Chairman Jeffrey
Vice Chairman Robinson
Assemblyman Bennett
Assemblyman Bremner
Assemblyman Chaney
Assemblyman Horn
Assemblyman Sena
Assemblyman FitzPatrick
Assemblyman Rusk
Assemblyman Tanner
Assemblyman Weise

Chairman Jeffrey called the meeting to order at 2:40 p.m.

AB 625: John Winn, Sales Director for Bunker Mortuary in Las Vegas, was first to speak in favor of the bill and stated that he felt some of the existing provisions in the law relating to pre-need plans were inequitable and that there had been a growing discontentment expressed by the public in that regard. He stated that though the pre-need plans are basically good, there is such a transient factor in the population of Nevada at this time that he felt the program should be changed. He stated that due to the fact that a person cannot cancel a policy without being penalized 25% of the contract amount, he felt the people were not getting treated fairly. He stated that the requirement in the bill that these plans be 100% funded, rather than the 75% funding currently, would be in the best interest of the public. Mr. Jeffrey asked why the 25% has been withheld in the past on the refunds. Mr. Winn stated that it was withheld because it was allocated to overhead expenses; administration, commissions and other contract costs. In answer to a question from Mr. Bennett, he stated that if a policy is paid up and the beneficiary dies, 100% of the value of the policy is paid, even if the person dies out-of-state. He also stated that the policies are not transferable; they must be used for the individual for whom it was purchased. In summation Mr. Winn stated that it was their position that the administration and commissions fees should be paid by the company selling the service and not from the deposits of the purchaser.

First to speak in opposition to the bill was H. E. Burton, Palm Mortuary and Memorial Plans, who distributed to the committee a synopsis of their objections to the proposed bill and excerpts from the current law, all of which are attached and marked as Exhibit "A".

In answer to a question from Mr. Jeffrey, Mr. Burton stated that there were two methods of coverage in this area: 1) the trust fund pre-need approach which freezes the cost of the service at the level on the date of the original purchase and which could be paid in monthly installment with no interest charges; and 2) on an insurance plan basis. Plan 1 generally bought by older persons who would have to pay a higher insurance rate and Plan 2 by younger persons who would have a much lower premium and a longer time to pay.

Mr. Burton stated that they currently invest their monies in the trust fund in types of investments which are guaranteed to be liquid and that are extremely secure and which show a retained

level of over 125% of the base fund. He also pointed out that when they determined their total contingent liability relative to those plans sold that they do so on an inflated basis so that they are reflecting a true liability based on current costs of service. He told the committee that the main inducement for a person to buy a pre-need plan of this type is that the price is frozen and that they also give a cash discout, if you pay the entire cost at the time of the purchase.

Wayne Kern, spoke next in support of the bill and his remarks are attached and marked as Exhibit "B". Mr. Jeffrey asked Mr. Kern if the choice, as the law is currently written, is between freezing the costs and knowing that, if you cancel the program, you lose your first 25%. Mr. Kern stated that that was the choice currently.

Chas. Knauss, Palm Mortuary, spoke next in opposition to the bill and his remarks are attached and marked as Exhibit "C". Mr. Tanner asked why someone would want to go to a 100% funded program and he stated that he did not know, but that he thought the reason Bunker's group was proposing this plan was that they didn't want Palm to stay in business and that the 75% plan had proven, over the years, to be very viable to Palm. He stated further that the currently law had enabled them in the past to become properly bonded and that it had been effectively regulated by the state. In answer to a question from Mr. FitzPatrick, Mr. Knauss stated that if they are informed that someone is going to be moving to a new area, they contact the funeral director in that area and try to arrange for the people who have paid up plans get 100% of their policy value. He also stated that they are audited by the Insurance Commissioner every three years at the expense of the plan and that, in addition, the bank's trust department sends in a quarterly report of their accounts to the insurance commissioner's office.

In answer to a question from Dr. Robinson, Mr. Knauss stated that they do have about a 30% cancellation rate during the first 30 days after the policies are written, but that after that point they have a rather low cancellation rate generally. He stated that the cost of these plans currently is about $1,300 and that includes the casket, preparation of the remains and the service itself and all pertinent costs such as administration and commissions.

In answer to a question from Mr. Horn, he stated that if this bill were to pass, they would probably no longer be able to do business in Nevada. Mr. Tanner explained the investment realities of these types of funded plans to the committee in general. Mr. Knauss stated that 95% of their pre-need plans are sold on the installment basis. He also stated to the committee that they would not have sufficient liquid capital from the profits of their company with which to pay their commissions and overhead if this bill were enacted into law because they currently use the profits from their investments of the trust fund to do this. He stated that their return on their investments so far has been adequate to cover their expenses.

Joseph W. Spalding, Spalding Mortuary in California and Nevada, stated that he was in favor of the bill because he has sold pre-need plans in California and in Nevada and the families in California, if they cancel their plan, get back the full 100%, while the families in Nevada only received 75% back on cancellation. He stated that the reason he is able to return the 100% in California is because he doesn't hire additional sales people to sell pre-need plans, he does this through his regular offices with staff who are on salary.

John Lawton, Sierra Memorial Services, stated that he had been in business since 1965 and had relationships with both Bunker and Palm Mortuaries and that he believes that the reason Bunker is now trying to pass this bill is so that the insurance company Bunker is working with will sell more insurance policies. He stated that he currently works with his customers and other mortuaries in order to make sure that his customers are taken care of. He stated that he felt the only ones to be really hurt by passage of this bill would be the public.

B. J. Craft, Paradise Valley Chapel stated that he is in favor of the bill. He stated that his company now does offer a 100% pre-need plan and that they are able to do so because they use existing staff to do the work.

Ed McCaffrey, Walton's Mortuary and secretary-treasurer for the State Board of Morticians and Embalmers, stated that he had been involved with pre-need since 1962. He stated that Mr. Bunker had been instrumental in passing the existing law around 1961 and that he felt the existing law was very effective. He added that in the past five years, the Board had only received one complaint regarding a pre-need plan. He stated that he felt it probably depended on your outlook as to what was in the best interest of the public in this area.

Berkeley Bunker spoke next in support of the bill and his remarks are in text form and attached and marked as Exhibit "D". He also gave to the committee some statistics on the number of cancellations , which ranged from 11% to 50% on these plans, and also told them about two cases where the people who cancelled their plans had gotten considerably less back than they had felt was due or equitable. He stated that though he was in favor of the law when in was enacted, he felt the longer the law stays on the books the worse it gets for the public. That concluded testimony on this bill.

AB 626: Berkeley Bunker was first to speak in favor of this bill and stated that they had asked for it to be introduced. He said that this change would make the qualifications for apprenticing as an embalmer the same as they are in California and Arizona. He stated that embalming is a trade and not a profession and that doing good, capable work in this field does not require that one go to college. He stated that currently a boy could go to California, work 5 years in embalming, become licensed in California and then come back a be licensed in Nevada through reciprocity and

never go to college. He stated that he didn't feel that the law was fair to our young people who wanted to go into this field.

Ed McCaffrey, Nevada State Board of Morticians and Embalmers, said that in Nevada a funeral home must have a licensed embalmer as its manager and these people have a great responsibility to the people they deal with and he felt that the maturation process which a person goes through in college is very beneficial to them and helps them deal with the public in a more professional manner. He discussed with the committee why there are no prerequisites or mandatory courses to be taken in college if it is to be required for licensing in this specific field. He also pointed out that the law in California does not require that the manager of the funeral home be a licensed embalmer.

B.J. Craft stated that he felt this change in the law would be good because it would enhance the apprentice program and would not limit it to just college students. He stated that he had been apprenticed into the embalming profession and that he felt that other youngsters should be able to have the same privilege.

Dallas Bossard, Palm Mortuaries, stated that deletion of the educational requirement can't help the profession and that those two years of college do develop the person so that they know more about what they want to do and prepares them better for doing whatever that might be. He stated that he also felt passage of this bill would allow unscrupulous owners of homes to use young people, at low pay, and then let them go and use others. That concluded testimony on this bill.

AB 752: Russell H. Pearson, J. C. Penney Co. Inc., was first to address the committee on this bill and spoke in opposition to it. His remarks are attached and marked as Exhibit "E".

Mr. FitzPatrick noted at the conclusion of Mr. Pearson's remarks that the intent of this bill was to protect the public from unscrupulous insurance sales people from out of state who sell policies and then aren't available to service them. This bill would at least provide that purchaser with someone to take his problem to within the state.

SB 327: Barbara Bailey, Nevada Trial Lawyers Association, spoke first and stated that this bill was the result of the Insurance Division asking for the law regarding insurance relative to manufacturer's product liability to be simplified. She submitted to the committee a review of a similar law from Kansas and also laws of similar content from other states. That report and those laws are attached and marked as Exhibit "F".

