



General Assembly

Substitute Bill No. 617

January Session, 2001

AN ACT CONCERNING FULL DISCLOSURE OF PREPAID FUNERAL SERVICE CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-200 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) For the purposes of this section and sections 42-201 to [42-206]
4 42-207, inclusive, a funeral service contract means a contract which
5 requires the payment of money or the delivery of securities in
6 exchange for the final disposition of a dead human body, including
7 funeral, burial or other services, or the furnishing of personal property
8 or funeral merchandise in connection with any such disposition,
9 wherein the use or delivery of such services, property or merchandise
10 is not required immediately.

11 (b) A funeral service contract shall contain: (1) A consumer notice as
12 set forth in subsection (c) of this section; (2) the name, business address
13 and telephone number of the escrow agent who will administer the
14 consumer's funds; (3) a statement advising the consumer to avoid
15 fraud by contacting the escrow agent to verify the disposition of such
16 funds (A) if the consumer has not received verification from the
17 escrow agent as provided in section 42-202, as amended by this act, not
18 later than forty-five days after signing the funeral service contract, that
19 the escrow agent has deposited the consumer's funds, or (B) if the

20 consumer fails to receive an annual statement of the consumer's
21 account; (4) if applicable, a clear and conspicuous statement that the
22 consumer may be liable for additional funds for such contracted
23 services, property or merchandise; and (5) a clear and conspicuous
24 statement as to whether the funeral service contract is revocable or
25 irrevocable together with an explanation of the term revocable or
26 irrevocable, as applicable.

27 (c) The consumer notice shall be on a separate page and in a form
28 substantially similar to the following:

29 "A funeral service contract ensures, upon payment of a sum of
30 money, that the funeral service establishment will provide certain
31 funeral services, property or merchandise at a future date.

32 If you purchase a funeral service contract, you must receive (1)
33 notice of the investment options offered by the funeral service
34 establishment; (2) a statement of the fees charged by the escrow agent
35 (the person who will be holding your funds), if any, to the escrow
36 account or to you for investing and managing such funds; and (3) a
37 statement concerning the transferability of the funds to other
38 investment options and whether the funeral director, association of
39 funeral directors or other entity may share compensation from the
40 escrow agent.

41 An escrow agent must be either a bank, a licensed insurance
42 company, a savings and loan association or a registered broker-dealer.

43 You must receive an annual statement of income and expenses for
44 the escrow funds.

45 The funeral service contract must provide that if specified
46 merchandise is not available, only merchandise of at least equal quality
47 and similar style may be substituted.

48 It is important for you to:

49 (A) Verify the services, property and merchandise that are to be

50 provided as part of the funeral;

51 (B) Ensure that the costs of the services, property and merchandise
52 are explained;

53 (C) Verify whether you will need to provide any additional money
54 for such services, property and merchandise;

55 (D) Determine who will receive any surplus funds in the event the
56 funds in the escrow account exceed the cost of the contracted funeral
57 services, property and merchandise;

58 (E) Obtain the name, address and telephone number of the person
59 who will be holding your funds (known as an escrow agent);

60 (F) Contact the escrow agent if, by the forty-fifth day after you sign
61 the funeral service contract, you do not receive verification that the
62 escrow agent has received and deposited your funds."

63 Sec. 2. Section 42-201 of the general statutes is repealed and the
64 following is substituted in lieu thereof:

65 (a) No person, firm or corporation shall enter into a funeral service
66 contract to provide such services, property or merchandise unless such
67 person, firm or corporation is licensed in accordance with the
68 provisions of chapter 385. No person may arrange, promote or sell any
69 funeral service contract on behalf of a funeral service establishment
70 unless such person is an embalmer or funeral director licensed in
71 accordance with the provisions of chapter 385 and bonded in
72 accordance with subsection (b) of this section.

73 (b) Each funeral service establishment that enters into a funeral
74 service contract to provide such service, property or merchandise or
75 arranges, promotes or sells a funeral service contract shall obtain a
76 bond written by a surety authorized to write such bonds in this state,
77 of a sum of not less than fifty thousand dollars, except that any owner
78 of not less than five nor more than nine funeral service establishments
79 shall provide a bond or series of bonds of a sum not less than two

80 hundred and fifty thousand dollars and any owner of ten or more
81 funeral establishments shall provide a bond or series of bonds of a sum
82 not less than five hundred thousand dollars. Such bond or bonds shall
83 be conditioned upon such establishment truly and faithfully
84 accounting for all funds received relative to a funeral service contract.

