipated some guidelines for the operation of credit bureaus will be set up.

Senator Lamb moved to hold action on the bill for a later vote. Committee agreed.

S.B. 410 Introduced by Committee on Commerce.  
Permits liquor wholesalers to sell to their own personnel.

Mr. Gumbert asked to speak on this bill. He said it was his feeling that the bill discriminated against employees in the liquor industry. Under present law, to buy from a wholesaler, one must be a bona fide holder of a retail license. He cited an example of where an industry head, beyond not being able to sell to his employees at cost, could not even buy his own merchandise. He noted that other industries allow employees to buy at wholesale from their employers.

Mr. Knafelc added that enforcement of the present law leads to abuses - such as "shortages" of merchandise, misrepresentation, etc. He favors S.B. 410 because it would allow selling to employees without violating any law.

S.B. 451 Introduced by Committee on Commerce.  
Requires distiller, brewer or other producer of liquor to distribute through wholesalers.

Mr. Gumbert pointed out that without this legislation distillers, etc., could circumvent the wholesalers and sell direct to retailers, which would put the wholesalers out of business. Senator Swobe asked if wholesalers were prohibited from going into the retail business. Mr. Gumbert replied that this was true.

S.B. 452 Introduced by Committee on Commerce.  
Prohibits credit sales to delinquent retailers of intoxicating liquors.

Mr. Knafelc asked, as a representative of the beer and liquor wholesalers in the State of Nevada, to speak on this bill.

He cited the pre-payment of tax requirements the wholesaler must abide by, the risks he assumes in selling to liquor retailers, who, in fact, are often poorer businessmen and men of less dependable character than men in other fields of business. Over-extension of credit to the retailer adds to the financial burden of the wholesaler and, possibly, forces him to borrow money, at high rates of interest, to meet his own debts. Over-extension of credit can also lead the undesirable "tight house" situation, which allows a wholesaler to "control" a retailer.

The chairman asked if it were not true that the wholesale dealers had requested similar legislation four years ago (which legislation was passed) and then two years later requested its repeal. Mr. Knafelc acknowledged this to be true, but added that, in practice, the industry had found the legislation "too tough" to be practical. The legislation being requested at this session is more moderate.

Mr. Knafelc said that no additional help had been required in the State offices in the administration of the law adopted four years ago and there would be no help required for the administration of the current bill.

There followed a rather lengthy argument between Messrs. Knafelc and Gumbert, representing the industry, and Senator Hecht as to the validity of the industry's arguments in favor of the bill. Senator Lamb, after some time, said he felt that further discussion was pointless, that the committee had acquaintance with the proposed legislation by reason of the bill that was passed four years ago.

S.B. 97 and S.B. 144

S.B. 97 Introduced by Committee on Commerce  
Provides in detail for regulation of funeral and burial service contracts.

S.B. 144 Introduced by Committee on Commerce  
Provides additional requirements and regulations for certain cemeteries.

These bills have been the subject of many discussions and numerous meetings and hearings. Mr. Porter reported that now there is no disagreement at all between the Insurance Department and the industry on S.B. 97 and that there is also agreement on S.B. 144, as amended, with the exception of the provision concerning the commission split. Industry is asking for 60-40%; the Insurance Department recommends 75-25% and feels it is ample. Mr. Tidvall, Superintendent of Banks, who will have the responsibility of administering this legislation when passed, is in favor of the 75-25% split. Mr. Porter provided the chairman with copies of amendments and documentation of costs.

Senator Swobe moved to "deep six" S.B. Nos. 145 and 229 (other bills that have been introduced on this same subject); Senator Hecht seconded; motion carried unanimously.

The people, other than the committee members, now withdrew from the meeting.

The chairman asked that the committee direct their attention to recommendations on the bills that had been discussed.

S.B. 449 Senator moved to "do pass," Senator Hecht seconded; motion was passed unanimously.

S.C.R. 25 Senator Lamb moved to "do pass," Senator Swobe seconded; motion carried unanimously.

S.B. 316 Bill is to be reprinted; no action taken.

S.B. 213 Senator Lamb moved to "do pass," but Senator Swobe said he thought there was more to this legislation than appeared in the bill; Senator Hecht added that a number of people had called him and asked to be heard on this bill. Senator Lamb withdrew his motion. Senator Hecht then moved to kill the bill; his motion died for lack of a second. It was decided to hold the bill for subsequent discussion.