COMMITTEE ACTION:

SJR 17: After a brief discussion of this Resolution, Mr. Bennett moved to DO PASS, Mr. Chaney seconded the motion and it carried with Mr. Sena, Mr. Jeffrey, Mr. Horn, Mr. Bennett, Mr. Chaney and

Mr. FitzPatrick voting in favor of the motion.

There being no further business to come before the committee, the meeting was adjourned at 4:50 p.m.

Respectfully submitted,

Linda D. Chandler
Secretary

(1)

Date of Hearing 4-25-79

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
DALLAS BOSSARD	PALM MORT. & MEM. PARK HENDERSON NEV.	X	
CHAS. KRAUSS	PALM MORTUARY & MEMORIAL PLANS	X	
[illegible]	Palm Memorial Estate Plans	X	
Elayne Kern	S75 Industries and Bunker's Eden Vale	X	
Joseph W. Spalding	Spalding Mortuary	X	
Berkeley L Bunker	Bunker Mortuary	X	
JOHN WINN	BUNKER MORTUARY	X	
JOHN LAWTON	SIERRA MEMORIAL SERVICES	X	
RUSSELL H. PEARSON	J.C. PENNEY CO. INC.		X
KEN KRAUSS	Palm Mortuary - Las Vegas		X
[illegible]	Palm Mortuary	X	
ROBT. SIMMONS	PALM MORTUARY	X	
Jerry Woodbury	" "		✓
T.F. Connelly	Alliance of American Insurers		✓
Dave Carbon	Insurance Division		✓
Bob Evans	Insurance Division		✓
Dick Garrod	Farmers Ins Group	✓	
VIRGIL ANDERSON	AAA		✓
J.R. LAMAY	LAMAY COMPANY		✓
Al Powers	Realtor		✓
R. Wyckoff	Ross Burke & Knobel Mort		✓
Ed McCaffrey	Walton's & Nev State Bd of Funeral Director	X	
Bob Spencer	Walton's		✓
Vic Steyner	WALTONS & PALM		✓

Date of Hearing 4-25-79

(2)

ASSEMBLY COMMERCE COMMITTEE

GUEST LIST

NAME (Please print)	REPRESENTING (organization)	WISH TO SPEAK Yes	No.
DANE BRADLEY	WALTONS & PALM		X
Helen Waite	Waltons & Palm		X
Robert C. Golightly	Waltons & Palm		X
FRANK CARLSON	Waltons & Palm		X
[illegible]	Waltons & Palm		X
Ed HEGARD	WALTONS & PALM		X
DAVE BUNGTON	NEV. STATE ASSOC. of Life Underwriters	#752	
[illegible]	Nevada Insurance Division	#752	
BJ Craft	PARADISE VALLEY CHAPEL		

TO: The Honorable Members of the Commerce Committee of the Nevada Assembly

RE: A.B. 625

The hearing on the above bill is scheduled for Wednesday, April 18, 1979.

Those whose names and companies appear below vehemently oppose this bill.

1) First of all, our present "Pre-Need Funeral Law 689.015--689.425" is in the best interest of the public without modification.

This law, in its' present form, was enacted by the 1971 legislature with 100% affirmative vote in the Assembly and with only one negative vote in the Senate.

The funeral homes with their pre-need departments have operated under this statute for eight years with full acceptance by the purchasing public. The fact that over 25,000 people in Nevada have taken advantage of "pre-need funerals" attests to the validity of this claim.

2) The present bill 689 already has the safeguards for the consumer as evidenced especially by 689.185, 689.315 and 689.325. 689.355, paragraph two guarantees <u>all</u> monies paid on the contract.

3) The framework of the present bill permits the funeral homes to freeze the cost of the funeral at contract price.

A.B. 625 would not only <u>NOT</u> permit the funeral home to freeze the cost, it would, in most cases, completely destroy the framework which would permit the general public to pre-need their funerals.

4) Federal Trade Commission report by Jack Kahn of July, 1977-page 49. (Please note the summary in this report which is attached hereto.)

5) Since Jack Kahn, presiding hearing officer for the F.T.C. recommended that no laws be instituted which would restrict the privilege of the consuming public to take care of their own funeral arrangements before actual need, many industry members in other states have requested Nevada's

EXHIBIT A

pre-need laws; for it is known nationwide that our law works in the fulfillment of Mr. Kahn's recommendation.

6) We, therefore, request the Assembly Commerce Committee recommend a DO NOT PASS on Bill 625.

Burns Mortuary and Memorial Park-Elko-Bob Burns
Palm Mortuary and Memorial Park-Henderson-Dallas Bossard
Palm Mortuaries and Memorial Parks-Las Vegas-Charles Knauss
Jerry Woodbury
Don DeVoe
Palm Memorial Estate Plans, Inc.-Las Vegas-H. E. Burton
Sierra Memorial Plans-Reno-John Lawton
Valley View Mortuary and Memorial Park-Gene Beck, Manager
Walton Funeral Homes-Reno-Ed McCaffery
Sparks-Ed McCaffery
Carson City-Ed McCaffery
Walton Estate Planning-Reno-Vic Steyrer, Manager

EXHIBIT A

instance of fraud or non-performance the cause of defalcation was not the percentage deposited under state law, but rather that funds were never deposited at all, a risk not anticipated by the 100 percent trust fund law. In states that require a 100 percent deposit and a 100 percent refund upon the changing of the mind of the consumer, there are few administrative procedures in operation such as licensing or auditing which would insure compliance with this law. As a result, the state laws as presently written inhibit the honest vendor and do not control the dishonest.

If a 100 percent requirement is excessive, what then is an appropriate actuarially based requirement? An official of the Comptroller of the State of Illinois made a study of the burial trust law in Illinois with a view toward new legislation in this area. 111/ As a part of that study, an actuarial analysis was prepared for the Illinois Cemetery Association by Risk Management Consultants, a technical service of Marsh & McLennan. 112/

The study indicates that the deposit of the current cost (not the sales price) of merchandise or services, assuming a 6 percent return and 6 percent inflation rate, would provide adequate funds to deliver such goods and services at any given time in the future. Results will vary as assumptions vary. The study, however, substantiates the position that a 100 percent deposit is not necessary as a requirement to guarantee delivery of promised funeral goods and services at a later date. Some states have already enacted laws requiring less than 100 percent with no apparent problems resulting from that aspect of these laws. 113/

Summary: The funeral consumer can avoid problems associated with at-need sales by making funeral arrangements in advance of need. His opportunity to do so is presently restricted by the 100 percent trust fund laws as well as the antisolicitation statutes. These restrictive laws have been sponsored by traditional (at-need) funeral industry members.

111/ See Prearrangement Interment Association of America, note 100 supra, at Part II, p. 15-17.

112/ Id. at Part II, Exhibit A.

113/ See Lawton, note 96 supra, at 6456-60, 6511.

2. The provisions of subsection 1 do not apply to bona fide prepaid agreements whereby a licensed mortuary or funeral home is to furnish funeral services to a person who has a medically diagnosed terminal illness and which agreement is entered into and fully performed by the authority on a date which is within a period of 60 days of the date medically predicted for the demise of such person.

(Added to NRS by 1971, 1394)

689.165 Certificate of authority, compliance with chapter required. No person may sell any prepaid contract or accept any funds under such contract unless:

1. He holds a valid certificate of authority as a seller issued by the administrator; and
2. The contract and the sale thereof are in compliance with the provisions of this chapter.

(Added to NRS by 1971, 1395)

689.175 Certificate of authority: Application and supporting documents; fee.

1. The proposed seller, or the appropriate corporate officer of the proposed seller, shall make application in writing to the administrator for a certificate of authority.
2. Such application shall contain:

(a) The proposed seller's name and address, and his occupations during the preceding 5 years;

(b) The name and address of the proposed trustee;

(c) The names and addresses of the proposed performers, specifying what particular services, supplies and equipment each performer is to furnish under the proposed prepaid contract; and

(d) Such other pertinent information as the administrator may reasonably require.

3. The application shall be accompanied by:

(a) The applicant's fingerprints on a form furnished by the administrator;

(b) A copy of the proposed trust agreement and a written statement signed by an authorized officer of the proposed trustee to the effect that the proposed trustee understands the nature of the proposed trust fund account and accepts it;

(c) A copy of each contract or understanding, existing or proposed, between the seller and performers relating to the proposed prepaid contract or items to be supplied under it;

(d) A copy of any other document relating to the proposed seller, trustee, trust, performer or prepaid contract, as may be required by the administrator; and

(e) A fee of $25, which is not refundable.

