

AMENDMENTS TO LB 259

Introduced by Utter, 33.

1           1. Insert the following new sections:

2           Sec. 2. Section 12-1102, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           12-1102 For purposes of the Burial Pre-Need Sale Act,  
5 unless the context otherwise requires:

6           (1) Agent shall mean any person who acts for or on behalf  
7 of a pre-need seller in making pre-need sales;

8           (2) Burial or funeral merchandise or services shall mean  
9 all items of real or personal property or a combination of both  
10 or services, sold or offered for sale to the general public  
11 by any pre-need seller, which may be used in any manner in  
12 connection with a funeral or the interment, entombment, inurnment,  
13 or other alternate disposition of human remains. Such term shall  
14 not include a lot or grave space or a crypt or niche located in a  
15 mausoleum, columbarium, or lawn crypt upon which construction has  
16 been substantially completed;

17           (3) Columbarium shall mean an aboveground structure or  
18 building which is used or intended to be used for the inurnment  
19 of human remains in a niche. A columbarium may be combined with a  
20 mausoleum;

21           (4) Crypt or niche shall mean a chamber in a lawn crypt,  
22 columbarium, or mausoleum of sufficient size to inter or entomb  
23 cremated or noncremated human remains;

1           (5) Delivery shall mean the act of performing the service  
2 required by or the act of placing the item purchased in the  
3 physical possession of the pre-need purchaser, including, but not  
4 limited to, the installing or depositing of the item sold on or  
5 in real property owned by or designated by the person entitled to  
6 receive such item, except that (a) the pre-need burial of a vault  
7 shall constitute delivery only if the burial is with the consent  
8 of the pre-need purchaser and the pre-need seller has made other  
9 pre-need vault burials prior to January 1, 1986, and (b) delivery  
10 of a crypt or niche in a mausoleum, lawn crypt, or columbarium or  
11 a marker or monument may be accomplished by delivery of a document  
12 of title;

13           (6) Department shall mean the Department of Insurance;

14           (7) Director shall mean the Director of Insurance;

15           (8) Document of title shall mean a deed, bill of sale,  
16 warehouse receipt, or any other document which meets the following  
17 requirements:

18           (a) The effect of the document is to immediately vest the  
19 ownership of the item described in the person purchasing the item;

20           (b) The document states the exact location of such item;

21 and

22           (c) The document gives assurances that the item described  
23 exists in substantially completed form and is subject to delivery  
24 upon request;

25           (9) Human remains shall mean the body of a deceased  
26 person;

27           (10) Lawn crypt shall mean an inground burial receptacle

1 of single or multiple depth, installed in multiples of ten or more  
2 in a large mass excavation, usually constructed of concrete and  
3 installed on gravel or other drainage underlayment and which acts  
4 as an outer container for the interment of human remains;

5 (11) Letter of credit shall mean an irrevocable  
6 undertaking issued by any financial institution which qualifies as  
7 a trustee under the Burial Pre-Need Sale Act, given to a pre-need  
8 seller and naming the director as the beneficiary, in which the  
9 issuer agrees to honor drafts or other demands for payment by the  
10 beneficiary up to a specified amount;

11 (12) Lot or grave space shall mean a space in a cemetery  
12 intended to be used for the inground interment of human remains;

13 (13) Marker, monument, or lettering shall mean an object  
14 or method used to memorialize, locate, and identify human remains;

15 (14) Master trust agreement shall mean an agreement  
16 between a pre-need seller and a trustee, a copy of which has been  
17 filed with the department, under which proceeds from pre-need sales  
18 may be deposited by the pre-need seller;

19 (15) Mausoleum shall mean an aboveground structure or  
20 building which is used or intended to be used for the entombment  
21 of human remains in a crypt. A mausoleum may be combined with a  
22 columbarium;

23 (16) Pre-need purchaser shall mean a member of the  
24 general public purchasing burial or funeral merchandise or services  
25 or a marker, monument, or lettering from a pre-need seller for  
26 personal use;

27 (17) Pre-need sale shall mean any sale by any pre-need

1 seller to a pre-need purchaser of:

2 (a) Any items of burial or funeral merchandise or  
3 services which are not purchased for the immediate use in a  
4 funeral or burial of human remains;

5 (b) Any unspecified items of burial or funeral  
6 merchandise or services which items will be specified either at  
7 death or at a later date; or

8 (c) A marker, monument, or lettering which will not be  
9 delivered within six months of the date of the sale;

10 (18) Pre-need seller shall mean any person, partnership,  
11 limited liability company, corporation, or association on whose  
12 behalf pre-need sales are made to the general public;

13 (19) Substantially completed shall mean that time when  
14 the mausoleum, columbarium, or lawn crypt being constructed is then  
15 ready for the interment, entombment, or inurnment of human remains;

16 (20) Surety bond shall mean an undertaking given by an  
17 incorporated surety company naming the director as the beneficiary  
18 and conditioned upon the faithful performance of a contract for  
19 the construction of a mausoleum, columbarium, or lawn crypt by a  
20 pre-need seller;

21 (21) Trust account shall mean either a separate trust  
22 account established pursuant to the Burial Pre-Need Sale Act for  
23 a specific pre-need purchaser by a pre-need seller or multiple  
24 accounts held under a master trust agreement when it is required by  
25 the act that all or some portion of the proceeds of such pre-need  
26 sale be placed in trust by the pre-need seller;

27 (22) Trustee shall mean a bank, trust company, building

1 and loan association, or credit union within the state whose  
2 deposits or accounts are insured or guaranteed by the Federal  
3 Deposit Insurance Corporation or the National Credit Union Share  
4 Insurance Fund;

5 (23) Trust principal shall mean all deposits, including  
6 amounts retained as required by section 12-1114, made to a trust  
7 account by a pre-need seller less all withdrawals occasioned by  
8 delivery or cancellation; and

9 (24) Vault shall mean an item of burial or funeral  
10 merchandise or services which is an inground burial receptacle  
11 installed individually, as opposed to lawn crypts, which is  
12 constructed of concrete, steel, or any other material, and which  
13 acts as an outer container for the interment of human remains.

14 Sec. 3. Section 12-1107, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 12-1107 (1) Banks which do not have a separate trust  
17 department and building and loan associations and credit unions  
18 acting as trustees under the Burial Pre-Need Sale Act shall accept  
19 trust funds only to the extent that the full amount of all of such  
20 funds is insured or guaranteed by the Federal Deposit Insurance  
21 Corporation or the National Credit Union Share Insurance Fund.

22 (2) Banks with a separate trust department and trust  
23 companies acting as trustees under the Burial Pre-Need Sale Act  
24 when investing or reinvesting trust funds shall have the power to  
25 deal with such funds as a prudent trustee would deal with the  
26 funds and shall have all of the powers granted to a trustee by the  
27 Nebraska Uniform Trust Code, but the Uniform Principal and Income

1 Act shall not be applicable and all income, whether from interest,  
2 dividends, capital gains, or any other source, shall be considered  
3 as income.

4 Sec. 13. Section 72-1268.03, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 72-1268.03 The state investment officer shall not have  
7 on deposit in any bank, capital stock financial institution, or  
8 qualifying mutual financial institution giving a guaranty bond  
9 more than the amount insured or guaranteed by the Federal Deposit  
10 Insurance Corporation plus the maximum amount of the bond given by  
11 such bank, capital stock financial institution, or qualifying  
12 mutual financial institution or in any bank, capital stock  
13 financial institution, or qualifying mutual financial institution  
14 giving a personal bond more than the amount insured or guaranteed  
15 by the Federal Deposit Insurance Corporation plus one-half of the  
16 amount of the bond given by such bank, capital stock financial  
17 institution, or qualifying mutual financial institution. All bonds  
18 of such depositories shall be deposited with and held by the state  
19 investment officer.

20 2. On page 32, line 20, after "insurance" insert "or  
21 guarantee".

22 3. On page 35, line 17, strike "21" and all amendments  
23 thereto and insert "26"; in line 19 after "2-4214," insert  
24 "12-1102, 12-1107,"; and in line 20 after "17-720," insert  
25 "72-1268.03,".

26 4. Renumber the remaining sections accordingly.