S.B. 410 Senator Titlow moved that the bill be passed; Senator Swobe seconded. Motion was defeated, with Senators Hecht, Lamb and White voting against it.

S.B. 451 Senator Hecht remarked there was no one in the state now who would be affected by this legislation. Senator Lamb moved that action be held for a couple of days; Senator Hecht seconded; it was so ordered.

S.B. 452 Senator Lamb commented that he thought this bill put the State in the tax collecting business. Senator Swobe moved to pend action for a later meeting; seconded by Senator Titlow; motion carried.

S.B. 97 Senator Swobe made a motion to accept the amendments and to pass the bill as amended; seconded by Senator Titlow; motion carried unanimously.

S.B. 144 Senator suggested a 70-30% compromise on the commission split. He was reminded that the 75-25% commission figure already represents a compromise on the part of the Insurance Department, whose original proposal was 80-20%. Senator Titlow made a motion to pass S.B. 144, with the 75-25% provision; seconded by Senator Swobe. Motion carried with four "yes" votes; Senator Lamb abstained.

S.B. 375 Introduced by Senators Pozzi and Swobe.  
Permits automobile insurance policy holders to have repairs done at garage of their choice.

Senator Pozzi was invited to the meeting to speak on this bill. He said he felt strongly that a customer should be able to go where he liked to have repairs made on his car, but felt that the bill, as drawn, cannot pass. It is a shortened form of a Wisconsin statute, but it needs reworking. Senator Pozzi will attempt to have the bill redrafted for later presentation to the committee.

Chairman adjourned the meeting at 8:10 P.M.

Approved:

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Marvin L. White

TO: The Honorable Marvin L. White, Chairman, Senate Commerce Committee, and Floyd R. Lamb, Emerson F. Titlow, Chic Hecht, Coe Swobe, Committee Members

FROM: John A. Porter, Deputy Attorney General (Dept. of Commerce)

SUBJECT: S.B. 97, 144,  (Pertaining to amendments to Chapters 452 and 689 of NRS)

1. As already noted, Industry and Department are now agreed that, if possible, S.B. 145 and 229 shall be withdrawn or dropped from further consideration in this legislative session, and immediately-necessary requirements of both Industry and Department secured through enactment of S.B. 97 and 144, if substantially acceptable to both.
2. Industry's revised version of S.B. 144, as of March 22, 1969, presently includes all regulatory provisions also included in S.B. 97, relative to pre-need or pre-paid contracts, in addition to agreed desired amendments to Chapter 452 of NRS in other respects. The sole principal difference between Industry and Department relative to pre-need or pre-paid contracts at this point is over the maximum amount of commissions that shall be authorized for sale of such contracts; S.B. 97 provides for a maximum of 25%, Industry's version of S.B. 144 would provide for a maximum of 40%.  
Because such pre-need or pre-paid merchandise and service contracts for the burial or disposition of human remains are essentially the same in nature or purpose, whether performed by mortuaries (or funeral parlors) or cemeteries, the Department is of the opinion that there can be no substantial justification for authorization of different maximum commission rates in connection with the sale of such merchandise and service contracts. The Department's analysis of S.B. 144 as finally revised and submitted by Industry, among other matters, therefore, also provides that commission paid on pre-need cemetery merchandise and service contracts shall NOT exceed 25%.
3. The Department has previously submitted a revised version of S.B. 144 which, by express reference therein-contained would subject pre-need cemetery merchandise and service contracts to the licensing, bond and trust fund, and other regulatory provisions and requirements of S.B. 97, - thus obviating the extensive amendments to S.B. 144 involved in repetitively including such S.B. 97 regulatory provisions in S.B. 144 also. Industry, for reasons known only to itself, insists that such pre-need regulatory requirements and provisions be included in S.B. 144, amending Chapter 452 of NRS (Cemetery Act).
4. The Department, as of record, wants to make it "crystal clear" that unless all such pre-need funeral or cemetery merchandise and service contracts are brought under reasonable statutory controls, the abuses incident to such contracts are so serious as to defy any reasonable regulation, and that in such circumstances, all such pre-need burial contracts should be completely "out-lawed" for protection of the public interest. Documentation to such end would be made available by the Department.
5. If, because of the legislative time-factor, it is unfeasible to effect the extensive amendments to S.B. 144 (presently substantially agreed to by Industry and Department) and it is deemed more practical to make pre-need cemetery merchandise and service contracts subject to the licensing, bond and trust fund, and other regulatory provisions of S.B. 97, this could be accomplished by deleting Sections 31 through 56 of Industry's March 22nd, 1969 version of S.B. 144, and adoption of a new Section 31, hereinafter set forth, and renumbering Sections 57, 58 and 59 accordingly to correspond to such deletions and the suggested amendment:  
  

