

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

790A0751

## HOUSE BILL NO. 1204

Introduced by: Representatives Schaunaman, Cutler, and DeMersseman and Senators Lawler and Shoener

1 FOR AN ACT ENTITLED, An Act to provide that funds held in an irrevocable prearranged  
2 funeral trust be paid to a licensed funeral director, funeral establishment, or embalmer  
3 selected by the purchaser of the prearranged funeral trust or the next of kin of the purchaser.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 55-11-12 be amended to read as follows:

6 55-11-12. If the beneficiary of a an irrevocable prearranged funeral trust for a guaranteed  
7 price dies outside the general area or moves outside the general area served by the provider  
8 designated in a prearranged funeral trust contract, the seller shall either provide for the furnishing  
9 of comparable funeral services and merchandise by a licensed mortuary or cemetery selected by  
10 the next of kin of the purchaser or, at the seller's option, shall pay over to the purchaser, or upon  
11 the death of the purchaser to the next of kin of the purchaser in fulfillment of all obligations  
12 under the contract, an amount equal to all deposits made into trust under the prearranged funeral  
13 trust contract together with the accrued trust interest to be provided for in the contract. Upon  
14 seller's full performance under the provisions of this section, the trustee shall distribute to the  
15 seller from the trust an amount equal to all deposits made into the trust together with the accrued

1 trust interest.

2 Section 2. That chapter 55-11 be amended by adding thereto a NEW SECTION to read as  
3 follows:

4 Every trustee of an irrevocable prearranged funeral trust which does not provide for a  
5 guaranteed price shall pay from the trust funds and any accrued interest the charges incurred for  
6 furnishing funeral services and merchandise to the funeral director, funeral establishment, or  
7 embalmer, licensed under chapter 36-19, or similarly licensed in any other state that provides  
8 funeral services and merchandise for the beneficiary of the irrevocable prearranged funeral trust.

9 The balance of the funds remaining in the prearranged funeral trust, if any, shall be paid by the  
10 trustee to the purchaser or to the estate or next of kin of the purchaser, subject to § 28-6-23 and  
11 rules pertaining thereto and the terms of the prearranged funeral trust agreement. Payment of all  
12 of the trust funds, plus any accrued interest, as provided in this section, relieves the trustee of  
13 any further duties or obligations.