

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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SENATE BILL 403

Short Title: Amend Uniform Prudent Investor Act. (Public)

Sponsors: Senator Bingham (Primary Sponsor).

Referred to: Commerce.

March 26, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE UNIFORM PRUDENT INVESTOR ACT AND TO MAKE CONFORMING CHANGES TO THE LAWS REGULATING CEMETERIES AND THE PRACTICE OF FUNERAL SERVICE AS RELATED TO TRUST FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 36C-9-901(d)(1) reads as rewritten:

"(d) This Article does not apply to:

- (1) Unless the trust provides otherwise by specific reference to this Article:
a. Trusts under any federal employee retirement income security statute or other retirement or pension trusts;
b. Trusts that are created by legislative act;
c. Trusts that are created by or under premarital or postmarital agreements, divorce settlements, settlements of other proceedings or disputes;
d. Transfers under a Uniform Transfers to Minors Act;
e. Transfers under a Uniform Custodial Trust Act; or
f. Honorary trusts, trusts for pets, and trusts for cemetery lots."

SECTION 2. G.S. 65-60.1(e) reads as rewritten:

"(e) Any trustee shall invest and reinvest cemetery trust funds in the same manner as provided by law for the investment of trust funds by the clerk of the superior court; provided, however, that this subsection does not apply to a perpetual trust fund described in G.S. 65-64 or cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e), which may be invested and reinvested in accordance with G.S. 32-71."

SECTION 3. G.S. 90-210.61(a)(1) reads as rewritten:

"(a) Preneed funeral funds are subject to the provisions of this Article and shall be deposited or applied as follows:

- (1) If the preneed funeral contract purchaser chooses to fund the preneed funeral contract by a trust deposit or deposits, the preneed licensee shall deposit all funds in an insured account in a financial institution, in trust, in the preneed licensee's name as trustee within five business days accordance with G.S. 32-71 within 30 days from the end of the calendar month in which payment is received. The preneed licensee, at the time of making the deposit as trustee, deposit, shall furnish to the financial institution trustee the name of each preneed funeral contract purchaser and the amount of payment on each for which the deposit is being made. The preneed licensee may establish an individual trust fund for each preneed funeral contract or a common trust



1 ~~fund~~trust account for all preneed funeral contracts. ~~The trust accounts shall~~
2 ~~be carried in the name of the preneed licensee as trustee, but~~
3 ~~accounting~~Accounting records shall be maintained for each individual
4 preneed funeral contract purchaser showing the amounts deposited and
5 invested, and interest, dividends, increases, and accretions earned. Except as
6 provided in this Article, all interest, dividends, increases, decreases,
7 expenses, taxes, or accretions earned by the funds shall remain with the
8 ~~principal trust account.~~ The trust fund may be charged with applicable taxes
9 and ~~for reasonable charges paid by the trustee to itself or others for the~~
10 ~~preparation of fiduciary tax returns.~~fees. Penalties charged by a financial
11 institution for early withdrawals caused by a transfer pursuant to
12 G.S. 90-210.63 shall be paid by the preneed licensee. Penalties charged as a
13 result of other early withdrawals as permitted by this Article shall be paid
14 from the trust fund, and the financial institution shall give the preneed
15 funeral contract purchaser prompt notice of these penalties."

16 **SECTION 4.** This act is effective when it becomes law.