Sec. 31. Such cemetery merchandise and service contracts, offered or sold on a pre-need or pre-paid basis, and all persons involved in the sale thereof, shall be governed and regulated by, and be in full compliance with, all licensing, posting of bond and establishment of trust fund, and all other applicable supervisory or regulatory provisions and requirements of chapter 689 of NRS, as amended, hereby and by this express reference also made applicable to "cemetery merchandise and service contracts".
6. On March 26th, 1969, the Department was furnished with a copy of a letter dated March 25th, 1969, addressed to The Honorable Marvin L. White, Chairman of the Commerce Committee and Committee Members, on the part of the National Association of Cemeteries, relative to the inclusion of ". . . a fixed sales commission clause which must state the exact percentage commission on each contract of sale." as a requirement in S.B. 144. The said Association recommends that S.B. 144 provide for no such requirement.

The Department is of the opinion that it is entirely legal and as a practical matter absolutely essential that both S.B. 97 and 144 (as the same may relate to pre-need contracts) make provision of the maximum rate or amount of commissions allowable and authorized to be charged and paid on pre-need contracts, consistently with "truth in sales and loan contracts" statutes. Absence of such provision would result in abuses even more serious than those now involved.

TO: The Honorable Marvin L. White, Chairman, Senate Commerce Committee, and Floyd R. Lamb, Emerson F. Titlow, Chic Hecht, Coe Swobe, Committee Members

FROM: John A. Porter, Deputy Attorney General (Dept. of Commerce)

SUBJECT: S.B. 97: Proposed final amendments and revisions based on Meeting of March 19, 1969 with H.E. Burton, Industry Representative, and Departmental review of Industry's proposed amendments and revisions under date of March 22, 1969.

Except as otherwise indicated references are to present version of S.B. 97, section by section.

1. Section 1 : No change
2. Sec. 2 : Amended to read as follows:

Sec. 2. 1. It is contrary to public policy for any person to receive, hold, control or manage funds or proceeds derived from sale of, or from a contract to sell, any personal property, equipment, merchandise or supplies of whatsoever description not then already existing, available, deliverable, and suitable for use in or performance of any services connected with the interment, entombment or inurnment of the remains of any deceased person, whether any such contract payment is made in a lump sum or on the installment basis, prior to the demise of the contract beneficiary for whom purchased, unless the provisions of this chapter are complied with.

2. The provisions of subsection 1 do not apply to:

(a) The sale of grave plots, interests in cemetery lands, or space in mausoleum vault or crypt or columbarium niche by any cemetery authority, otherwise authorized to make such sales under chapter 452 of NRS, as amended, unless such sales also involve and include an agreement to supply merchandise or services within the scope of subsection 1.

(b) Bona fide prepaid agreements whereby a licensed cemetery authority is to furnish burial services to a person who has a medically diagnosed terminal illness and which agreement is entered into and fully performed by the cemetery authority within a period of 60 days of the date medically predicted for the demise of the beneficiary named in any such burial service agreement.

3. Sec. 3 : No change
4. Sec. 4 : Amended to read as follows:

Sec. 4. "Administrator" means the superintendent of banks.

5. Sec. 5 : Amended to read as follows:

Sec. 5. "Agent" means an individual authorized by a seller to offer, sell or solicit the purchase of a prepaid contract on behalf of the seller.

6. Sec. 6 : Amended to read as follows:

Sec. 6. "Buyer" means the purchaser of a prepaid contract.