(Added to NRS by 1971, 1395)

689.185 Surety bond.

1. Prior to issuance of a certificate of authority, the seller shall post

EXHIBIT A 1454

with the administrator and thereafter maintain in force a bond in the principal sum of $50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities representing public obligations or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit shall at all times have a market value of not less than the amount of the bond required by the administrator.

2. In lieu of posting the entire amount of the bond or deposit required under subsection 1, the administrator may:

(a) Approve the posting of a bond or deposit in the amount of $5,000 or multiple thereof, not to exceed $50,000, if he finds that the circumstances and status of the applicant's business do not immediately warrant the posting of a bond or the full amount of the bond or deposit for the purposes provided in subsection 3.

(b) If less than the full amount of the bond or deposit is posted by the applicant, the administrator 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. The bond or deposit shall be held:

(a) For the benefit of buyers of prepaid funeral contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of moneys by the seller or his agents; or

(b) To satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the sum of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days' notice to the administrator and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of such cancellation.

4. The administrator:

(a) Shall release the bond or deposit after the seller has ceased doing business as such and the administrator is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held; or

(b) May reduce the bond or deposit in $5,000 increments if he finds that the circumstances and status of the applicant's business warrant such reduction.

(Added to NRS by 1971, 1395)

689.195 Certificate of authority: Issuance; denial.

1. If the administrator finds that the application is complete and the applicant otherwise qualifies under the provisions of this chapter, he shall issue a seller's certificate of authority to the applicant.

2. The administrator shall refuse to issue a certificate of authority to any applicant who does not comply with or otherwise meet the requirements of this chapter. Upon such refusal, the administrator shall give written notice thereof to the applicant, setting forth the reasons for such refusal.

(Added to NRS by 1971, 1396)

EXHIBIT A 1455

689.295 Prepaid contracts: Credit life insurance. 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 chief of the insurance division of the department of commerce. The buyer shall be provided with a certificate of such credit insurance by the seller or as otherwise required by the administrator.
(Added to NRS by 1971, 1398)

689.305 Prepaid contracts: Maximum sales commission. The sales commission on any prepaid contract shall not exceed 25 percent of the purchase price.
(Added to NRS by 1971, 1399)

689.315 Prepaid contracts: Trust fund, maintenance and administration.

1. The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with the administrator.

2. The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days following the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has first been deducted.

3. The trustee shall, with respect to such trust funds, exercise the judgment and care under the circumstances then prevailing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of such standard, and subject to any express provision or limitation contained in any particular trust instrument, a trustee is authorized to acquire and retain every kind of investment, specifically including, but not limited to, bonds, debentures, and other corporate obligations and stocks, preferred or common, which men of prudence, discretion and intelligence acquire or retain for their own account.

4. Except as otherwise provided in this chapter or the trust agreement approved in writing by the administrator or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust funds intact and unimpaired and shall make no other payment or disbursement of such trust funds.
(Added to NRS by 1971, 1399)

689.325 Prepaid contracts: Distributions to seller from trust fund; financial reports of trustee.

1. Not more than 75 percent of the earnings of such investments, including capital gains, as they 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.

upon written notice to the seller and trustee of the intent of the buyer or his estate or heirs to terminate the preneed contract and withdraw trust funds attributable to the buyer.

(Added to NRS by 1971, 1400)

689.355 Prepaid contracts: Termination by buyer.

1. Except as provided in subsection 2, if the buyer moves to another geographic area beyond the normal facilities of the seller and performers under the prepaid funeral contract, the contract shall be terminated upon the buyer's written notice to the seller and trustee of such removal and of his desire to terminate such contract. The trustee, as soon as reasonably possible after receipt of such notice, shall refund to the buyer all trust funds held to the buyer's account.

2. 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 transferred and paid to satisfy the buyer's obligation to the substituted performers, if any.

(Added to NRS by 1971, 1400)

689.365 Prepaid contracts: Termination on insolvency, other inability of seller to perform; distribution of trust funds.

1. An executory prepaid contract shall automatically terminate if the seller or any performer under the contract goes out of business, dies, becomes insolvent or bankrupt, makes an assignment for the benefit of creditors or is otherwise unable to fulfill the obligations under the contract unless, within 30 days following the going out of business, death, insolvency or bankruptcy of the seller, or within any extension of time granted by the administrator, such executory prepaid contracts are assigned to a holder of a valid certificate of authority and the holder agrees in writing to accept the liabilities under the contract and agrees to fulfill all obligations set forth therein.

2. Upon any such termination, the trust funds held by the trustee for the account of the buyer shall be distributed by the trustee to the buyer or performer assuming the outstanding contractual liabilities, as authorized by the administrator.

(Added to NRS by 1971, 1400)

689.375 Records of seller; examination by administrator.

1. Every seller shall keep:

(a) Accurate accounts, books and records of all transactions;

(b) Copies of all agreements and dates and amounts of payments made and accepted;

(c) The names and addresses of the contracting parties; and

(d) The persons for whose benefit such funds are accepted and the names of the depositories in which such funds are deposited.

2. The seller shall keep within this state, at the address shown upon the certificate of authority, complete records of all transactions made under his certificate of authority. Such records and the affairs of the seller

Testimony of Wayne Kern, General Counsel and secretary for IFS. IFS and Bunker are subsidiaries and support this bill with others. We do not believe, as many do, that what is good for Palm Mortuary ought to be good for the world. We believe, however, that what is good for the image and reputation of the funeral service industry is good for us.

I suppose also that the support of Bunders and others might also be viewed as sour grapes, if you are aware of the relative dollar value of trust sales of Palm when compared to the supporters of this bill (kind of a Palm against the world concept) and if we have accurate information on the probable outcome of a vote on this bill, if it were taken right now, Palm, like General Motors in the past, would carry the day. JURIS PRUDENCE - who's interest are you trying to protect?

In order to evaluate the appropriateness of this legislation, one really needs to attempt to step back to square one and try to decide what you might do absent any outside influence.

Presently one would have to agree that giving someone back their money for the purchase of something they didn't receive would be fair to all concerned. This bill does that and to that extent cures a defect in existing law.

If one wants to evaluate the bill on public policy grounds again you would have to conclude that it ought to be the public policy of this State that if someone gives (or pays) moeny to another <u>in trust</u> that public policy ought to require a return of those funds if the trust is revoked.

Without outside influence pro or con, and purely on the basis of

personal judgment one would really have to conlude that this bill is in the best interest of the consumer and ought to be recommended for passage.

With outside influence, however, personal judgment becomes a question of yes, it may be good consumer legislation, but do they really need it and will it destroy the sale of pre-need funeral trust in Nevada? Is the cure worse than the disease? You will no doubt hear testimony that that could be the result, the California experience, however, demonstrates that it is not ture. California has had a 100% trust fund law for years and sales flourish, with the cost guaranteed.

Not many quote the FTC with favor, but I can in regard to this law. Pre-need plans will not die in Nevada if this bill passes. In fact, of the 41 states with pre-need trust requirements, 31 of those require 100% to be deposited, 2 have 95% and 2 have 90%.

I am likewise confident that you have heard that there must be funds available to pay the sales commissions up front, certainly it is helpful, but it is not mandatory, no doubt the lack of the 25% will hurt cash flow temporarily, but this bill really only creates a timing difference on when the income is received. There is not one compelling public policy reason why the consumer ought to run the risk of a 25% loss on their deposit for the benefit of the Seller. Granted the risk primarily runs only in the event of a cancellation, but it should not exist at all. Particularly so when you consider that the ultimate beneficiary of the pre-need trust is the mortuary that provides the service. Under this bill, the mortuary will get the income and the corpus ultimately, it is fair, it is reasonable, if you must compromise

to secure passage take a look at Title 16 Art. 548(b) in Texas, it is 90% law that requires fund growth to 100%, it is tougher than this proposal to the extent that all income reamins in trust until the death of the purchaser, but the 10% can be withheld out of each payment until 10% of the purchase price is withheld. Nothing would prevent guarantee of funeral price.

Let me close by asking you to consider this as vote on this bill--

Whose interest am I trying to protect:

If it is the people of Nevada, and I am sure it is, then I am confident that you will vote yes on recommending this bill out of committee, with a do pass recommendation.

In the bright light of such consideration, special interests must fail.

PRE-NEED FUNERAL PLANNING TO TAKE CARE OF THEIR FINAL OBLIGATION DURING HIS OR HER PRODUCTIVE YEARS.

PRE-NEED FUNERAL PLANNING IS PROVEN. OUR FIRM HAS BEEN SERVING THESE PLANS FOR NEARLY 20 YEARS. IT ALLOWS THE CONSUMER TO TAKE CARE OF THEIR FINAL OBLIGATION DURING THE PRODUCRIVE TIME OF THEIR LIVES, AND THE CONSUMER IS PROTECTED THROUGH OUR PRESENT, GOOD PRE-NEED LAW.

