

## LEGISLATIVE BILL 107

Approved by the Governor February 10, 1999

Introduced by Dw. Pedersen, 39; Quandahl, 31

AN ACT relating to credit unions; to amend sections 12-1102, 12-1107, 21-1761, 21-1770, and 21-1799, Reissue Revised Statutes of Nebraska; to change powers of credit unions as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 12-1102, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(6) Department shall mean the Department of Insurance;

(7) Director shall mean the Director of Insurance;

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

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

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

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

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

(10) Lawn crypt shall mean an inground burial receptacle of single or multiple depth, installed in multiples of ten or more in a large mass excavation, usually constructed of concrete and installed on gravel or other drainage underlayment and which acts as an outer container for the interment of human remains;

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

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

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

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

(15) Mausoleum shall mean an aboveground structure or building which

is used or intended to be used for the entombment of human remains in a crypt. A mausoleum may be combined with a columbarium;

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

(17) Pre-need sale shall mean any sale by any pre-need seller to a pre-need purchaser of:

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

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

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

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

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

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

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

(22) Trustee shall mean a bank, trust company, building and loan association, ~~or~~ industrial loan and investment company, or credit union within the state whose deposits or accounts are insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund;

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

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

Sec. 2. Section 12-1107, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) Banks with a separate trust department and trust companies acting as trustees under the Burial Pre-Need Sale Act when investing or reinvesting trust funds shall have the power to deal with such funds as a prudent trustee would deal with the funds and shall have all of the powers granted to a trustee by the Nebraska Trustees' Powers Act, but the Nebraska Principal and Income Act shall not be applicable and all income, whether from interest, dividends, capital gains, or any other source, shall be considered as income.

Sec. 3. Section 21-1761, Reissue Revised Statutes of Nebraska, is amended to read:

21-1761. ~~No official of a credit union, other than an employee, shall be compensated directly or indirectly for services to the credit union officer, director, or committee member, jointly or severally, shall receive any compensation, directly or indirectly, for services performed for the credit union as such officer, director, or committee member, except that the treasurer may be compensated for his or her services in the amount, way, and manner provided for by the board of directors.~~ However, providing life, health, accident, and similar insurance protection in reasonable amounts for a director or committee member shall not be considered compensation. Officials, while on credit union business, may be reimbursed for their necessary expenses incidental to the performance of credit union business.

Sec. 4. Section 21-1770, Reissue Revised Statutes of Nebraska, is amended to read:

21-1770. The chief executive officer or the credit committee may

apply to the department on forms supplied by the department for the licensing of one or more loan officers in order to delegate to such loan officers the power to approve loans and disburse loan funds up to the limits and according to policies established by the credit committee, if any, and in the absence of a credit committee, the board of directors. Such application shall include information deemed necessary by the department and shall be signed by the entire credit committee, if any, and in the absence of a credit committee, the entire board of directors, as well as the new loan officer seeking a license. No person shall act in the capacity of loan officer ~~until obtaining the appropriate license from~~ for more than thirty days until approved by the department.

Sec. 5. Section 21-1799, Reissue Revised Statutes of Nebraska, is amended to read:

21-1799. (1) All credit unions chartered under the laws of Nebraska shall be qualified to act as a trustee or custodian ~~with~~ within the provisions of the federal Self-Employed Individuals Tax Retirement Act of 1962 or under the terms and provisions of section 408(a) of the Internal Revenue Code if the provisions of such retirement plan require the funds of such trust or custodianship to be invested exclusively in shares or accounts in the credit union or other credit unions.

(2) All credit unions chartered under the laws of Nebraska are qualified to act as trustee or custodian of a medical savings account created within the provisions of section 220 of the Internal Revenue Code.

(3) All credit unions chartered under the laws of Nebraska are qualified to act as trustee or custodian of an education individual retirement account created within the provisions of section 530 of the Internal Revenue Code.

(4) All credit unions chartered under the laws of Nebraska are qualified to act as trustee or custodian of a Roth IRA created within the provisions of section 408A of the Internal Revenue Code.

(5) If any such ~~retirement~~ plan, in the judgment of the credit union, constitutes a qualified plan under the federal Self-Employed Individuals Tax Retirement Act of 1962, or under the terms and provisions of section 220, 408(a), 408A, or 530 of the Internal Revenue Code, and the regulations promulgated thereunder at the time the trust was established and accepted by the credit union is subsequently determined not to be such a qualified plan, or subsequently ceases to be such a qualified plan, in whole or in part, the credit union may continue to act as trustee of any deposits which have been made under such plan and to dispose of such deposits in accordance with the directions of the member and beneficiaries thereof.

~~(3)~~ (6) No credit union, ~~in~~ with respect to savings made under this section, shall be required to segregate such savings from other assets of the credit union, but the credit union shall keep appropriate records showing in detail all transactions engaged in pursuant to this section.

Sec. 6. Original sections 12-1102, 12-1107, 21-1761, 21-1770, and 21-1799, Reissue Revised Statutes of Nebraska, are repealed.