7. Sec. 7, subsections 1 and 2: No change
8. Sec. 8 : No change
9. Sec. 9 : No change
10. Sec. 10 : No change
11. Sec. 11, subsections 1 and 2: No change
12. Sec. 12 : No change
13. Sec. 13 : No change
14. Sec. 14 : No change
15. Sec. 15 : No change
16. Sec. 16 : No change
17. Sec. 17 : Amended to read as follows:

Sec. 17. 1. No person may sell any prepaid contract or accept any funds under such a contract unless he holds a valid certificate of authority as a seller issued by the superintendent of banks, and such contracts and the sale thereof are in compliance with the provisions of this act.

2. (NO CHANGE)

NOTE: Word "superintendent" should be substituted for word "commissioner" appearing as follows: Page 3, lines 6, 13, 16-17, 30, 33, 44, 48; Page 4, lines 1, 3, 8, 13, 19, 21, 25, 34, 39, 42, 45, 48; Page 5, lines 1-2, 9, 41, 42; Page 6, lines 6, 8, 13, 17, 23, 28-29 and in line 21, words "of insurance" should be added after the word "commissioner"; Page 7, lines 4, 38, 44, 47; Page 8, lines 2, 5, 11, 13, 17, 21, 38.

18. Sec. 18, subsections 1 and 2 : No change  
 19. Sec. 19, subsections "2" and "3" should respectively be re-numbered subsections "3" and "4" and a new subsection "2" added after subsection "1", reading as follows:

Sec. 1. . . .

2. In lieu of posting the entire amount of the bond or deposit required under subsection 1, the superintendent may approve the posting of a bond or deposit in the amount of \$5,000 or a multiple thereof, not to exceed \$50,000, if he finds that the circumstances and status of the applicant's business does not immediately warrant the posting of the full amount of the bond or deposit for the purposes provided in subsection 3. If less than the full amount of the bond or deposit is posted by the applicant, the superintendent may require him to post an additional bond or deposit of \$5,000 or multiple thereof each following year until the required maximum of \$50,000 is met.

3. . . .

4. . . .

20. Sec. 20, subsections 1 and 2 : No change  
 21. Sec. 21, subsections 1 and 2 : No change  
 22. Sec. 22, subsections 1 and 2 : No change  
 23. Sec. 23, subsections 1 and 2 : No change  
 24. Sec. 24, subsections 1, 2, 3, 4 : No change  
 25. Sec. 25, subsections 1 and 2 : No change  
 26. Sec. 26, subsections 1 and 2 : No change  
 27. Sec. 27, subsections 1 and 2 : No change  
 28. Sec. 28 : No change  
 29. Sec. 29, subsection 1 (e) ONLY : Amended to read as follows:

. . . . .  
(e) Other reasonable and appropriate provisions as prescribed by the superintendent by decision relative to administrative matters, or in rule or regulation.

30. Sec. 30, subsections 1, 2, 3, 4, 5, 6 : No change  
 31. Sec. 31 : No change  
 32. Sec. 32 : No change  
 33. Sec. 33, subsections 1, 2, and 3 : No change

Subsection 4 : Amended to read as follows:

4. Not more than 75 percent of the earnings of such investments, including capital gains, as the same accrue and are received, may be disbursed by the trustee to the seller or his designee. The remainder of any such earnings shall be held by the trustee to establish a securities valuation reserve until such reserve equals 25 percent of the total trust liabilities. Thereafter, the trustee shall maintain the trust fund at 125 percent of such liabilities. Earnings in excess of the 125 percent of the total trust liabilities may be distributed at least annually.

34. Sec. 34 : No change  
 35. Sec. 35, subsections 1 and 2 : No change, EXCEPT that subsection 2 is amended to read:

2. If the buyer gives his consent in writing, the obligation to furnish merchandise and services under the contract may be assumed by a qualified performer serving the area to which the buyer has moved. In such case, the contract may continue in force if endorsed or otherwise modified by a written instrument to show the names and addresses of the new performers, proof of acceptance by them of such contract obligations and changes, if any, respecting the purchase price or other contract provisions. If the contract continues in force and the buyer is not in default thereunder, upon the demise of the contract beneficiary, all moneys paid on the contract shall be payable to the buyer's representative or estate or shall be transferred in payment and satisfaction of the buyer's obligation to the substituted performers, if any.