ALL PRE-NEED COMPANIES ARE BONDED, LICENSED AND UNDER THE REGULATION AND CONTROL OF THE NEVADA STATE INSURANCE DIVISION. PRE-NEED FUNDS ARE HELD AND CONTROLLED BY VARIOUS TRUST DEPARTMENTS OF FINANCIAL INSTITUTIONS IN THE STATE OF NEVADA.

IT APPEARS STRANGE AND MIND-BOGGLING THAT AFTER MR. BUNKER HAD FOUGHT FOR OUR PRESENT LAW FOR YEARS AND HAD BEEN IN THE PRE-NEED BUSINESS FOR APPROXIMATELY 15 YEARS AND SOLD THOUSANDS OF PRE-NEED FUNERAL PLANS THAT SINCE HE HAS SOLD OUT HIS BUSINESS IS UP HERE TRYING TO LEGISLATE PRE-NEED COMPANIES OUT OF BUSINESS.

OVER THE YEARS AS MR. BUNKER SUPPORTED OUR PRESENT LAW WHILE HE WAS IN BUSINESS, HE PERSONALLY VEHEMENTLY OPPOSED LEGISLATION SUCH AS A.B. 625. I PERSONALLY MADE MANY TRIPS WITH HIM TO MEET WITH THE STATE INSURANCE DEPARTMENT AND LEGISLATORS TO FORMULATE OUR PRESENT LAW WHICH WAS ENACTED IN 1971.

THERE IS NO WAY THAT A PRE-NEED COMPANY CAN OPERATE UNDER THIS PROPOSED LEGISLATION A.B. 625 ANY MORE THAN REQUIRING INSURANCE COMPANIES TO TRUST ALL PREMIUM MONIES COLLECTED AND THIS WOULD CERTAINLY BE TO THE DETRIMENT OF THE PURCHASING PUBLIC. THIS DEVASTATING LEGISLATION IS NOT BEING SPONSORED BY A MAJORITY OF THE INDUSTRY; THE INDUSTRY DOES NOT WANT THIS.

I KNOW THAT YOU GENTLEMEN ALL REALIZE THAT THERE ARE COMMISSIONS INVOLVED IN SELLING THESE PLANS AS WELL AS INSURANCE PLANS. EVEN THOUGH COMMISSIONS ARE PAID, THE PURCHASER, UPON

DEATH, RECEIVES THE FULL AMOUNT OF HIS PURCHASE INCLUDING THE AMOUNT THAT WAS PAID OUT FOR COMMISSIONS AND THE PRICE OF THE SERVICE IS FROZEN.

DURING THE NEARLY 20 YEARS SINCE OUR PRE-NEED PLANS HAVE BEEN SOLD, OUR FIRM HAS NEVER ONCE FAILED TO HONOR AND PERFORM ANY PRE-NEED CONTRACTS AS THEY WERE SOLD TO THE CONSUMER.

IT IS QUITE OBVIOUS THAT SOME UNSCRUPULOUS FUNERAL DIRECTORS, OF WHICH SOME COULD BE PRESENT, DO NOT WANT PEOPLE TO PRE-PURCHASE THEIR FUNERAL SERVICES BECAUSE THEIR DECISIONS AND REASONING COME FROM THE HEAD AND NOT FROM THE HEART. THESE FUNERAL DIRECTORS PREFER TO DEAL WITH THE CONSUMER DURING BEREAVEMENT WHEN USUALLY THEY WILL OVERSPEND.

MR. BUNKER AND HIS ASSOCIATES WERE ONE OF THE PIONEERS IN THE PRE-NEED FUNERAL INDUSTRY IN THE STATE OF NEVADA, AND THEY SOLD THOUSANDS OF THESE PLANS WHILE HE WAS IN BUSINESS. NOW HE IS HERE STATING THAT THE WHOLE THING IS A SCAM AND UNWORKABLE.

INTERNATIONAL FUNERAL SERVICES, WHO PURCHASED BUNKER BROTHERS ~~AND~~ MORTUARY AND FUNERAL PLANS, HAS HAD DIFFICULTY IN COMPETING AGAINST US IN THE PRE-NEED FIELD. IF THEY ARE UNABLE OR UNWILLING TO SERVICE THESE CONTRACTS WHICH MR. BUNKER OR HIS ASSOCIATES HAD SOLD DURING HIS TENURE IN BUSINESS AS WE HAVE FOR NEARLY 20 YEARS, OUR COMPANY WOULD BE PLEASED TO HAVE THOSE TRUST ACCOUNTS ASSIGNED TO US, AND WE WOULD BE ~~VERY~~ WILLING TO SERVICE THOSE CONTRACTS.

GENTLEMEN, I KNOW THAT MOST OF YOU REALIZE THAT THE FEDERAL TRADE COMMISSION HAS BEEN INVESTIGATING FUNERAL PRACTICES.

THIS IS THEIR SUMMARY IN REFERENCE TO PRE-NEED FUNERAL PLANNING: A quote

> "The funeral consumer can avoid problems associated with at-need sales by making funeral arrangements in advance of need. His opportunity to do so is presently restricted by the 100 percent trust fund laws as well as the antisolicitation statutes. These restrictive laws have been sponsored by traditional (at-need) funeral industry members."

I URGE YOU NOT TO PASS THIS BILL A.B. 625. I THANK YOU FOR YOUR CONSIDERATION.

D

Mr. Chairman and Members of the Committee:

Having been a member of the Assembly during two sessions in the dim distant past. I have some appreciation of the demands on your time and attention.

I am here with my associates in the Funeral Industry to strongly endorse and urge the passage of A.B.625. This legislation has to do with the sale of Pre-Need Funerals.

The present Nevada law provides for the sales force of Pre-Need Funerals to withhold the first 25% of all Pre-Need Sales for salesmen's Commission & Accounting costs. A case in point being if an individual purchased a $1500.00 funeral Pre-Nee, the first 25% or $375.00 would go to the sales organization. The balance of 75% of the $1500.00 or $1125.00 would be placed in trust to the credit of the purchaser. Now there just isn't 25% profit in a funeral sale. It is true that the interest on the trust or Corpus is supposed to make up the difference of the 25% of $375.00, but everything is long term and is at best questionable. There is however another problem and that is the income from the Trust must also make up the national rate of inflation which is and has been and will continue to be about 7% to 9%.

If an individual expires, dies, and has a fully paid up trust, he or she has $1125.00 cash dollars to pay for a $1500.00 funeral. Furthermore, if an individual through hardships, loss of employment, sickness or moves out of state and wishes to withdraw the monies they have in trust, they lose the first 25% and only receive $1125.00 of the $1500.00 they paid in. Three-Hundred Seventy-Five dollars of their money is lost to them. It is true this is written in to the sales agreement, but the individual purchaser never understands this. The sales agreement is deceptive and ambiguous

The Mortuary or Funeral Home has $1125.00 cash taken from the trust to pay for a $1500.00 funeral. The income from the Trust is paid only once a year and could easily go for other expenses such as expansion. This leaves an area of temptation on the part of the Funeral Director. Since a $1500.00 Service cannot be provided for $1125.00, the temtation is always present to provide a $1125.00 service for which the purchaser paid $1500.00. This is not an inditment or an acqusation, just mere mention in passing of what could take place.

You ask how could this be done? Rather easily. Ninety-eight per cent of all families are completely naive on casket values. Probably the most naive people of all on values are the Pre-Need salesmen who are interested only in a Commission of from 9% to 11 % on each sale. Caskets are made up of three parts. First, what is known in the trade is the shell, the container that holds the human remains. It may be wood, fiber glass or metal. Second, what is known in the trade is the hardware which are the handles and

corners. Third is the interior or lining, mattress and pillow. One could order a very inexpensive casket, embellish it with handles and corners or hardware and an interior and still have a cheap casket. The family would only see the embellishments and not knowing the shell or casket itself was of inferior material, certainly inferior to a value of $1500.00 or be deceived into thinking they were receiving full value, which they are not.

I repeat Members of the Committee there just is not 25% mark up or profit in the sale of a funeral. If the net sales price (100%) of the Pre-Need funeral was placed in trust and the sales organization paid out of the profit of the funeral, the purchaser would have the full amount of $1500.00 to pay for a $1500.00 funeral and not have the first 25 % of the purchase price if adverse conditions or money away forced a withdrawl from the trust.