85 (c) Any person damaged by the wrongful conversion of funds paid
86 for a funeral service contract may proceed on such bond against the
87 principal or surety thereon, or both, to recover damages, which shall
88 include reasonable attorneys' fees.

89 Sec. 3. Section 42-202 of the general statutes is repealed and the
90 following is substituted in lieu thereof:

91 (a) A licensed funeral service establishment shall deposit any money
92 or securities [which] that such establishment receives pursuant to a
93 funeral service contract [, and within] not later than fifteen days [of]
94 after its receipt of such money or securities, in one or more escrow
95 accounts established in accordance with the provisions of this section.
96 Not later than thirty days after receiving funds from a licensed funeral
97 service establishment, the escrow agent shall send the consumer
98 written verification that the funds have been deposited in accordance
99 with the provisions of this section.

100 (b) (1) Each escrow account established pursuant to this section shall
101 be administered and maintained by an escrow agent [. The funeral
102 service establishment which deposits money or securities in such
103 escrow account shall appoint such agent who] designated in the
104 funeral service contract.

105 (2) The funeral service establishment shall enter into a contract with
106 the escrow agent designated in the funeral service contract, either
107 directly or through an association of funeral directors or other entity.
108 Such contract with the escrow agent shall contain provisions that (A)
109 clearly indicate all fees to be charged by the escrow agent to the escrow
110 account and whether or not any portion of such fees will be shared
111 with any association of funeral directors or other entity, and (B)

112 explain the duties and responsibilities of the escrow agent, including,
113 but not limited to, a provision stating that the escrow agent may only
114 invest such funds in accordance with the provisions of subsection (c) of
115 this section and may only dispense such funds in accordance with the
116 provisions of this chapter. A copy of the contract shall be provided to
117 the purchaser of funeral services, property or merchandise upon
118 request.

119 (3) A designated escrow agent shall be one of the following: [(1)] (A)
120 A national banking association; [(2)] (B) a state bank and trust
121 company; [(3)] (C) a federal or state chartered savings bank; [(4)] (D) a
122 federal or state chartered savings and loan association; [(5)] (E) a
123 licensed insurance company; [,] or [(6)] (F) a registered broker-dealer.
124 [No such institution shall be appointed as an agent unless such
125 institution is authorized by law to act as an escrow agent.]

126 (c) Assets held in escrow accounts established pursuant to this
127 section shall be invested in one or more of the following: (1) Deposit
128 accounts insured by the Federal Deposit Insurance Corporation; (2)
129 accounts insured against loss of principal by an agency or
130 instrumentality of the United States government; (3) bonds in which
131 savings banks in this state may, by law, invest; (4) bonds of the United
132 States or any agency thereof or of this state or any municipality of this
133 state; or (5) any other deposit account, insurance contract, or security
134 of a quality, safety and expense comparable to those set forth in this
135 subsection.

136 (d) All interest, dividends and other income earned on the amounts
137 deposited in an escrow account pursuant to this section shall be
138 retained in such escrow account and credited, less any administration
139 expenses, to the respective interests of those persons for whose benefit
140 the escrow account is maintained. Amounts in an escrow account shall
141 be removed from such account only as provided in sections 42-200 to
142 [42-206] 42-207, inclusive, as amended by this act. Each party to a
143 funeral service contract shall receive an annual statement of the
144 [amount] amounts credited and the amount of all expenses charged to

145 such party's escrow account, and the annual rate of return on such
146 funds after expenses. Such statement shall include the name and
147 address of the escrow agent.

148 (e) If a purchaser of funeral services, property or merchandise
149 defaults in making payments required under the terms of such
150 contract, or if the purchaser or the person responsible for making
151 funeral arrangements for a deceased beneficiary under section 45a-318
152 fails to have the funeral service establishment provide services, the
153 funeral service establishment may retain any origination fee and any
154 costs actually and reasonably incurred by such establishment in the
155 performance of the contract as liquidated damages, provided the sum
156 of the amount retained as an origination fee and the amount retained
157 to pay for costs incurred by the funeral establishment in the
158 performance of the contract shall not exceed an amount equal to five
159 per cent of the amount in the escrow account at the time the purchaser
160 of funeral services defaults in making such payments, and provided
161 further that the funeral service contract specifically allows for such
162 liquidated damages. The balance of any amount remaining in the
163 escrow account shall be paid by the escrow agent to such purchaser.
164 [upon request.]