36. Sec. 36, subsections 1 and 2 : No change  
 37. Sec. 37, subsection 1, line 45 of page 7: Amend by substituting "April 1" for "March 1"

Subsection 2 : No change

Subsection 3: Amend to read as follows:

3. The superintendent shall from time to time, as he may deem necessary, and at least once every 3 years, examine the records and affairs of any seller or other person, firm, association, corporation in relation to any matter relevant to the financial affairs and transactions of the seller, at the expense of the seller being examined. Any such seller or person so being examined shall, upon request, produce or cause to be made available all records for such examination. The written report of such examinations, when completed, shall be filed in the office of the superintendent, and shall constitute a public record. The superintendent, or his designated representative, may at any time examine the records and affairs of any such seller or other person, whether in connection with a formal examination or not. All such examinations shall be made at the rate of up to \$100 per eight-hour day

for each examiner required, but not to exceed a total of \$500 for any regular examination or investigation, unless some irregularity is disclosed during the course of such examination warranting special or additional investigation or examination, in which case the person examined shall be obligated for any additional amount incurred therefor at the said rate of up to \$100 per eight-hour day for each examiner so employed.

38. Sec. 38. : Amended to read as follows:

Sec. 38. The superintendent shall promptly deposit with the state treasurer for credit to the banking division regulatory revolving fund, hereby established, all fees and charges collected by him under this chapter.

39. Sec. 39 : No change

40. Sec. 40 : Amended to read as follows:

Sec. 40. The following provisions of NRS, in addition to any other applicable law, shall be deemed to govern prepaid contracts as herein regulated and all persons connected therewith:

1. The provisions of chapter 233B (Administrative Procedure Act) of NRS generally as related to hearings before the superintendent, hearing procedures, witnesses, and appeals from the superintendent.

2. Generally, the provisions of Nevada insurance law, as well as other Nevada statutes, insofar as reasonably applicable hereto, relating to trade practices and frauds. The superintendent is authorized to promulgate rules and regulations relative to trade practices and frauds in relation to prepaid contracts, and all persons involved or concerned therewith, as he may determine to be necessary and proper.

3. On or before May 1 following the making of the annual report required herein, written report shall be made to the superintendent respecting any and all funds remaining unpaid and unclaimed for 7 years or more after such moneys became due and payable under any prepaid contract which has matured or terminated. The superintendent on the basis of such reports, shall cause appropriate notice of any such unclaimed funds to be published, and any such funds unclaimed after expiration of a reasonable period of time subsequent to such publication shall thereupon be paid over to the superintendent, at his request, for custody and administration thereof by the State for the benefit of those entitled to receive the same, or otherwise distributed or transferred as authorized in law, in a manner generally corresponding to the disposition of unclaimed funds pertaining to life or endowment insurance policies or annuit contracts which have matured or been terminated.

41. Sec. 41 : Amended to read as follows:

Sec. 41. Every license, which has been issued to any person to transact the business of issuing or selling burial contracts or certificates under the former provisions of this chapter shall expire on the effective date of this act and shall not be renewable.

42. Sec. 42 : No change

43. Sec. 43 : No change

44. Sec. 44 : No change

March 25, 1969  
 (After review of industry  
 proposed revision)

TO: The Honorable Marvin L. White, Chairman, Senate Commerce Committee, and Floyd R. Lamb, Emerson F. Titlow, Chic Hecht, Coe Swobe, Committee Members

FROM: John A. Porter, Deputy Attorney General (Dept. of Commerce)

SUBJECT: S.B. 144: Proposed amendments and revisions based on Meeting of March 19, 1969 with H. E. Burton, Industry Representative, and review of Industry's submittal of such revision and amendments under date of March 22, 1969.

NOTE: Except for the substantive difference in the rate or amount of commission which may be maximally authorized and charged as respects prepaid "cemetery merchandise and service contracts", general agreement between Industry and Department has been reached on all regulatory provisions. With the view of avoiding the extensive amendments to S.B. 144, entailed in repeating all the regulatory provisions of S.B. 97, the writer has already proposed that S.B. 144, merely by express reference therein to the regulatory provisions of S.B. 97, make prepaid cemetery merchandise and service contracts similarly subject to all regulatory provisions therein. Industry, however, adheres to the view that "cemetery merchandise and service" prepaid contracts are substantively different from funeral or burial prepaid contracts and any regulation thereof should be provided for in the law applicable to cemeteries, namely, chapter 452 of NRS, as proposed to be amended by S.B. 144.