It is true that the contract read the purchaser can withdraw all amounts in Trust but only 75% is in trust. This in itself is deceptive. Who profits from the sale of Pre Need Funerals? The sales Organization. The sales manager probably gets a 5% over ride on all gross sales. The assistant manager a 2% to 3% . The sales person from 9% to 11% with the remaining per cent going to sale acquisition and sales promotion costs.

Members of the Committee, a Pre Need Sales force is expensive, but it cannot increase the number of deaths. The good Lord has established that. The per cent fluctuates from 8 to 10 deaths per 1000 per year depending on age groups. The consuming public or the purchaser has no knowledge that the first 25% of his money goes to sales commission.

There is another aspect of Pre Need Funeral sales. Older citizens, pensions, social security recipients, people on a restricted income, veterans, widows, minority groups, Blacks, Chicanos are literally preyed upon because they are easy to sell. After the sale and after they realize what they have obligated themselves to, they either cancel their contract or ask for a refund. Now this will startle you but the cancellation rate of Pre Need Funeral sales goes from a high of 50% to 11%. This indicates that the sales person in the field or home is interested in the first money or the down payment. The greatest benefit from the sale of a Pre Need Funeral goes to the sales organization and the individual sales person.

Here are some interesting national statistics. Thirty-one states have a 100% law. Some states prohibit the sale of Pre Need Funerals by law. Nevada is the only state in the union that has a hard line 25% sales commission on Pre NeedFunerals.

Again, I say that if there is a 25%profit in the sale of a Pre Need Funeral that service is grossly overpriced to the consuming public.

There have been Pre Need Funerals sold in Nevada; many, many of them that on top of taking the first 25% of the sale for sales

EXHIBIT D

commission also gave a 10% discount on the sale for motivation to close the sale. Fortunately a probition is wisely written into this bill. This legislation prohibits the practice of offering a 10% discount on Pre Need Sales. This borders on fraud or at least a deceptive practice. No legitimate business can offer a 10% discount on aregular retail sale plus 25% sales commission and survive unless the public is being gouged.

You may hear the virtues of credit life being sold on a contract. The purchaser pays for the credit life and all people because of age and medical history cannot qualify for credit life. There is no guarantee that the Corpus or trust will always generate a return. Even the wisest of trust investment people cannot guage the market.

If the sale of a Pre Need Funeral was as good for the consuming public as is for the Pre Need Sales force, every state in the union would open the doors but the trend is against this practice.

I stake what ever reputation I have in nearly 30 years of helping bereaved individuals and families; that whatever good I may have done, will be eclipsed if your committee approves and the legislation passes this very meritorious legislation and it becomes law.

Mr. Chairman and Members of the Committee, thanks for your time and attention. I confidently believe that the best, the very best, interest of the consuming public in Nevada can be served by placing all monies 100% of all sales of Pre Need Funerals be placed immediately in a state supervised trust for the benefit of the bereaved families of this Great State. It will help materially in stopping the ever spiraling costs of high priced funerals.

6

JCPENNEY COMPANY

POSITION

COUNTERSIGNATURE OF LIFE AND HEALTH INSURANCE POLICIES

Countersignature laws are basically special interest legislation to provide a few insurance agents with a means of making some extra money without doing any work. Policies sold by agents do not create a problem when it comes to countersignature because the agent can countersign the application when the applicant signs it or he can countersign the policy when it is sent back to him to be delivered to the policyholder. Either way, there is no added expense. The agent is going to get this commission for the sale of the policy.

It is a completely different story when the law is applied to insurance sold directly, such as insurance sold through the mail. The countersignature requirement does nothing more than (1) increase the cost of business for the insurance company, (2) delay the underwriting or delivery of a policy to the consumer, and (3) provide a windfall for some agents who are going to get paid merely for signing their names.

The added acquisition cost in having to pay agents for doing nothing more than signing their names on the application or policy must be taken into account in establishing the appropriate premium. That means that the consumer will be paying for a useless "service."

If a countersignature is required on an application and the business is sold directly by the insurer, that means that all of the applications have to flow through the local agent before they get to the insurance compahy. That has to create delays. Such a delay could cause a consumer to suffer a loss for which he is not insured because the application was not underwritten and approved by the time the loss occurred.

If the countersignature is required on the policy that means that all of the policies must be mailed out to the countersigning agent which will delay delivery to the insured. With the postal service being what it is today, further delays can only irritate consumers.

Countersignature is nothing less than featherbedding, adding unnecessary personnel to the delivery of the service. Many states have recognized this and they have been repealing countersignature laws as they apply to life and health insurance. That has been the trend over recent years. Nevada would be reversing that trend, adding a middle man to the delivery of a service to the detriment of the consumer.

EXHIBIT E] 1467

F

REVIEW OF

PRODUCTS LIABILITY INSURANCE

STATISTICS AND CLOSED CLAIMS

REPORTED IN ACCORDANCE WITH

K.S.A. 40-1130

FLETCHER BELL

COMMISSIONER OF INSURANCE

FEBRUARY 14, 1979

REVIEW OF PRODUCTS LIABILITY INSURANCE STATISTICS
AND KANSAS CLOSED CLAIMS

K.S.A. 40-1130 was enacted by the 1977 Kansas Legislature in an effort to obtain further information to aid in the study of products liability. This report discusses the implementation procedures and results of the first reporting period.

The law requires the reporting of data relative to company business and to closed claim information. Subsections (a) through (h) and (m) through (s) of Section 1 direct attention to premiums collected, reserves established and overall claim activity. Subsections (i) and (j) require the reporting of individual claims which resulted in (1) a final judgment in any amount; (2) a settlement in any amount; or (3) a final disposition not resulting in payment on behalf of the insured. For clarity, these results are presented in this review in two separate sections.

I. COMPILATION OF PRODUCTS LIABILITY INSURANCE STATISTICS

This department implemented procedures for the reporting of statistical information through Bulletins 1977-22 and 1978-2 (attachments I and II). These bulletins were sent to all companies authorized to write fire and/or casualty insurance in the State of Kansas. All companies receiving these bulletins were required to respond. However, as the law requires information from only those companies authorized to transact business in Kansas and writing products liability insurance, only these companies' responses have been included in the compilation of data.

This must be realized while reviewing the total dollar amounts collected for all lines of insurance. One hundred forty-seven (147) companies reported products liability business on a countrywide basis. Of these, 105 reported products liability business in Kansas.

The final compilation of data received is as follows:

States in Which Companies are Authorized to Write Products Liability Insurance

State	No. of Writers	State	No. of Writers
Alabama	105	New Hampshire	85
Alaska	82	New Jersey	94
Arizona	105	New Mexico	111
Arkansas	117	New York	89
California	108	North Carolina	101
Colorado	124	North Dakota	115
Connecticut	82	Ohio	111
Delaware	93	Oklahoma	121
Florida	110	Oregon	108
Georgia	108	Pennsylvania	98
Hawaii	66	Rhode Island	89
Idaho	104	South Carolina	105
Illinois	126	South Dakota	118
Indiana	123	Tennessee	109
Iowa	121	Texas	122
Kansas	134	Utah	101
Kentucky	120	Vermont	87
Louisiana	106	Virginia	97
Maine	89	Washington	107
Maryland	96	West Virginia	92
Massachusetts	88	Wisconsin	111
Michigan	107	Wyoming	96
Minnesota	118	Canada	6
Mississippi	109	District of Columbia	33
Missouri	132	Puerto Rico	13
Montana	106	Virgin Islands	8
Nebraska	122		
Nevada	94	TOTAL WRITERS	147

Total Premium Dollar Amounts Collected for all Lines of Insurance Both Kansas and Countrywide

These figures are for only those companies writing Products Liability.

	Kansas	Countrywide (Including Kansas)
1972	$ 817,597,886	$ 71,917,621,589
1973	903,493,770	75,999,212,984
1974	1,022,229,579	85,422,193,323
1975	1,136,628,180	94,323,699,612
1976	1,343,086,761	112,425,086,382
1977	1,611,883,402	131,982,775,101

Dollar Amounts Collected for Products Liability Both Kansas and Countrywide for 1977

	Kansas	Countrywide (Including Kansas)
Monoline	$10,448,997	$ 817,375,272
Other than Monoline	3,052,989	368,665,935
Total	$13,501,986	$1,186,041,207

Monoline figures reflect amounts collected where coverage is provided for the products liability exposure specifically.

Other than Monoline figures reflect amounts collected from policies issued as a package which include premises and operations and cannot be considered as providing products liability coverage exclusively.

Dollar Amounts Collected for Primary and Excess Coverage Both Kansas and Countrywide for 1977

	Kansas	Countrywide (Including Kansas)
Primary	$12,436,166	$1,091,995,623
Excess (Includes any products premium that provides coverage above primary underlying insurance)	1,065,820	94,045,584
Total	$13,501,986	$1,186,041,207

NOTE: The amounts indicated in the above charts reflect company responses with a variance of not more than + or - 5%.