165 (f) A person, firm or corporation licensed in accordance with the
166 provisions of chapter 385 which enters into a funeral service contract
167 shall furnish the agent of an escrow account established in accordance
168 with the provisions of this section with the name of the purchaser of
169 such services, property or merchandise, the address and name of the
170 beneficiary of the funeral service contract and the amount contracted
171 for, [, together with a copy of the contract listing the services, personal
172 property or merchandise to be furnished by the funeral service
173 establishment.] Nothing in this section shall prohibit the commingling
174 within an escrow account of the money or securities received under
175 more than one funeral service contract for the purpose of management
176 and investment of funds in such escrow account provided the escrow
177 agent maintains a separate accounting of each escrow account.

178 (g) A funeral service contract shall provide that, if the particular
179 merchandise provided for in the contract is not available at the time of
180 death, the funeral service establishment shall furnish merchandise
181 similar in style and at least equal in quality of material and
182 workmanship to the merchandise provided for in the contract.

183 Sec. 4. Section 42-203 of the general statutes is repealed and the
184 following is substituted in lieu thereof:

185 Funds held in an escrow account in accordance with the provisions
186 of a funeral service contract shall remain intact unless such funds are
187 commingled in accordance with the provisions of subsection (f) of
188 section 42-202, as amended by this act, or the purchaser of funeral
189 services, property or merchandise defaults in making payments
190 required under the terms of the contract, as provided in subsection (e)
191 of section 42-202, as amended by this act, or until the services
192 contracted for have been performed or the contracted for property or
193 merchandise has been delivered. Upon submission to the escrow
194 agent, by the funeral service establishment, of [proof] an affidavit by
195 the person responsible for making funeral service arrangements for a
196 deceased beneficiary that the services, personal property and
197 merchandise contracted for have been fully performed or delivered,
198 the escrow agent shall pay to such funeral service establishment the
199 amounts [deposited therein pursuant to such funeral service contract,
200 and all income earned thereon and retained in the escrow account]
201 duly charged for such rendered services, personal property or
202 merchandise. The escrow agent shall transfer any surplus funds to the
203 purchaser's estate unless the contract provides otherwise. If, for any
204 reason, the funeral service establishment which has entered into a
205 funeral service contract for the sale of services, personal property, or
206 merchandise and which has deposited the funds into an escrow
207 account in accordance with the provisions of sections 42-200 to [42-206]
208 42-207, inclusive, as amended by this act, fails to meet its obligation
209 under such contract promptly after the death of the person to be
210 benefited, the [family, the next of kin, or the legal representative of the
211 deceased] person responsible for making funeral arrangements for a

212 deceased beneficiary, having provided for such services, personal
213 property or merchandise on behalf of the deceased person, [may] shall
214 receive from the escrow agent the amount [of money in such escrow
215 account] charged for such services, personal property or merchandise.
216 An affidavit [which] that states [that] services have been performed or
217 property delivered, signed by [a member of the family, next of kin, or
218 legal representative of the deceased] the person responsible for making
219 funeral arrangements for a deceased beneficiary, and by the funeral
220 service establishment which has provided such services, personal
221 property or merchandise, and which is delivered to the escrow agent
222 shall be sufficient to authorize an escrow agent, acting alone, to make
223 such payment without liability to the person making the deposit of
224 such money into the escrow account or to any other person. Nothing
225 contained in this section shall relieve the funeral service establishment
226 of its liability for nonperformance.

227 Sec. 5. Section 42-207 of the general statutes is repealed and the
228 following is substituted in lieu thereof:

229 An irrevocable funeral service contract may be entered into in which
230 the amount held in escrow may be disbursed only upon the death of
231 the beneficiary and upon submission by the funeral service
232 establishment of an affidavit by the person responsible for making
233 funeral arrangements for a deceased beneficiary that the services,
234 personal property or merchandise contracted for have been fully
235 performed or delivered, provided such a contract does not exceed five
236 thousand four hundred dollars and all interest accumulates to the
237 escrow account and is inaccessible to the beneficiary. Such irrevocable
238 funeral service contracts may be transferred from one funeral service
239 establishment to another upon request of the beneficiary. The purchase
240 of an irrevocable funeral service contract shall not preclude an
241 individual from purchasing other funeral service contracts that are
242 revocable.

GL *Joint Favorable Subst. C/R*

APP

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