References are to March 22, 1969 Industry version of an amended S.B. 144 unless otherwise noted.

1. Section 1 : Except for minor typographical corrections, NO CHANGE in subsections 1, 2, 3.
2. Sec. 2 : NO CHANGE
3. Sec. 3 : NRS 452.130 is amended to read as follows:

452.130 In addition to the requirements of NRS 452.120, any endowment care cemetery hereafter established shall also have deposited in its endowment care fund the additional sum of \$25,000, or, if and when approved by the superintendent, have deposited the sum as required under NRS 452.250, before disposing (of any plot or making any sale thereof.) or making a sale of any space enumerated in NRS 452.120.

4. Sec. 4, subsections 1 and 2: NO CHANGE, except for minor typographical corrections.
5. Sec. 5, subsections 1 and 2: NO CHANGE, except for minor typographical corrections.
6. Sec. 6, subsections 1, 2, and 3: NO CHANGE, except for minor typographical corrections.
- Subsection 4 : Amend to read as follows:

4. Any such examination shall be made by the superintendent, from time to time as he may deem necessary, and at least once every 3 years, at the expense of the person or cemetery authority examined, payable at the rate of not more than \$100 per eight-hour day for each examiner or investigator, unless some irregularity is disclosed during the course of such examination warranting special or additional investigation or examination, in which case the person or cemetery authority shall be obligated for any additional amount incurred therefor at the rate of no more than \$100 per eight-hour day for each examiner so employed.

7. Sec. 7 : Amend to read as follows:

Sec. 7. NRS 452.190 is hereby repealed.

8. Sec. 8 : NO CHANGE, except for minor typographical corrections.
9. Sec. 9, subsections 1, 2, and 3: NO SUBSTANTIVE CHANGE; some minor corrections.
10. Sec. 10, subsections 1, 2, 3 : NO CHANGE, except for some minor typographical corrections.
11. Sec. 11 : NO CHANGE, except for minor typographical corrections.
12. Sec. 12 : Amended to read as follows:

Sec. 12. Chapter 452 of NRS is hereby amended by adding thereto the provisions set forth in sections 13 to 57, inclusive, of this act.

13. Sec. 13 : Amended to read as follows:

Sec. 13. As used in this chapter, unless the context otherwise requires, the words and terms, as defined in sections 14 to 26, inclusive, shall have the meanings ascribed to them in such sections of this act.

14. Sec. 14 : Amended to read as follows: (Present Sec. 14 is deleted, Sec. 15 re-numbered)

Sec. 14. "Agent" means an individual authorized by a seller to offer, sell or solicit the purchase of a prepaid contract on behalf of the seller.

15. Present Sec. 16 is re-numbered Sec. 15: NO CHANGE OTHERWISE.

16. Present Sec. 17 is re-numbered Sec. 16 and amended to read as follows: (Present Sec. 27 to be deleted)

Sec. 16. As herein used:

1. "Cemetery authority" means any individual, partnership, corporation, association, or cemetery district owning or controlling cemetery lands or property and engaged in the operation of a cemetery business in this State.

2. "Cemetery merchandise" means those items normally supplied by a cemetery authority under a pre-need sales agreement, including urns, memorials, scrolls, vases, foundations, bases, and other similar merchandise, but does not include the sale of interment, entombment, or inurnment space.

3. "Cemetery services" means those services normally performed by a cemetery authority under a pre-need sales agreement for the opening and closing of graves, crypts, and niches, and other services in relation thereto.

17. Present Sec. 18 is re-numbered Sec. 17: NO CHANGE OTHERWISE.

18. Present Sec. 19 is re-numbered Sec. 18: NO CHANGE OTHERWISE.

19. Present Sec. 20 is re-numbered Sec. 19: NO CHANGE OTHERWISE.

20. Present Sec. 21.1 and 21.2 are respectively re-numbered Sec. 20, subsections 1 and 2:  
NO CHANGE OTHERWISE.

21. Present Sec. 22 is re-numbered Sec. 21: NO CHANGE OTHERWISE.

22. Present Sec. 23 is re-numbered Sec. 22: NO CHANGE OTHERWISE.

23. Present Sec. 24 is re-numbered Sec. 23: NO CHANGE OTHERWISE.

24. Sec. 24 shall read as follows:

Sec. 24. "Superintendent" means the superintendent of banks.