EXHIBIT F 1471

Reserves

Of the total 147 companies writing products liability insurance in Kansas and/or Countrywide, all companies reporting advised that reserves are set for claims filed. Approximately 86% of the companies reporting set reserves for claims which have been incurred but not reported. The total reserves established for products liability claims countrywide in 1977 was $1,016,191,545.

In response to a question regarding the treatment of reserves for Federal Income Tax purposes, companies indicated, where applicable, that loss reserves are treated as incurred losses and are used as a deduction from premiums earned to arrive at federal taxable income.

Securities

The total value of all securities held in investment portfolios as of December 31, 1977 was $63,744,879,407.

Overall Claims Statistics

The following figures were compiled directly from the statistical reporting form and reflect Kansas closed claims only. Further information gathered from individual closed claim files are presented in Section II, Products Liability Closed Claims.

	1976	1977
Total Number of Suits Filed	97	100
Verdicts or Judgments for Defendants	28	26
Verdicts or Judgments for Plaintiffs	29	35
Total Awards to Plaintiffs (excluding plaintiff's attorney fees)	$585,853	$1,032,842
Total Amount Reserved at Time of Disposition (1977 only)		$2,893,774
Total Initial Amount Reserved (1977 only)		$2,442,607

II. PRODUCTS LIABILITY CLOSED CLAIMS

The following data is a compilation of all individual closed claim report forms received relating to Kansas closed claims only. The figures in this section differ from those indicated on lines 11 through 14 of the statistical composit report. This is due to the amendment of the reporting requriements by the 1978 legislative session, effective March 1, 1978, which was also the date these reports were due. Originally, companies were required to report information on all 1976 and 1977 claims. This was amended to require reporting of only those claims closed from July 1, 1977 to December 31, 1977.

Distribution of Claims by Range of Payment

	1976		1977	
	# of Claims	% of Total	# of Claims	% of Total
No Payment	190	36.5%	248	32.9%
$1 - $9,999	325	62.4%	475	63.1%
$10,000 - $19,999	2	.4%	9	1.2%
$20,000 - $29,999			4	.5%
$30,000 - $39,999	1	.2%	6	.8%
$40,000 - $49,999	1	.2%	1	.1%
$50,000 - $59,999			1	.1%
$60,000 - $69,999			3	.4%
$70,000 - $79,999	1	.2%	1	.1%
$80,000 - $89,999				
$90,000 - $99,999			1	.1%
Over $100,000	1	.2%	4	.5%
TOTALS	521	100.0%	753	100.0%

Distribution of Company Costs

	1976	1977
Total Cost Reported for Closed Claims	$851,450	$2,949,740
A. Defense Costs, Settlement Costs & Other Costs *	205,220	499,449
B. Total Paid in Settlements or Awards	646,230	2,450,291
C. Average Settlement Based on Claims Producing Payment to Claimant	1,952	4,852
D. Average Settlement Based on Total Number of Claims	1,240	3,254

* These figures include Loss adjustment, Interest Expense, Company Expense but exclude Settlements or Awards. It is important to note that many expenses which were incurred were not readily identifiable. For example, companies advised of employees salaries but dollar amounts were not given.

Date Of Incident to Date Claim Made

	1976		1977	
Years	# of Claims	%	# of Claims	%
Over Six Years	4	.8%	3	.4
Five - Six Years	0	0.0%	2	.3%
Four - Five Years	1	.2%	1	.1%
Three - Four Years	4	.8%	10	1.3%
Two - Three Years	30	5.8%	46	6.1%
One - Two Years	83	16.0%	125	16.7%
Under 12 Months	399	76.5%	566	75.0%
TOTAL	521	100.0%	753	100.0%

Claims Resulting in Settlements Over $100,000

Incident Giving Rise to Claim	Settlement	Defense Costs	Settlement Costs	Other Costs
BI & PD - Product Gave Rise to Fire	$100,000	$22,687	$7,175	0
PD - Gen. Product Malfunction	245,000	15,000	0	0
BI - Gen. Product Malfunction	298,000	15,738	0	0
PD - Product Gave Rise to Fire	250,000	10,742	0	0
BI - Gen. Product Malfunction	230,000	0	0	192

EXHIBIT F 1474

Distribution of Claims by Type of Incident

Type of Incident	1976 # of Claims	1976 % of Total	1977 # of Claims	1977 % of Total
BI & PD - Product Explosion	1	.2%	9	1.2%
BI - Product Explosion	8	1.5%	8	1.1%
PD - Product Explosion	8	1.5%	9	1.2%
BI - Food or Beverage	134	25.7%	156	20.7%
PD - Food or Beverage	6	1.2%	7	.9%
BI - Product Gave Rise to Fire	4	.8%	2	.3%
PD - Product Gave Rise to Fire	21	4.0%	39	5.2%
BI & PD - Product Gave Rise to Fire	7	1.3%	4	.5%
BI - General Product Malfunction	39	7.5%	69	9.2%
PD - General Product Malfunction	93	17.9%	116	15.4
BI & PD - General Product Malfunction	1	.2%	3	.4%
PD - Agricultural (Crop or Livestock)	35	6.7%	18	2.4%
BI - Cosmetic Preparation	0	0.0%	3	.4%
BI - Completed Operations	0	0.0%	3	.4%
PD - Completed Operations	62	11.9%	104	13.8%
BI or PD - Under Garage Liability Policy	83	15.9%	152	20.2%
BI or PD - Under Store-Keepers Liability Policy	8	1.5%	32	4.2%
BI - Drug or Pharmaceutical	0	0.0%	7	.9%
Other	11	2.1%	12	1.6%
TOTAL	521	100.0%	753	100.0%

EXHIBIT F 1475

As Amended by House Committee

As Amended by Senate Committee

Session of 1978

SENATE BILL No. 811

By Committee on Judiciary

1-25

AN ACT relating to insurance; concerning certain reporting requirements of insurers with respect to product liability insurance; ~~permitting the waiver of certain reporting requirements;~~ defining certain terms; amending K.S.A. 1977 Supp. 40-1130 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1977 Supp. 40-1130 is hereby amended to read as follows: 40-1130. ~~(a)~~ Every insurer authorized to transact business in this state and providing product liability insurance shall on the first day of January of each year or within sixty (60) days thereafter file with the commissioner of insurance a report containing the information hereinafter specified. Such report shall be made upon forms provided by the commissioner of insurance and shall request the following information:

(a) The name of the insurance company.

(b) The name of all other companies associated with the company submitting the report, as either a holding company, parent, wholly owned subsidiary, division, or through interlocking directorates.

(c) The various lines of insurance a company offers.

(d) The states in which the company has been admitted for product liability insurance.

(e) The total premium dollar amount collected for all lines of insurance in Kansas and in all states in each of the six years next preceding the initial report or in the year next preceding the filing of each annual report thereafter.

(f) The dollar amount collected in product liability premiums in Kansas and in all states beginning with calendar year 1977.

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(g) The amount in dollars of product liability premiums for primary coverage and for excess coverage in Kansas and in all states.

(h) The amounts shown in answer to subsection (f) which include premises and operations insurance or any other insurance delivered as part of a package which cannot be considered exclusively product liability insurance and the amounts which are nonproduct liability insurance. Such amounts shall be listed separately for amounts relating to experience in all states and amounts relating to experience in Kansas only.

(i) Each company shall report to the commissioner of insurance ~~for each of the two years next preceding the initial report~~ *for the period July 1, 1977, to December 31, 1977, at the time of filing its annual report for the year 1977* and for the year next preceding the filing of each annual report thereafter any claim or action for damages for personal injury, death or property damage claimed to have been by reason of a defect in such insured's product *under a product liability policy*, if the claim resulted in: (1) A final judgment in any amount; (2) a settlement in any amount; or (3) a final disposition not resulting in payment on behalf of the insured. Every insurer authorized to transact business in this state shall be subject to the provisions of this section in regard to claims adjudicated, settled or disposition made pursuant to the laws of this state.

(j) The reports required by subsection (i) shall contain: (1) The name and address of the insured *or the insurer's claim number or file number*; (2) type of product; (3) rating classification code of products liability coverage; (4) the ~~insured's policy number;~~ ~~(5)~~ date of occurrence which created the claim, including the state or other jurisdiction under whose jurisdiction the claim was adjudicated, settled, or disposition made; ~~(6)~~ *(5)* date of suit if filed; ~~(7)~~ *(6)* date and amount of judgment or settlement, if any, and the *number of* parties involved in the distributions of such judgment or settlement and the amount received by ~~any such party~~ *each*; ~~(8)~~ *(7)* date and reason for final disposition if no judgment or settlement; ~~(9)~~ *(8)* a summary of the occurrence which created the claim; ~~(10)~~ *(9)* total number of claims; ~~(11)~~ *(10)*

total claims closed without payment; ~~(12)~~ *(11)* total claims closed with payment; ~~(13)~~ *(12)* total amount of payments; ~~(14)~~ *(13)* total number of suits filed; ~~(15)~~ *(14)* total number of verdicts or judgments for defendants; ~~(16)~~ *(15)* total number of verdicts or judgments for plaintiffs; ~~(17)~~ *(16)* total amounts for plaintiffs; and ~~(18)~~ *(17)* such other information as the commissioner may require.

(k) The commissioner of insurance shall make reports required hereunder available to the public in a manner which will not reveal the names of any person, manufacturer or seller involved.

(l) There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer reporting hereunder or its agents or employees, or the commissioner of insurance or the commissioner's employees, for any action taken by them pursuant to this act.

(m) Whether or not the company sets reserves for product liability claims filed.

(n) Whether or not the company sets reserves for product liability claims for losses which have been incurred but not reported (IBNR).

(o) All reserves established in connection with the company's product liability line.

(p) How dollars reserved are treated in each of the categories listed in subsections (m), (n), and (o) for federal income tax purposes.

(q) With respect to amounts paid in claims for the year next preceding the filing of each annual report, each company shall provide the following information: (A) Total amounts reserved with respect to those claims; (B) the year in which the reserves were set; and (C) the amounts set in each year.

(r) The value of the securities held in your investment portfolio as of December 31 of the year next preceding the filing of each annual report. Such information should be submitted in the same manner as provided by K.S.A. 40-225.

(s) Any published annual reports to shareholders or policyholders shall be submitted with the report.

New Sec. 2. ~~(a)~~ As used in K.S.A. 1977 Supp. 40-1130, as

EXHIBIT F 1477

PRODUCTS LIABILITY INSURANCE—REPORTS OF INSURERS

CHAPTER 78-224

Senate Bill No. 500

AN ACT relating to insurance; creating s. 624.433, Florida Statutes; requiring any products liability insurer to submit certain information annually to the Department of Insurance; requiring the department to publish a summary of such information annually; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 624.433, Florida Statutes, is created to read:

624.433 Reports of information by products liability insurers required.--

(1) Any insurer authorized to write a policy of products liability insurance in the state shall transmit the following information, based on its nationwide products liability insurance writings, to the department each year in the annual report of such insurer:

(a) Premiums written;

(b) Premiums earned;

(c) Unearned premiums;

(d) The dollar amount of claims paid;

(e) Incurred claims, not including claims incurred but not reported;

(f) Claims closed without payment, and the amount reserved for such claims;

(g) Loss reserves for all claims except claims incurred but not reported;

(h) Reserves for claims incurred but not reported;

(i) Losses paid as a percentage of the amount reserved for such losses;

(j) Net investment gain or loss and other income gain or loss allocated to products liability lines according to the allocation formula used in The Annual Insurance Expense Exhibit;

(k) Underwriting income or loss;

(l) Actual expenses in detail, including, but not limited to, loss adjustment expense, commissions, general expense, and advertising, home office, and defense costs;

(m) Claims settled after a suit was filed;

(n) Claims paid based on a judgment; and

(o) Judgments appealed by the insurer, together with the total results of such appeals.

(2) The department shall provide a summary of information provided pursuant to subsection (1) in its annual report.

(3) In the first year that an insurer makes a report pursuant to subsection (1), the insurer shall provide only the information required by paragraphs (a) through (l) of subsection (1), and shall provide such information for the current year and the 3 previous years.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor June 14, 1978.

Filed in Office Secretary of State June 14, 1978.

ACT 1413

By: Senators Banks of the 17th, Holloway of the 12th, Starr of the 44th and Wessels of the 2nd

AN ACT

To amend Code Chapter 56-3, relating to authorization of insurers and general requirements for doing business in this State, so as to require certain insurers and self-insurers providing product liability insurance to make certain annual reports concerning product liability insurance experience; to provide for other matters relative thereto; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Code Chapter 56-3, relating to authorization of insurers and general requirements for doing business in this State, is hereby amended by adding a new Code Section after Code Section 56-319, to be designated Code Section 56-319.1, to read as follows:

"56-319.1. Insurers providing product liability insurance or other lines of insurance in this State; reports required. On or before March 1 of each year commencing in 1979 or at such other dates as the Commissioner may require, each insurer authorized to transact product liability insurance or to provide excess insurance above self-insured retention to one or more manufacturers, wholesalers, distributors or retailers or to transact other lines of insurance in this State shall provide the Commissioner with such reports of its affairs and operations regarding insurance covering insured persons, resident or located in this State, for the last preceding calendar year ending on December 31 or for other periods of time as

the Commissioner may require. These reports shall be made in such form and shall contain such information as the Commissioner may by regulation or by order from time to time prescribe which as to product liability insurers may include but shall not be required to be limited to the following information:

(1) The total number of product liability claims, broken down by:

(A) The type or category of claims; and

(B) Whether the claims were:

(i) Reported during a prior period and closed during the reporting period.

(ii) Reported and closed during the reporting period.

(iii) Reported and not closed during the reporting period.

(2) The total amount paid in settlement or discharge of the claims for each type or category of claims.

(3) The total amount of reserves available to pay these product liability claims which were reported for the last preceding year; provided however that the information on reserves shall be required to be maintained by the Insurance Commissioner in confidence except that summaries of the combined totals of such reserves shall be subject to inspection by members of the General Assembly upon request.

(4) The total amount of premiums received from insured persons, resident or located in this State, which is attributable to product liability insurance and which must be classified separately with respect to manufacturers, wholesalers or distributors, and retailers.

LAW

HOUSE BILL
1333

AN ACT relating to product liability actions and product liability insurance and amending certain Acts therein named.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Every insurer authorized to transact business in this State and providing product liability insurance shall on the first day of January of each year or within 60 days thereafter file with the Director of Insurance a report containing the information hereinafter specified. Such report shall be made upon forms provided by the Director of Insurance and shall request the following information:

(a) The name of the insurance company.

(b) The name of all other companies associated with the company submitting the report, as either a holding company, parent, wholly owned subsidiary, division, or through interlocking directorates.

(c) The various kinds of product liability insurance a company offers.

(d) The states in which the company has been admitted for product liability insurance.

(e) The total premium dollar amount collected for all product liability insurance in Illinois in each of the 6 years next preceding the initial report or in the year preceding the filing of each annual report thereafter.

(f) The amount in dollars of product liability premiums for primary coverage and for excess coverage in Illinois.

(g) Each company shall report to the Director of Insurance for each of the 2 years next preceding the initial report and for the year next preceding the filing of each annual report thereafter any claim or action for damages for personal injury, death or property damage claimed to have been by reason of a defect in such insured's product, if the claim resulted in: (1) a final judgment in any amount; (2) a

settlement in any amount; or (3) a final disposition not resulting in payment on behalf of the insured. Every insurer authorized to transact business in this State shall be subject to the provisions of this Section in regard to claims adjudicated, settled or disposition made pursuant to the laws of this State.

(h) The reports required by subsection (g) shall contain (1) type of product; (2) rating classification code of products liability coverage; (3) date of occurrence which created the claim, including the state or other jurisdiction under whose jurisdiction the claim was adjudicated, settled, or disposition made; (4) date of suit if filed; (5) date and amount of judgment or settlement, if any, and the parties involved in the distributions of such judgment or settlement and the amount received by any such party; (6) date and reason for final disposition if no judgment or settlement; (7) a summary of the occurrence which created the claim; (8) total number of claims; (9) total claims closed without payment; (10) total claims closed with payment; (11) total amount of payments; (12) total number of suits filed; (13) total number of verdicts or judgments for defendants; (14) total number of verdicts or judgments for plaintiffs; (15) total amounts for plaintiffs; and (16) such other information as the Director may require.

(i) The Director of Insurance shall make reports required hereunder available to the public in a manner which will not reveal the names of any person, manufacturer or seller involved.

(j) There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer reporting hereunder or its agents or employees, or the Director of Insurance or the Director's employees, for any action taken by them pursuant to this Act.

-ENACTED-

Section 2. Section 21.2 is added to "An Act in regard to limitations", approved April 4, 1872, as amended, the added

-balance of law does not deal with insurance disclosure-

(5) The total number of insured persons, resident or located in this State, for which such product liability insurance has been provided which must be classified separately with respect to manufacturers, wholesalers or distributors, and retailers.