25. Present Sec. 26 is re-numbered Sec. 25 and amended to read as follows:

Sec. 25. "Trustee" means any federally-insured state or national bank, trust company or savings and loan association authorized to transact such business in the State of Nevada, and designated as the trustee of the trust fund in a prepaid contract.

26. Present Sec. 25 is re-numbered Sec. 26: NO CHANGE OTHERWISE.

27. Present Sec. 27 is deleted with substance transposed to amended Sec. 16.  
Present Sec. 28 is re-numbered Sec. 27.

28. Present Sec. 29, subsections 1 and 2 are re-numbered Sec. 28, subsections 1 and 2, and specifically ONLY amended as follows:

1. . . . .

(a) Provides a bond in favor of the State of Nevada in an amount which shall be sufficient to cover all sales commissions paid and received from all buyers, as established in filed reports to be prescribed by the superintendent, pending construction or completion of the structure; and

(b) Deposits all net proceeds, remaining after deduction and payment of sales commissions collected on sales of crypts or niches, into a trust fund for the sole purpose of the construction and completion of the projected or advertised mausoleum or columbarium; and either

(1) . . . . .

(2) . . . . .

2. . . . .

29. Present Sec. 30, subsections 1 and 2 are re-numbered Sec. 29, subsections 1 and 2: NO CHANGE OTHERWISE, except for minor typographical corrections

30. Present Sec. 31, subsections 1 and 2 are re-numbered Sec. 30, subsections 1 and 2, and subsection 1 is amended to read as follows:

1. It is unlawful for any cemetery authority, or any person on behalf of a cemetery authority, to offer or sell any pre-need cemetery merchandise or services unless such cemetery authority has first submitted satisfactory evidence that there has been established and is then in effect a cemetery merchandise and service trust fund for the deposit of trust funds paid and received on pre-need sales contracts, and also been issued a cemetery certificate of authority for such purpose by the superintendent of banks.

2. . . . .

31. Present Sec. 32 is re-numbered Sec. 31 : NO CHANGE OTHERWISE except for minor typographical corrections.
32. Present Sec. 33, subsections 1 and 2 are re-numbered Sec. 32, subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
33. Present Sec. 34, subsections 1, 2, 3 and 4 are re-numbered Sec. 33, subsections 1, 2, 3 and 4: NO CHANGE OTHERWISE except for minor typographical corrections.
34. Present Sec. 35, subsections 1 and 2 are re-numbered Sec. 34, subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
35. Present Sec. 36, subsections 1 and 2 are re-numbered Sec. 35, subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
36. Present Sec. 37, subsections 1 and 2 are re-numbered Sec. 36, subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
37. Present Sec. 38, subsections 1 and 2 are re-numbered Sec. 37, subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
38. Present Sec. 39, subsections 1, 2, 3 and 4 are re-numbered Sec. 38, subsections 1, 2, 3 and 4; NO CHANGE OTHERWISE except for minor typographical corrections.
39. Present Sec. 40, subsections 1 and 2 are re-numbered Sec. 39, subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
40. Present Sec. 41 is re-numbered Sec. 40 and subsection 2 is amended to read as follows:

1. . . .

2. The superintendent shall deny the application for an agent's license if he finds that the applicant does not meet the requirements of sections 38 and 39 of this act. If the application for licensure is denied, the superintendent shall notify the applicant and the seller whom the agent was to represent in writing setting forth the reasons for such denial.

41. Present Sec. 42, subsections 1 and 2 are renumbered Sec. 41, subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
42. Present Sec. 43 is re-numbered Sec. 42 and amended to read as follows:

Sec. 42. The superintendent may proceed against an agent's license in the same manner as provided in section 36 of this act for proceedings against a seller's certificate of authority.

43. Present Sec. 44 is omitted as redundant, and covered in Sec. 30 subsection 1.
- Present Sec. 45, subsections 1 and 2 are re-numbered as Sec. 43 subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.
44. Present Sec. 46 subsections 1 and 2<sup>3,4,5,6</sup> are re-numbered Sec. 44, subsections 1 and 2<sup>3,4,5,6</sup>: NO CHANGE OTHERWISE except for minor typographical corrections.
45. Present Sec. 47 is re-numbered Sec. 45 and amended to read as follows:

Sec. 45. The seller may make available to buyers under deferred-payment, prepaid contracts, credit life insurance on a form and terms filed with and approved by the commissioner of insurance. The buyer must be provided with a certificate of such credit insurance as otherwise required by the superintendent.

46. Present Sec. 48 is re-numbered Sec. 46 and amended to read as follows:

Sec. 46. 1. Upon entering into a contract for cemetery merchandise or services, the cemetery authority shall deposit into an interim trust account in an authorized bank or other financial institution within the State of Nevada not less than 75 percent of the face amounts of such sales contracts, deducting only sales commissions actually paid on such contracts, or, if such contracts are payable on the installment basis, only deducting therefrom only the pro-rated share of sales commissions payable on the installment received on account from the buyer or purchaser.

2. Within 30 days following the end of the month in which any payment is made and received on any and all such contracts, the cemetery authority shall transfer to its cemetery merchandise and service trust fund (established to such agreement as was approved by the superintendent) the aggregate of all such trust funds temporarily on deposit in the interim trust account, for the purpose of satisfying the foregoing requirement that at least 75 percent of all contract sales receipts shall be deposited in the cemetery merchandise and service trust fund.

3. . . .

4. . . .

5. . . .

6. OMIT HERE; MADE PART OF SEC. 49 HEREIN.

47. Present Sec. 49 is re-numbered Sec. 47 and amended to read as follows:

Sec. 47. 1. . . .

2. Upon receiving a certified copy of a death certificate, the trustee of the cemetery merchandise and service trust fund shall pay all sums on deposit for that contract to the cemetery authority.

3. The trustee of such trust funds shall not make payments out of such funds unless he receives a death certificate as provided in subsection 2. In paying out funds in such circumstances, the trustee may rely upon all such death certificates presented to him which appear valid on their face and he shall not be liable to any person for paying out funds upon such reliance.

48. Present Sec. 50 is re-numbered as Sec. 48 ? NO CHANGE except for minor typographical corrections.

49. Present Sec. 51 is re-numbered Sec. 49 and amended to read as follows:

Sec. 49. 1. . . .

2. . . .

ADD

3. The cemetery authority shall include in the pre-need sales contracts a provision substantially stating: "If the purchaser defaults in making any payment under this contract, the cemetery authority, at its election, may terminate the same and shall be entitled to retain as liquidated damages not more than 25 percent of the total contract price paid. The balance remaining, if any, shall be refunded to the purchaser."

50. Present Sec. 52, subsections 1 and 2 are re-numbered Sec. 50, subsections 1 and 2: NO CHANGE OTHERWISE, except for minor typographical corrections.

51. Present Sec. 53, subsections 1 and 2 are re-numbered Sec. 51 subsections 1 and 2: NO CHANGE OTHERWISE except for minor typographical corrections.

52. Present Sec. 54 is re-numbered Sec. 52: NO CHANGE OTHERWISE except for minor typographical corrections.

53. Present Sec. 55 is re-numbered Sec. 53: NO CHANGE OTHERWISE except for minor typographical corrections.

54. Present Sec. 56 subsections 1, 2, and 3 are re-numbered Sec. 54, subsections 1, 2, and 3: NO CHANGE OTHERWISE except for minor typographical corrections.

55. Present Sec. 57 is re-numbered Sec. 55: NO CHANGE OTHERWISE except for minor typographical corrections.

56. Present Sec. 58 is re-numbered Sec. 56: NO CHANGE OTHERWISE except for minor typographical corrections.

57. Present Sec. 59 is re-numbered Sec. 57: NO CHANGE OTHERWISE except for minor typographical corrections.

58. Present Sec. 60 is re-numbered Sec. 58: NO CHANGE OTHERWISE except for minor typographical corrections.

59. Present Sec. 61 is re-numbered Sec. 59: NO CHANGE OTHERWISE except for minor typographical corrections.

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