(6) The total number of insured persons, resident or located in this State, whose product liability insurance coverage the insurer cancelled or refused to renew and the reasons therefor which must be classified separately with respect to manufacturers, wholesalers or distributors, and retailers.

(7) The total number of insured persons, resident or located in this State, who failed to renew their product liability insurance policies during the reporting period which information must be classified separately with respect to manufacturers, wholesalers or distributors, and retailers."

Section 2. This Act shall become effective upon its approval by the Governor or upon its becoming law without his approval.

Section 3. All laws and parts of laws in conflict with this Act are hereby repealed.

- ENACTED -

LAW

To amend Title 22 of the Louisiana Revised Statutes of 1950, by adding thereto a new Section, to be designated as R.S. 22:1451.1, to require annual reports of product liability claims experienced in this state from each insurer authorized to transact product liability insurance in this state; to provide excess insurance above self-insured retention to one or more manufacturers, wholesalers, distributers, or retailers; to provide for the information to be included in the reports, and otherwise to provide with respect thereto.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 1451.1 of Title 22 of the Louisiana Revised Statutes of 1950 is hereby enacted to read as follows:

§1451.1. Annual reports, product liability insurers

On or before March 1 of each year, commencing in 1980 or at such other dates as the commissioner may require, each insurer authorized to transact product liability insurance or to provide excess insurance above self-insured retention to one or more manufacturers, wholesalers, distributors, or retailers, or to transact other lines of insurance in this state shall submit to the commissioner such reports of its affairs and operations regarding the product liability claims experience for claims made in the state of Louisiana and insurance covering insured persons transacting business in this state, for the last preceding calendar year ending on December 31 or for other periods of time, as the commissioner may require. These reports shall be made in such form and shall contain such information as the commissioner by regulation or order from time to time may prescribe and, as to product liability insurers, shall include but shall not necessarily be limited to the following information:

EXHIBIT F

(1) The total number of product liability claims,:

(a) classified separately with respect to manufacturers, wholesalers or distributors, and retailers;

(b) the number of new claims during the reporting claims period; and

(c) the number of claims closed during the reporting period; and

(d) the number of outstanding claims at the end of the reporting period.

(2) The total amount of losses incurred during the reporting period for each classification of claim.

(3) The total amount of reserves available to pay those product liability claims which were reported for the last preceding year; however, the information on reserves shall be required to be maintained by the commissioner in confidence, except that summaries of the combined totals of such reserves shall be subject to inspection by members of the legislature upon request.

(4)The total amount of earned premiums received from insured persons transacting business in this state, which is attributable to product liability insurance and which must be classified separately with respect to manufacturers, wholesalers or distributors, and retailers.

(5) The total number of insured persons, resident or located in this state, for which such product liability insurance has been provided, which shall be classified separately with respect to manufacturers, wholesalers or distributors, and retailers.

(6) The total number of insured persons, resident or located in this state, whose product liability insurance coverage the insurer cancelled or refused to renew and the reasons therefor, which must be classified separately with respect to manufacturers, wholesalers or distributors, and retailers.

Section 2. If any provision or item of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of this Act which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Act are hereby declared severable.

Section 3. All laws or parts of laws in conflict herewith are hereby repealed.

Approved by the Governor, July 10, 1978.

S.F.No. 583
CHAPTER No. 316

AN ACT

Minnesota

relating to insurance companies; prescribing penalties for violation of certain filing requirements; providing for the reporting of certain claims and other information to the commissioner of insurance; amending Minnesota Statutes 1976, Chapter 72A, by adding a section; repealing Minnesota Statutes 1976, Section 72A.06.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Chapter 72A, is amended by adding a section to read:

[72A.061] [MANDATORY FILINGS; FAILURE TO COMPLY; PENALTIES.] Subdivision 1. [ANNUAL STATEMENTS.] Any insurance company licensed to do business in this state, including fraternals, reciprocals and township mutuals, which neglects to file its annual statement in the form prescribed and within the time specified by law shall be subject to a penalty of $25 for each day in default. If, at the end of 90 days, the default has not been corrected, the company shall be given ten days in which to show cause to the commissioner why its license should not be suspended. If the company has not made the requisite showing within the ten day period, the license and authority of the company

EXHIBIT F 1483

may, at the discretion of the commissioner, be suspended during the time the company is in default.

Any insurance company, including fraternals, reciprocals, and township mutuals, willfully making a false annual or other required statement shall pay a penalty to the state not to exeed $5,000. Either or both of the monetary penalties imposed by this subdivision may be recovered in a civil action brought by and in the name of the state.

Subd. 2. [ARTICLES OF INCORPORATION; BYLAWS.] Any insurance company licensed to do business in this state, including fraternals and township mutuals, which neglects to file amended bylaws or related amendments within 30 days after date of approval by shareholders or members of the company shall be subject to a penalty of $25 for each day in default.

Any insurance company licensed to do business in this state, including fraternals and township mutuals, which neglects to file amended articles of incorporation or related amendments within 30 days after date of approval by shareholders or members of the company shall be subject to a penalty of $25 for each day in default, provided that foreign insurers shall be allowed 60 days in which to file.

If after 90 days the filings required under this subdivision are still in default, the company shall be given ten days in which to show cause why its license should not be suspended.

Subd. 3. [OTHER FILINGS.] Any insurance company licensed to do business in this state, including fraternals, reciprocals, and township mutuals, which neglects to comply with any other mandatory filing in the form prescribed and within the time specified by law or as specified on the

EXHIBIT F 1484

document shall be subject to a penalty of $25 for each day in default. If after 90 days a default has not been corrected, the company shall be given ten days in which to show cause why its license should not be suspended.

Subd. 4. [SUSPENSION, DISCRETIONARY POWERS.] Any company which writes new business in this state, including fraternals, reciprocals and township mutuals, while its license is suspended and after it has been notified by the commissioner by a notice mailed to the home office of the company that its license has been suspended shall pay to the state the sum of $25 for each contract of insurance entered into by it after being notified of its license suspension. The notification shall be mailed by registered letter and deemed to have been received by the company at its home office in the usual course of the mails.

Subd. 5. [EXTENSIONS.] The commissioner may grant an extension of any filing deadline or requirement specified by this section, if he receives, not less than ten days before the date of default, satisfactory evidence of imminent hardship to the company.

Subd. 6. [PENALTIES; DEPOSIT TO GENERAL FUND.] All penalties recovered pursuant to this section shall be paid into the general fund.

Sec. 2. Subdivision 1. On or before March 15 of each year each insurer providing product liability insurance or excess insurance above self-insured retention to one or more manufacturers, sellers or distributors in this state, shall file with the commissioner of insurance a report of the product liability claims made against its insureds, resident or located in Minnesota, which have been closed during the one year period ending December 31 of the previous year, provided, however, that this subdivision shall not require

reporting of any information regarding claims closed prior to June 30, 1977. This report shall contain, but need not be limited to, the following information: the total number of product liability claims, broken down by the type or category of claims, and the total amount paid in settlement or discharge of the claims for each type or category of claims.

Subd. 2. On or before March 15 of each year each insurer providing product liability insurance or excess insurance above self-insured retention to one or more manufacturers, sellers or distributors in this state shall file with the commissioner of insurance a report containing the following information for the one year period ending December 31 of the previous year, provided, however, that information for the period preceding June 30, 1977 need not be reported:

(a) The total amount of premiums received from insured persons, resident or located in Minnesota, which are attributable to product liability insurance;

(b) The total number of persons, resident or located in Minnesota, for which the insurer provided products liability insurance; and

(c) The total number of persons, resident or located in Minnesota, whose product liability insurance coverage the insurer cancelled or refused to renew and the reasons therefor.

Any manufacturer, seller or distributor which is self insured shall be considered to be an insurer for the purposes of this section and shall comply with the reporting requirements of this section, and any data reported by a self-insured person pursuant to this section may be reported by the commissioner only in the form of summary data, as

defined in Minnesota Statutes, Section 15.162, Subdivision 9.

Subd. 3. This section expires April 1, 1979.

Sec. 3. Minnesota Statutes 1976, Section 72A.06, is repealed.

Sec. 4. This act is effective July 1, 1977.

Edward J. Gearty
President of the Senate.

Martin O. Sabo
Speaker of the House of Representatives.

Passed the Senate this 20th day of May in the year of Our Lord one thousand nine hundred and seventy-seven

Patrick E. Flahaven
Secretary of the Senate.

Passed the House of Representatives this 20th day of May in the year of Our Lord one thousand nine hundred and seventy-seven

Edward A. Burdick
Chief Clerk, House of Representatives.

Approved May 27, 1977

Rudy Perpich
Governor of the State of Minnesota.

Filed May 27, 1977

Joan Anderson Growe
Secretary of State.

EXHIBIT F 1488